

**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

**PRE-FILED DIRECT TESTIMONY OF
RICHARD LIPSITZ**

(JUNE 30, 2017)

SUMMARY

Richard Lipsitz is a Professional Land Surveyor and the President of Waterman Engineering Company and testifies regarding a site survey conducted of the Clear River Energy Center (“CREC”) site. Mr. Lipsitz conducted a boundary survey on portions of the properties where development of the CREC project is proposed. Mr. Lipsitz, relying on his experience and expertise, the site plan documents filed in support of the application, and his site survey, opines that his survey was performed in compliance with all required standards that apply to a Rhode Island land survey.

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TESTIMONY OF RICHARD S. LIPSITZ, WATERMAN ENGINEERING CO.**

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, BUSINESS TITLE AND BUSINESS ADDRESS.

A. Richard S. Lipsitz, Professional Land Surveyor and president of Waterman Engineering Company, located at 46 Sutton Avenue, East Providence, Rhode Island 02914.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

A. My testimony is on behalf of the applicant, Invenergy Thermal Development Clear River Energy LLC (“Invenergy”), in support of its application for a license from the Rhode Island Energy Facility Siting Board (“EFSB” or “Board”) to construct the Clear River Energy Center project in Burrillville, Rhode Island (“Clear River” or “CREC”).

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. A detailed description of my educational background and experience is in my CV, previously filed with the Board on September 12, 2016. My educational experience includes the Survey Curriculum at Roger Williams University Bristol, Rhode Island, Survey Curriculum Boston School of Survey Boston, Massachusetts, Computer Aided Drafting Community College of RI, Warwick, Rhode Island. I am a Professional Land Surveyor, having been registered in the State of Rhode Island - # 1837, July 10, 1990 and the Commonwealth of Massachusetts- # 39691, March 27, 1997. I also have the following Professional Affiliations:

- 1 • Rhode Island Board of Registration for Professional Land Surveyors: Chairman –
- 2 Term; September 2004 to September 2015
- 3 • Rhode Island Society of Professional Land Surveyors: Past President – 1991 to 1993
- 4 • American Congress on Surveying and Mapping
- 5 • National Society of Professional Surveyors
- 6 • Connecticut Association of Land Surveyors
- 7 • Massachusetts Association of Land Surveyors & Civil Engineers
- 8 • Providence Engineering Society

9 **Q. PLEASE DESCRIBE YOUR EXPERIENCE PROVIDING TESTIMONY TO**
10 **REGULATORY COMMISSIONS, BOARDS, AGENCIES OR AS AN EXPERT.**

11
12 **A.** I have testified on numerous occasions during my 40-year career before the RI House
13 Corporations Committee, the Coastal Resource Management Council (“CRMC”), Rhode Island
14 Department of Environmental Management (“RIDEM”) along with most of the City & Town
15 Planning & Zoning Boards in the State of Rhode Island. I have also presented testimony before
16 City and Town Councils, and testified as an expert witness in the RI Superior Court on several
17 occasions and have been appointed a Special Master by the Superior Court.

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

19 **A.** The purpose of my testimony is to provide information and answer questions regarding
20 CREC’s survey plans.

21 **Q. WHAT LEVEL SURVEY WAS DONE?**

22
23 **A.** A Boundary Survey to a Class I Measurement Standard, which was filed with the Town of
24 Burrillville Planning Board during their advisory opinion process. This type of survey and the
25 associated measurement standards are required for boundary/subdivision projects that would be
26 submitted to Planning & Zoning Boards and State permitting agencies.

1 **Q. PLEASE DESCRIBE ALL RELEVANT STANDARDS AND REGULATIONS**
2 **PERTINENT TO CREATING THE SURVEY AND PLANS FOR THIS PROJECT.**

3
4 **A.** “Section 9 of the Rules and Regulations Adopted by the Rhode Island State Board of
5 Registration for Professional Land Surveyors on January 1, 2016”, “Procedural and Technical
6 Standards for the Practice of Land Surveying in the State of Rhode Island & Providence Plantations
7 Prepared by the Rhode Island Society of Professional Land Surveyors and adopted by the Rhode
8 Island Board of Registration for Professional Land Surveyors”, Effective April 1, 1994, and
9 “Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys”, Effective
10 February 23, 2011.

