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Dear RI Energy Facilities Siting Board members,

This is my citizen's testimony to you regarding the application of Invenergy LLC to build the so-called Clear River Energy Center in Burrillville.

During the several public hearings, a number of individuals, mostly residents of Burrillville, mentioned in their testimony that the Invenergy site was once before considered as a site for a power plant, and that it was rejected. I would like to shed some detailed light on that assertion. I have appended a bibliography and an appendix of maps to support my testimony.

The Rhode Island Energy Facilities Siting Board was created in 1986. The first power plant application it vetted was the "Ocean State Power Project," a 560 mw gas-fired dual-fuel plant that now operates on Sherman Farm Road in Burrillville, approximately six miles east of today's proposed site for Invenergy's "Clear River Energy Center."

At the behest of the sitting Governor, Edward DiPrete, the Federal Energy Regulatory Commission was requested to conduct an Environmental Impact Statement for the Ocean State Power project.

At the "Public Comment Meeting" in Woonsocket on April 14, 1988, Sandy Sullivan, Assistant Director of the Rhode Island Office of Intergovernmental Relations, *"presented the Governor's position on the OSP proposal."*

Sullivan testified that Governor DiPrete supported the project, but with one caveat: *"To maintain Rhode Island's present strong economic growth, adequate and reliable electricity supplies are critical. With this background, the Governor has supported the proposed OSP project, on the strong conditions that the plant be environmentally sound and that a thorough analysis be undertaken to ascertain the effects of the*

*plant's operation on the Towns of Burrillville and Uxbridge. The Governor requested that an EIS be conducted, and the state's regulatory proceedings have been delayed to allow preparation of the EIS to follow the NEPA process.*" (Ocean State Power Project Final Environmental Impact Statement, vol. II, 1988, Letters and Comments, pg. M-3)

The EFSB concurred with the Governor's opinion, stating, *"An EIS is essential to the Board's deliberations. While the Board does not have jurisdiction over major environmental permits, e.g. permits required under the Clean Air Act, state policy requires that a major energy facility 'produce the fewest possible adverse effects on the quality of the state's environment' and the Board must implement that policy in its final decision. Thus, we conclude that the Board has both the responsibility and the power to evaluate all individual and cumulative environmental impacts of the proposed facility before arriving at a final decision regarding the OSP application. Preparation of an EIS is the most efficient way of identifying those impacts for Board review."* ("Ocean State Power: Final Decision and Order," RI Energy Facilities Siting Board, pg 31, Oct 25, 1988)

The Board members were Mary Kilmarx, Chairperson of the RI Public Utilities Commission; Robert Bendick, Director of the RI Department of Environmental Management; and Daniel Varin, Associate Director of Administration for Planning.

During the ensuing Environmental Impact Statement process, conducted by FERC and coordinated in Rhode Island by the Governor's Office of Intergovernmental Relations, various Federal, Rhode Island, New York, and Massachusetts state agencies weighed in with written commentary on the "Preliminary Draft" (PDEIS,) "Draft" (DEIS,) and "Final" (FEIS,) Environmental Impact Statements.

The FERC process required an applicant to identify multiple "alternative sites" should the applicant's "preferred site" be rejected. Starting from a list of 82 southern New England candidates, two final alternatives to Ocean State Power's preferred site on Sherman Farm Road in Burrillville were selected: The "Ironstone" site in Uxbridge Ma, and the "Bryant College" site in Smithfield RI. (OSPP Final EIS vol. I, 1988, Executive Summary, pg. ES-6)

One site making it to the semi-final round of alternatives was the so-called "Buck Hill Road site" in Burrillville---so called because the address of the property was,

and remains today, 0 Buck Hill Road; and its owner was, and remains today, the Algonquin Gas Transmission Company. (Town of Burrillville Tax Assessor's map and lot: 135/002)

This 465-acre lot, 002, is one of the five Algonquin lots that would be subdivided to create the Invenergy power plant site and its 0.8 mile power line connection to the existing National Grid right of way should the plant be approved. (See Invenergy's "Application" to the EFSB, Oct 29, 2015, "Drawing Package;" Town of Burrillville's Tax Assessor's maps and lots: 135/002, 153/001, 153/002, 137/002, 137/003; and "Map 1" in the appendix of this document.) The lot shares a property line of over 306 rods with the George Washington WMA, nearly a mile. (T. of Burr. Real Prop. Records, doc #8298274---GW WMA formerly prop. of US Govt.)

