FERMI AMERICA, INC.

Comment in Response to Opposition Filings

Elizabeth Whiteman, Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce

Re: Response to Public Comments in Opposition to Application for Subzone Status — Fermi, Inc., Panhandle, Texas (Docket No. S-133-2026; 91 FR 12562)

Date: May 11, 2026

I. Introduction

Fermi America, Inc. ("**Fermi America**") respectfully submits this response to the opposition comments filed in connection with the City of Amarillo's application for Foreign-Trade Zone (**FTZ**) Subzone status for the Fermi facility located at 688 FM 683, Panhandle, Texas (Docket No. S-133-2026). Three opposition comments were submitted by: (1) Panhandle Action Coalition (filed April 9, 2026); (2) Enlightened Health (filed April 17, 2026); and (3) Hazik Aiyan on behalf of Panhandle 1st Coalition (filed April 8, 2026, from an Amarillo Independent School District student email account).

These three filings are substantively identical — the same arguments, the same structure, the same language, in the same order. They appear to originate from a single coordinating source and should be treated by the Board as, and given no greater weight than, a single comment submission.

On the merits, the comments fail to substantively engage with the standards the Board is actually required to apply. The FTZ Act[1] and 15 CFR Part 400 (the "**FTZ Regulations**") direct the Board to assess, with respect to evaluating subzone proposals, among other things, (i) the need for zone services in the area, (ii) the suitability of the proposed subzone site and its facilities based on the plans presented, (iii) the specific need and justification for the proposed site, (iv) the extent of state and local government support, and (v) the views of persons likely to be materially affected by the zone activity. With respect to production authority specifically, 15 CFR § 400.31 directs the Board to consider the economic effect of the proposed activity, including its impact on domestic industry, the utilization of foreign merchandise not reasonably available from domestic sources in sufficient quantity or comparable quality, and the overall net economic benefit to the United States. The opposition comments fail to engage with any of these production authority criteria.[2] The comments are woefully inadequate in discussing any of the relevant criteria. Further, the comments fail to provide any argument as to whether the proposed subzone would cause harm to domestic industry, including domestic manufacturers of the particular goods to be manufactured within the subzone. In fact, not one of the three comments identifies a single domestic manufacturer that would be injured by the grant of Subzone 252A, a point that would be critical in evaluating the views of persons likely to be materially affected by the zone activity. The comments instead raise concerns about water

[1] *See*, 19 U.S.C. § 81b.
[2] *See*, 15 CFR § 400.26.

usage, employment projections, and tax policy — matters that are either factually rebutted below or are tangential to, or wholly outside of, the Board's decision-making criteria in this proceeding.

This response is further informed by the compliance groundwork already underway at Subzone 252A. Fermi's licensed customs broker and internal FTZ Administrator have completed country-of-origin determinations, HTS classification, and a Production Authority Application now under final internal review — confirming that the equipment Fermi proposes to import is not available from domestic manufacturers in sufficient quantities or on the timelines this project requires. No domestic producer is displaced. No domestic industry is harmed.

II. The Application Satisfies the Public Interest Standard

The FTZ Act authorizes the Board to grant zone and subzone status pursuant to its statutory and regulatory authority.[3] When considering subzones of this type, the Board should consider factors such as the need for the zone, the suitability of the site, the nature and scale of operations, potential employment effects, and the impact on existing domestic industry.[4] Although the commenters have not provided substantive reasoning consistent with the Board's review criteria under the FTZ Regulations, Fermi America responds to each of the commenters' concerns in turn below.

A. Employment Projections Are Substantial, Credible, and Span Multiple Asset Classes

The opposition comments argue that data centers create fewer jobs per dollar of capital investment than other industries. Project Matador is not a standalone data center. It is a multi-gigawatt energy campus encompassing natural gas generation, advanced nuclear power, utility-scale solar, and battery storage, together with co-located compute infrastructure. The employment footprint spans each of these asset classes.

The following table summarizes the project's projected job impact:

Asset Class	Construction Jobs (Work Years)	Construction Jobs (10-yr avg)	Permanent Operations (FTEs)
Data Centers	48,000	4,800	3,000
Nuclear (AP1000)	48,000	4,800	1,600
Natural Gas (6 GW)	6,300	630	875
Total	**102,300**	**10,230**	**5,475**

In total, Project Matador is projected to support approximately 5,475 permanent full-time operations positions — 3,000 from data center operations, 1,600 from nuclear plant operations, and 875 from natural gas generation. The project will generate more than 10,000 construction jobs annually on average over a ten-year build period, representing over 102,300 construction work years in aggregate.

[3] *See*, 19 U.S.C. § 81b.
[4] *See*, 15 CFR §§ 400.26-400.27.

The commenters' demand for "binding" pre-authorization employment commitments misunderstands the FTZ approval process; the Board does not and need not condition subzone status on guaranteed headcount figures. What the record reflects — and what is appropriate at this stage — are credible, asset-specific projections based on Fermi's development plans.

B. Fermi's Water Footprint Is Minimal, Contracted, and Subject to Robust Conservation Commitments

The opposition comments raise concerns about the Ogallala Aquifer and competition with existing agricultural water users. The actual record does not support these concerns.

Fermi America has entered into a water purchase agreement with the City of Amarillo for 2.5 million gallons per day (**MGD**) — sourced from municipal supply, not direct Ogallala withdrawals. To put that volume in context: 2.5 MGD is the equivalent of a single center-pivot corn irrigation field during growing season. According to the Texas Water Development Board, the top 26 Panhandle counties consume approximately 1.1 trillion gallons of water annually. Fermi's contracted volume represents approximately 0.08% of total regional water usage. Even at a potential 10 MGD buildout, that figure rises to only 0.32%. Amarillo City Council Member Les Simpson stated it plainly: as far as the aquifer is concerned, Fermi's footprint is "a drop in the proverbial sea."

