

March 10, 2017

Via Federal Express/Electronic Mail

Todd Anthony Bianco, EFSB Coordinator
RI Energy Facilities Siting Board
89 Jefferson Blvd.
Warwick, RI 02888

Re: Invenergy Docket No. SB-2015-06

Dear Mr. Bianco:

On behalf of Invenergy Thermal Development LLC (“Invenergy”), enclosed please find an original and 10 copies of Invenergy’s Response to the Town of Burrillville’s 24th Set of Data Requests.

Very truly yours,

Handwritten signature of Alan M. Shoer in blue ink, with a stylized flourish at the end.

ALAN M. SHOER
ashoer@apslaw.com

Enclosures

cc: Service List

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC's
APPLICATION TO CONSTRUCT THE
CLEAR RIVER ENERGY CENTER IN
BURRILLVILLE, RHODE ISLAND

DOCKET No. SB-2015-06

**INVENERGY THERMAL DEVELOPMENT LLC'S RESPONSES TO
THE TOWN OF BURRILLVILLE'S 24th SET OF DATA REQUESTS**

24-1 The advisory opinion issued by the Department of Environmental Management ("DEM") stated that DEM among other things, (1) needed more site specific information regarding biodiversity and conservation value (page 12), and (2) needed a biodiversity survey and analysis of environmental impacts, including wildlife and plant community impacts (page 22).

(a) Please state whether the applicant is in the process of preparing and compiling the referenced site specific information, biodiversity survey/study/analyses of environmental impacts, including wildlife and plant community impacts, or any other similar studies, surveys, analyses, or information.

(b) If so, please explain the status of obtaining these surveys/studies/analyses, (2) state what conclusions, if any, have been reached to date, (3) please provide a copy of any such surveys/studies/analyses, or related information, (4) please identify the organization(s) pursuing this for you, and (5) please state the expected completion date of each phase of the work that is being done.

(c) If you are not currently pursuing these surveys/studies/analyses, please explain why not.

RESPONSE 24-1 (a) As detailed in Section 6.2.2.1 of Invenergy Thermal Development LLC's ("Invenergy") Energy Facility Siting Board ("EFSB") Application, a field evaluation was conducted of each of the streams where they cross the Clear River Energy Center ("CREC") site in July of 2015. This evaluation included assessments of riparian habitat, macroinvertebrate community, fish community, and other observed wildlife species. Table 6.2-1 of the EFSB Application listed the abundance of each taxa encountered during this survey.

As detailed in Section 6.5.1 of the EFSB Application, the vegetation at the CREC site was characterized in the fall of 2014 and the spring of 2015. Table 6.5-1 of the EFSB Application listed the primary vegetation species found at the site during those surveys.

The predominant ecological communities present at the CREC site were characterized according to the classification system presented in the Rhode Island Ecological Communities Classification (Enser et al. 2011) and were presented in Section 6.6.1 of the EFSB Application.

Table 6.6-1 of the EFSB Application listed the specific wildlife species which have been observed at the CREC site by ESS ecologists and the seasons during which they were observed. Table 6.6-2 of the EFSB Application listed wildlife species which have not been observed at the CREC site but are expected to occur there based on the habitats present at the site. The list was generated based on habitat preferences of wildlife species given in *New England Wildlife: Habitat, Natural History, and Distribution* (DeGraaf and Rudis, 1986).

Northern long-eared bats (“NLEB”), a federally threatened species, are known or believed to be present in Providence County, according to the US Fish & Wildlife Service (“USFWS”). However there are no known maternity or hibernation occurrences in the county. As detailed in Section 6.6.2.1 of the EFSB Application, an acoustic survey was conducted in the summer of 2015 to determine the presence/absence of any NLEB in accordance with the 2015 USFWS Range-Wide Summer Survey Guidelines. The results of the survey were then vetted by a USFWS qualified bat surveyor. No NLEB were identified at the CREC site during the survey, which was consistent with the results of a previous NLEB survey conducted by Spectra at the CREC site.

As detailed in Section 6.6.2.2 of the EFSB Application, multiple pairs of black-throated blue warblers, a RIDEM listed threatened species in the state, were observed at the CREC site during the 2015 breeding season. Table 6.6-3 of the EFSB Application listed species of Neotropical migratory birds that are considered forest interior breeders and which breed in Rhode Island, which could be present at the CREC site.

Regarding the RIDEM wetlands alteration application, RIDEM does not require that site-specific biodiversity surveys be conducted as a condition for a wetlands alteration application and the wetlands regulations. RIDEM does require applicants to quantify their projected project impacts to wildlife and plant communities. This is typically done in practice by conducting site-specific ecological surveys for any rare or endangered species whose presence is known or suspected by a state or federal agency within the project impact area, and by identifying other species of animals and plants which would be expected to be present on the project site based on searches of public databases. Site-specific surveys of animal and plant species which are not rare or endangered are typically not required by RIDEM for the issuance of a wetlands alteration permit.

Although the wetlands alteration application for CREC has not been filed with RIDEM to date, extensive information about the presence of specific species of animals and plants at the CREC project site has been provided by Invenergy in the EFSB Application and the EFSB Wetlands Addendum.

The EFSB Application and the EFSB Wetlands Addendum provided extensive assessment of the potential direct and indirect impacts of the project on wildlife and wildlife habitat areas, primarily as a result of the tree clearing required. Invenergy also included extensive descriptions of the mitigation measures which will be employed both during project construction and project operation to minimize project impacts to animal and plant species, including pre-construction surveys to identify areas for potential avoidance or relocation, seasonal tree-clearing

restrictions, and providing compensatory mitigation for project resource area impacts.

The information summarized above will be included in the formal wetlands alteration application to be submitted for the project to RIDEM. With this submittal, Invenergy intends to submit to RIDEM information at a level of detail which is consistent with other previous applications which have been submitted to RIDEM for their assessment of the site-specific biodiversity and conservation value and their analyses of project environmental impacts to wildlife and plant communities.

Invenergy intends to meet again with RIDEM in the early spring of 2017 to discuss the additional information suggested by RIDEM in the advisory opinion. Following this meeting, and if deemed necessary to further support the application materials, Invenergy will initiate additional site-specific ecological surveys. Such surveys generally must be conducted in the spring and/or summer seasons; therefore, at this time no additional surveys could have been conducted following RIDEM's September 2016 advisory opinion.

(b) Invenergy intends to initiate any additional site-specific ecological studies if deemed necessary in the early-spring of 2017. As detailed above, Invenergy has previously provided extensive information regarding the project's impacts to ecological resources. Any conclusions resulting from any additional studies conducted at the request of RIDEM will be submitted to RIDEM and the Board upon their completion. Following the completion of any required studies, the results will be submitted to RIDEM as a supplement to the project's Application to Alter submission. Any required studies will be completed under the direction of ESS Group, Inc. It is anticipated that any additional required studies will be completed by the summer of 2017.

(c) The need for any additional site-specific ecological surveys will be determined through direct consultation with RIDEM.

RESPONDENT: Michael E. Feinblatt, ESS Group, Inc.

DATE: March 10, 2017

INVENERGY THERMAL DEVELOPMENT LLC
By its Attorneys,

/s/ Alan M. Shoer
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Dated: March 10, 2017

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2017, I delivered a true copy of the foregoing responses to the Town of Burrillville's 24th Set of Data Requests via electronic mail to the parties on the attached service list.

/s/ Alan M. Shoer

SB-2015-06 Invenergy CREC Service List as of 03/08/2017

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