The Natl. Grid power line ROW bisects the northwest quadrant of lot 002 on a northeast bearing. The connecting Invenergy power line ROW would transit lot 002 on a northwest bearing to make the connection. A small portion of the northwest corner of the power plant site appears to infringe on lot 002 as well. (See "Map 5" in the appendix)

The commentary of the U.S. Environmental Protection Agency was critical of Ocean State's "preferred" site on Sherman Farm Road, Burrillville.

In the EPA's opinion, the "Ironstone" site was superior on a number points related to its location on a recycled industrial site---a former gravel pit next to Rt. 146, a major highway---a site, according to EPA, conveniently distant from both human and wildlife habitats, and also closer to the plant's intended source of cooling water, the Blackstone River. The EPA stated that "*the DEIS contains enough information for us to conclude from our review that the project could cause substantial water quality, wetlands and noise impacts, and that these impacts could be largely avoided through selection of the environmentally preferable site---Ironstone in Uxbridge.*" (OSPP Final EIS, vol. II, Letters and Comments, 1988, pg W-12)

The U.S. Fish & Wildlife Service criticized the Sherman Farm Road site as having an unacceptable impact on the environment because of its proximity to a state-owned conservation and recreation property, the Black Hut Wildlife Management Area, a half-mile distant from the power plant site.

Fish & Wildlife began its criticism by noting that FERC, in its Draft Environmental Impact Statement, had eliminated the Buck Hill Road site from its list of alternatives because of its *"environmental limitations,"* quoting first, two instances where FERC cited its own criteria for eliminating prospective power plant sites located in the vicinity of outdoor recreation and wildlife management areas. On page 37 of the DEIS, Fish & Wildlife noted that, *"the FERC indentifies sensitive receptors to include recreation areas."* On page 51 Fish & Wildlife noted the second instance, *"the FERC identified proposed power plants as objectionally obtrusive in areas that have, among other features, parks and wildlife refuges. We believe Wildlife Management Areas fall under this category because they are used for recreational purposes such as hunting, bird watching, and hiking."* (OSPP Final EIS, vol. II, Letters and Comments, 1988, pgs. W-12)

Fish & Wildlife was referring to the Buck Hill Road site's nearly mile-long boundary with the George Washington WMA, and its northern boundary being only 0.4 miles distant from the 2,246 acre Buck Hill Wildlife Management Area across Buck Hill Road.

In addition to habitat for wildlife, these two state forests---then and now---include hiking trails, groomed cross country ski trails, a picnic and beach facility, an overnight campground, stocked trout fishing, stocked pheasant shooting, deer and small game hunting, and waterfowl hunting at two large RI DEM built waterfowl marshes. Both forests are also contiguous with the 1,600-acre Narragansett Council Buck Hill Boy Scout Reservation.

Fish & Wildlife concluded its criticism of the Buck Hill Road site by identifying three instances in the PDIS and the DEIS where FERC singled out the site for its particularly egregious violation of the two FERC principles Fish & Wildlife had previously cited: *"On page D-52 the FERC specifically identifies the Buck Hill Road site as being incompatible with the nearby Buck Hill Management Area. Again on page 2-79 of the PDIS, and on page 2-88 of the DEIS, the FERC states that a power plant at the Buck Hill Road site would be inconsistent and incompatible with recreational activities at the nearby Pulaski State Park, also adjacent to Buck Hill Management Area."* (OSPP Final EIS, vol. II, Letters and Comments, 1988, pgs. W-13)

In its final opinion, Fish & Wildlife stated that proximity to any public forest was a "fatal flaw" for a power plant site. *"We believe siting these facilities close to wildlife management areas, parks and similar public facilities should be considered fatal flaws and, therefore, the Buck Hill Road and Sherman Farm Road sites should be eliminated from further consideration."* (Ibid)

In Ocean State Power's rejoinder to this testimony, the company was anxious to defend its preferred site at Sherman Farm Road against both the EPA's Ironstone was superior argument, and Fish & Wildlife's contention that Sherman Farm's proximity to a nearby public forest, the 1,548 acre Black Hut Wildlife Management Area, constituted a "fatal flaw."