Fermi is paying twice the prevailing market rate for this water, generating over $7 million per year in recurring revenue for the City of Amarillo — funds that can be reinvested in the City's water infrastructure and supply planning.

Fermi's committed water conservation technologies include:

- Highly efficient air and hybrid cooling systems for data center operations
- Closed-loop cooling processes designed to minimize evaporation losses
- Underground reservoir systems and on-site retention ponds
- Active use of recycled and reclaimed water not suitable for domestic or agricultural use

The FTZ Board need not duplicate the water-related review already conducted by the City of Amarillo and the Texas Commission on Environmental Quality (**TCEQ**). Those processes are ongoing, the environmental record is robust, and the subzone application should proceed on its own merits under 15 CFR Part 400.

C. FTZ Status Does Not Constitute an Unfair Subsidy

The opposition comments characterize FTZ subzone status as one more layer of "financial privilege" on top of existing concessions. This reflects a fundamental misunderstanding of what FTZ designation does and does not do.

FTZ subzone status does not confer a subsidy. It establishes a customs and duty treatment framework that allows qualifying manufacturing and processing operations to receive imported equipment and components under inverted tariffs and other FTZ procedural rules. The program exists to enhance the competitiveness of U.S.-based production operations — precisely the policy goal it was designed to serve. The FTZ framework does not eliminate these duties — it defers or reduces them consistent with applicable law.

Project Matador is a textbook example of the large-scale domestic energy and industrial investment the FTZ Act contemplates. As documented in the Production Authority Application, the project's Phase 1 equipment sourcing profile reflects approximately 53% foreign-sourced components by value, primarily consisting of long-lead capital equipment — gas turbines, power transformers, gas circuit breakers, HRSG units, cooling systems, and electrical switchgear — that is not available from domestic suppliers in the required quantities or on the timelines demanded by the construction schedule.

The Carson County tax abatement and Texas data center sales tax exemption referenced in the comments are separate instruments governed by state and local law. They have no bearing on whether FTZ subzone status is appropriate under the federal FTZ Act. If the commenters have concerns about state and local tax policy, the appropriate forum is the Texas Legislature and Carson County Commissioners Court — not this proceeding.

III. FTZ Compliance Infrastructure Is Already in Place

A critical — and unaddressed — element of the opposition filings is the implicit suggestion that Fermi is unprepared to operate a compliant FTZ subzone. The factual record refutes this.

Fermi's FTZ compliance framework currently includes:

- A licensed customs broker engaged as primary resource.
- A dedicated FTZ Administrator with experience maintaining CBP-compliant ICRS records under 19 CFR 146 since 2017
- A Production Authority Application (**PA**) submitted to the FTZ board on May 4, 2026
- HTS classifications, MFN duty rates, and Section 301/232 tariff applicability documented for all foreign-status items in the tracker

IV. The Requests for Additional Process Are Not Warranted

The opposition comments request that the Board: (1) hold a public hearing in the Panhandle/Amarillo area; (2) require Fermi to submit binding employment commitments; and (3) coordinate with TCEQ and other agencies before acting. None of these requests is required by Part 400 or warranted on this record.[5]

A public hearing is warranted only where a person who would be materially affected by the zone activity demonstrates good cause. This standard is discretionary and is applied by the Board on a case-by-case basis.[6] The coordinated submission of three substantively identical comments does not establish the good cause necessary to warrant a hearing. None of the filers identifies

[5] *See*, 15 CFR §§ 400.32, 400.52.
[6] *See*, 15 CFR § 400.52(b).

itself as a party that would be materially affected, including as an injured domestic manufacturer of competing goods. Further, the arguments presented are legal and policy assertions — not factual disputes requiring evidentiary development.

With respect to interagency coordination, TCEQ and other relevant state agencies are actively engaged in environmental and permitting review of Project Matador through their own independent processes. Project Matador is adherent to all requirements related to the environmental and permitting processes and takes those processes seriously. The Board is not required to await completion of those processes before acting on a subzone application, and doing so would be inconsistent with established Board procedures.

V. Conclusion

The opposition comments raise no grounds sufficient to deny or materially delay this application. Most tellingly, not a single commenter has identified itself as personally affected by the application, nor has any single commenter identified any domestic manufacturer that would be harmed by the grant of Subzone 252A. The Board's public interest analysis is not a general referendum on energy development, water policy, or local tax structures; it is a focused assessment of whether the establishment of the subzone is necessary, meets the objective criteria for approval, and whether production activity within the zone would impact domestic industry. In fact, the need for the subzone is abundantly clear from the application: there is no domestic manufacturer of the large, long-lead capital equipment — nuclear reactor components, industrial turbines, large-scale electrical infrastructure — that Fermi will import under subzone status. This equipment cannot be sourced domestically in sufficient quantities or on the timelines a project of this scale requires.

Project Matador will be one of the largest employers in the Texas Panhandle, supporting over 5,400 permanent full-time positions and more than 102,000 construction work years across data center operations, nuclear generation, and natural gas infrastructure. No manufacturing operation in Amarillo or the surrounding region faces competitive injury from this subzone designation. Thus, approving this subzone application is consistent with the public interest and the core objectives of the Foreign-Trade Zones Act. Fermi America respectfully requests that the Board approve the application for FTZ Subzone status under Docket No. S-133-2026.

Respectfully submitted,

Fermi America, Inc.
Cameron Griffith
c/o Head of Government and Regulatory Affairs
May 11, 2026

Fueling Bold Minds. Powering Brilliant Futures.