11 **Q. DID YOU PREPARE THE SURVEY PLANS IN ACCORDANCE WITH THE**
12 **SPECIFICATIONS IN THOSE REGULATIONS AND STANDARDS?**

13
14 **A.** I did.

15
16 **Q. HAVE YOU REVISED THE ORIGINAL PLANS THAT WERE ORIGINALLY**
17 **SUBMITTED TO THE EFSB AND TOWN PLANNING AND ZONING BOARDS?**

18 **A.** Yes. While the base survey plan of the entire property has not changed, I finalized the
19 Administrative Subdivision Plan, previously submitted as a conceptual drawing.

20 **Q. PLEASE EXPLAIN THE SPECIFICS OF THESE PLANS.**

21 **A.** A boundary survey was conducted of the Spectra Energy properties in anticipation of
22 Invenergy’s purchase of a portion of the property surveyed.

23 **II. TOWN OF BURRILLVILLE PLANNING BOARD ADVISORY OPINION**
24 **ANALYSIS**

25 **Q. HAVE YOU REVIEWED THE PLANNING BOARD’S ADVISORY OPINION?**

26 **A.** Yes.

27 **Q. DO YOU HAVE AN OPINION REGARDING ITS STATEMENT ON PAGE 4?**

28
29 **Attorney Noonan then began the discussion by first addressing a question**
30 **presented by Board Member Presbrey from the last meeting in regards to the**
31 **submitted survey not being in conformance with the new survey standards in**

1 effect as of January 1, 2016. She stated that she had spoken with Richard
2 Lipsitz, a registered land surveyor, who indicated that under those
3 regulations, any surveys commenced prior to January 1, 2016 are subject to
4 the 1994 regulations and that this survey is in full compliance with those
5 regulations. Mr. Presbrey felt that the survey was still not in conformance
6 with the 1994 regulations, noting that the dimensions and bearings cannot be
7 read and no calculations can be done because it is unreadable.
8

9 A. I do. In my professional opinion, both of Mr. Presbrey's opinions / statements are incorrect.

10 The survey was begun and completed in 2015, at which time the 1994 "Standards" were in effect.

11 Revisions were made to the plan for the submission to the Town and various State agencies, along

12 with the preparation of the conceptual Administrative Subdivision which was part of the

13 submission to the Town of Burrillville. Those revisions and conceptual plans were prepared during

14 the "transition period" (1/1/2016 – 6/30/2016) where ongoing projects could be completed in

15 accordance with the 1994 "Standards", but new projects would have to conform to the new 2016

16 "Standards". As to the statement regarding the legibility of the plans, the Burrillville Planning

17 Department requires that reduced size plans be submitted in conjunction with full size drawings.

18 At Ms. Noonan's request, we had additional full size copies of the plans delivered to the Town

19 Planning office. However, the new Administrative Subdivision Plan has been finalized. Part of

20 that effort was to bring the survey of the 67+/- acre parcel that the power plant will be constructed

21 on to be in conformance with the 2016 "Standards".

22 **III. TOWN OF BURRILLVILLE BUILDING INSPECTOR'S ADVISORY OPINION**

23 **Q. HAVE YOU REVIEWED THE BUILDING INSPECTOR'S ADVISORY**
24 **OPINION?**

25 A. Yes.

26 **Q. DID YOU REVISE YOUR SURVEY BASED ON COMMENTS MADE IN THE**
27 **ADVISORY OPINION?**

28 A. Yes. We were asked by the environmental and civil engineers on the project to determine

29 where the A-80 line fell on the property and how that location was determined. This was in

1 September 2016. We determined that the best source of the location of this line was from the Town
2 of Burrillville GIS (Geographic Information System). We added the GIS information to our Master
3 Subdivision Plan and circulated it to the engineers on September 29, 2016. We were sent marked
4 up drawings in November 2016 showing a revised plant layout and property line changes, keeping
5 the site out of the A-80 zone. We revised our Master Subdivision Plan to reflect those changes on
6 December 2, 2016.

7 **Q. IS THAT THE LATEST REVISION MADE TO YOUR SURVEY PLANS?**

8 **A.** No. As stated above, the Administrative Subdivision Plan has recently been finalized and
9 the appropriate certifications and notes have been added.

10 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

11 **A.** Yes.

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