To make the case against Fish & Wildlife's argument, Ocean State's Director of Environmental Affairs, James O'Neill Collins, sought to refute F&W's core contention that all public parks and forests are equally incompatible with power plant sites.

Collins sought to demonstrate that from the perspective of the RI Department of Environmental Management, the Black Hut WMA, proximate with Sherman Farm, and the George Washington and Buck Hill WMA's, proximate with the Buck Hill Road site, could hardly be of equal conservation and recreational value. Collins cited *"sound reasons for excluding the Buck Hill Road site from consideration"* contained in a letter and *"materials"* received from RI DEM documenting the greater biodiversity and recreational assets of the state forests proximate to the Buck Hill Road site, including mention of the Boy Scout Reservation.

By reason of proximity to these greater assets, Collins made the case that the Buck Hill Road site would be an injurious location for a power plant, while at Sherman Farm Road, the State of Rhode Island would lose comparatively little of real conservation or recreational value if a power plant were built:

*"The statement is made by the Fish and Wildlife Service that the siting of a gas fired power plant 'close to wildlife management areas, parks and similar public facilities should be considered fatal flaws' and that, therefore, the Buck Hill Road and Sherman Farm Road sites should be eliminated from further consideration.*

*"Ocean State Power does not agree.*

*"While there are no Federal level criteria for excluding either the Buck Hill Road site or the Sherman Farm Road site as potential environmentally sensitive areas, at the State government level there exists sound reasons for excluding the Buck Hill Road site from consideration. Materials are enclosed from the Natural Heritage Program of the Rhode Island Department of Environmental Management. In that letter the Rhode Island Department Environmental Management makes the following statements regarding the Buck Hill area:*

*'It is not only botanically significant, but... highly utilized for recreational purposes including camping (George Washington and Buck Hill Scout Reservation), hunting, fishing, and hiking among others. I would recommend that this Site No. 1 (i.e., Buck Hill), not be considered for this power plant project, not only because of a close proximity to Dry Arm Brook, but also because of potential impact on significant wildlife and plant species as well as the recreation in this area. On the basis of what I know of these sites I have listed, this seems by far the most inappropriate location for a power plant.'*

*"As regards other sites, including the Sherman Farm Road site, the Department of Environmental Management stated, "No state endangered species of plants or animals are known to occur on or in the vicinity of those sites." (OSPP Final EIS, vol. II, Letters and Comments, 1988, pgs W-131, W-132. The "letter" and "materials" had been sent to Ocean State's environmental consultants by DEM biologist, Chris Raithel, of the Department's Natural Heritage Program. Raithel's letter and materials are found in "Exhibit 8n" in the OSP EIS files housed at the RI Public Utilities Commission office at 87 Jefferson Blvd, Warwick, RI.)*

In essence, Mr. O'Neill polished the apple of OSP's eye, the Sherman Farm Road site, by exposing the worm at the core of Buck Hill, which consisted of having three significant conservation and recreational holdings of documented biological significance contiguous or proximate with the site, leading to the stinging conclusion of the DEM biologist that, *"this seems by far the most inappropriate location for a power plant."*

In the years since, field work and planning documents have only underscored that statement.

In 1994, the New England office of the US EPA initiated a regional effort to inventory and map New England's most important natural resources. In Rhode Island, 27 federal, state, private, and university entities collaborated to produce the "1995 *Rhode Island Resource Protection Project*." Nine "Resource Protection Areas" were delineated, including the "Moosup River/Western Blackstone Resource Protection Area in which the Buck Hill Road/Invenergy power plant site is located. In the text, the Area is described as "*inhabited by species that require large un-fragmented tracts of forest, including neo-tropical migrant birds (that use these forests for nesting habitat) and wide-ranging mammals such as the bobcat and fisher.*"

(<http://www.edc.uri.edu/rirpp/Text/AREAS.htm>.)

A suite of maps was produced to display the existing assets in the various categories of resource. The *Habitat Resources* map, for example, displays thirty types of wildlife habitat resource. In the western quarter of Burrillville, which includes the Buck Hill Road/Invenergy power plant site, the map is densely layered by eight of these categories, including "Conservation and Open Space" land, "Un-fragmented Forest," and "Rare Species Habitat." (See Appendix, Map 3; and <http://www.edc.uri.edu/rirpp/Text/habitat.htm>)

Subsequently, in 1997, The Nature Conservancy of Rhode Island, which played a leading role in the Resource Protection Project, designated this forest---including its extension south into Glocester and Foster---as one of its five Rhode Island priority areas for wildlife habitat preservation in its "*Northwest Corner Conservation Plan*". The preservation-area boundary on the map precisely follows the contours of the layered depiction found in the RI RPP *Habitat Resources* map---the Buck Hill Road/Invenergy power plant site again lying well within this boundary. (See Appendix, Map 4) As Mr. Comings of The Nature Conservancy has testified, this TNC plan was up-dated in 2001 and 2012.

In 2005, in response to guidelines issued by the U.S. Fish and Wildlife Service, and with much aid from TNC, the RI DEM produced its first "*Wildlife Action Plan*."

Updated every ten years, the 2015 *Wildlife Action Plan* displays the current status of the northwest corner forest in its digital "*Conservation Opportunity Areas*" map. The concentration of habitat resources and the presence of at-risk species in the power plant site context remains just as densely layered as it was shown on the 1995 *RI Resource Protection Project* map.

Of particular note, the *Conservation Opportunity Areas* map displays in detail the exceptionally sensitive habitat to the east of the power plant site across Wallum Lake Road---the extensive wetlands and uplands of the Clear River headwaters basin between Wallum Lake and Wilson's Reservoir, connected to the power plant site via the "pinch-point" of TNC's circuit-scape map, and the major "wildlife corridor" of the WAP's COA map. Much of the basin itself is designated on the latter map as a "Critical Habitat," a "Natural Heritage Area" (presence of at-risk species,) as well as being a forest block exceeding 500 acres. (See Appendix, Map 5, and [http://www.ripuc.org/efsb/EFSB2/SB2015\\_06\\_Drsp\\_DEM4\\_S\\_1.pdf](http://www.ripuc.org/efsb/EFSB2/SB2015_06_Drsp_DEM4_S_1.pdf))

On August 2, 2017, Invenergy's environmental consultant, the ESS Group, filed a "*Biological Inventory*" of the power plant site with this Board. The study found present on the site 47 "Species of Greatest Conservation Need," and 17 species bearing the more concerning status of "State-listed"---among these the Spotted Turtle, which has been under review since 2015 by the US Fish & Wildlife Service as a candidate for Federally endangered status, the final decision pending in 2023. (<https://www.regulations.gov/document?D=FWS-R5-ES-2015-0064-0003>)

This documented concentration at-risk species will undoubtedly result in the depiction of the power plant site as a "Natural Heritage Area" when the COA map is up-dated during the next revision of the *Wildlife Action Plan* due in 2025. And its present status as a major "Wildlife Corridor" at a critical pinch-point will undoubtedly be reiterated.

And the documented presence, in RI DEM's Natural Heritage database, of Wood Turtles in the Clear River basin, another candidate for Federal endangered status, pending in 2023, supports the idea, recently expressed by the Town of Burrillville in your hearings, that the ESS *Biological Inventory* fieldwork, while excellent in design, was inadequate in duration.



In conclusion, thirty-one years ago, during an Environmental Impact Statement conducted to vet the Ocean State Power plant, the Federal Energy Regulatory Commission, the US Fish and Wildlife Service, the RI Department of Environmental Management, and the Ocean State Power company itself were agreed that the site where Invenergy wishes to build today was an unacceptable choice. And nothing has changed since except that the biological value of the site and its surroundings has been more thoroughly sampled, cataloged, and mapped.

There is no other choice for the Energy Facilities Siting Board but to reject the Clear River Energy Center on the grounds that its construction, and its operation for decades to come, represents an unacceptable harm to the environment. As the Nature Conservancy's recent testimony before the Board makes plain, RI DEM's original perception in the Ocean State Power case remains true---that of all alternative sites possible, "*this seems by far the most inappropriate location for a power plant.*"

William J. Eccleston

## **Bibliography**

### Online sources:

Ocean State Power Project Final Environmental Impact Statement, vol. I, 1988:

[https://www.energy.gov/sites/prod/files/2015/04/f22/EIS-0140-FEIS-Volume\\_1.pdf](https://www.energy.gov/sites/prod/files/2015/04/f22/EIS-0140-FEIS-Volume_1.pdf)

Ocean State Power Project Final Environmental Impact Statement, vol. II, Letters and Comments, 1988:

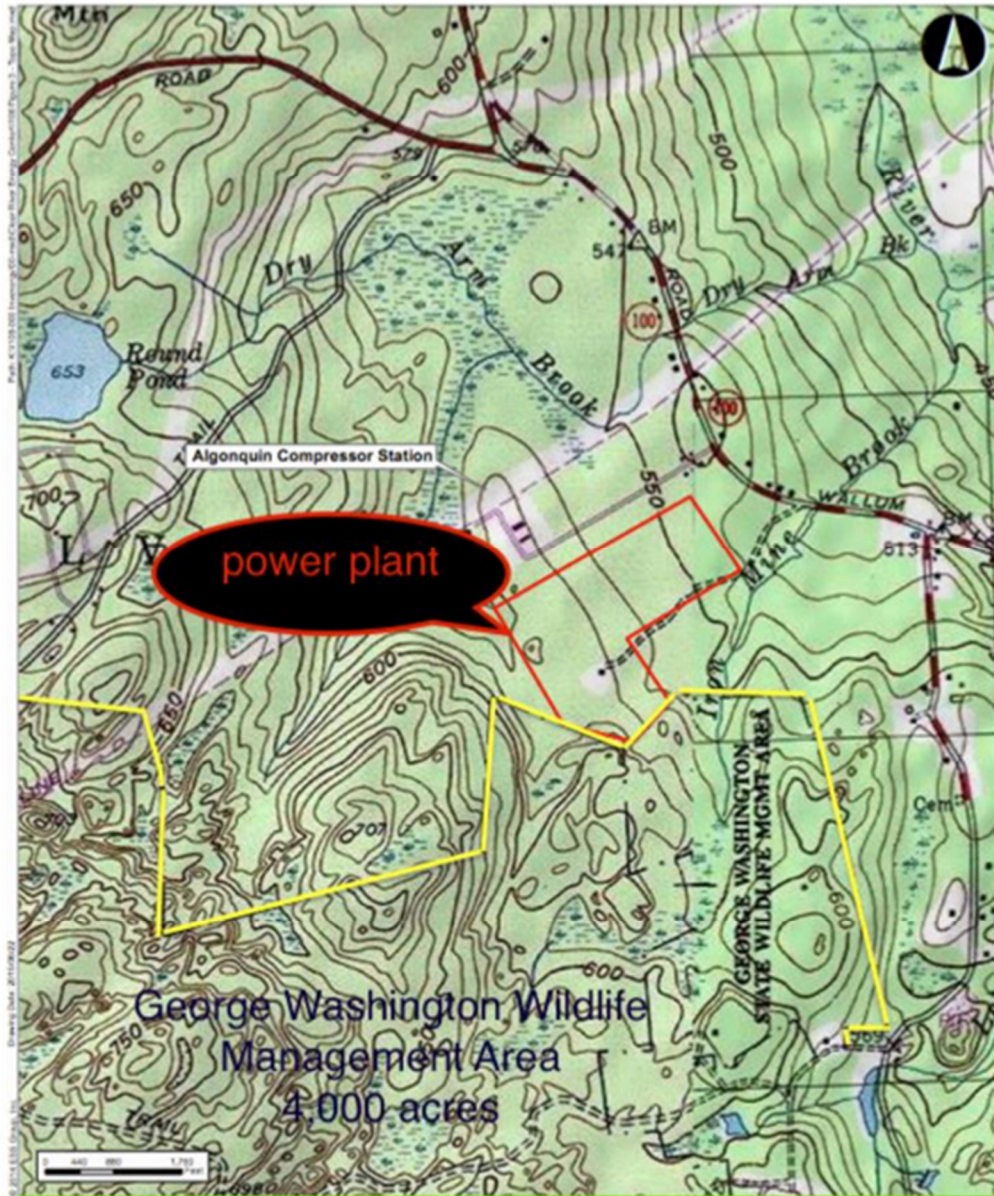
[https://www.energy.gov/sites/prod/files/2015/04/f22/EIS-0140-FEIS-Volume\\_2.pdf](https://www.energy.gov/sites/prod/files/2015/04/f22/EIS-0140-FEIS-Volume_2.pdf)

The remaining records of the Ocean State Power Project, in so far as the Rhode Island Energy Facilities Siting Board's process of the OSP application is concerned, are stored at the office of the Rhode Island Public Utilities Commission, 87 Jefferson Blvd, Warwick, RI, and may be accessed by appointment. "Appendix D" of the FEIS, which is not attached to the online FEIS Volume II, is particularly helpful in understanding the alternative site selection process.



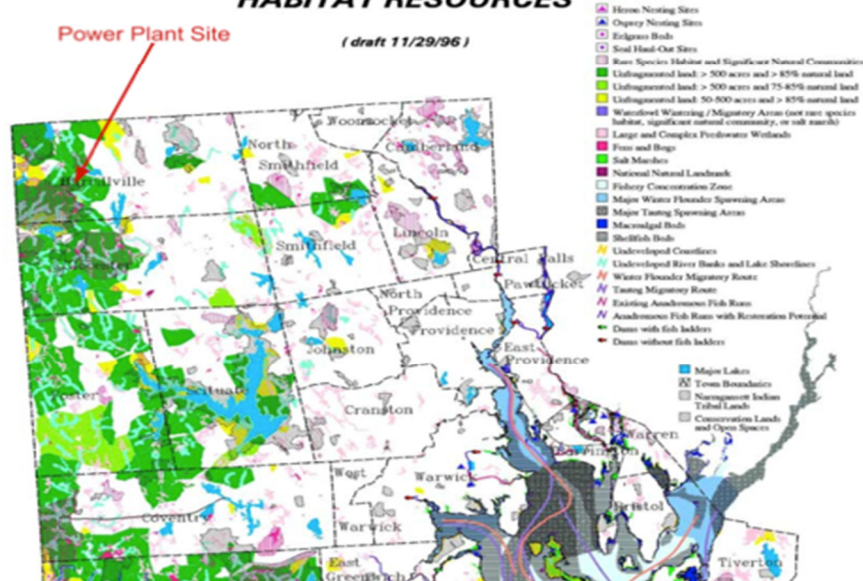
**Map 1:** The "Buck Hill Road" site, as delineated in Appendix D of the final draft of the 1988 Ocean State Power Project Environmental Impact Statement. The delineated area is a part of lot 002, Burrillville Tax Assessors map 135. It is one of 5 contiguous parcels owned by the Algonquin Gas Transmission Company that will be subdivided to create the Invenergy site. Invenergy's power-block is to the southeast across the south branch of the Dry Arm Brook wetland. The Algonquin compressor station and Algonquin Lane can be seen.

Invenergy's power line connection right of way will cross the south branch of the Dry Arm Brook wetland and will almost graze the southwest corner of the Buck Hill Rd site. (from "Exhibit 8n," letter of RI DEM biologist, Chris Raitel, to OSP's environmental consultants, 7/22/87, files of the OSP application, 1988,, RI Energy Facilities Siting Board, 87 Jefferson Ave., Warwick, RI)



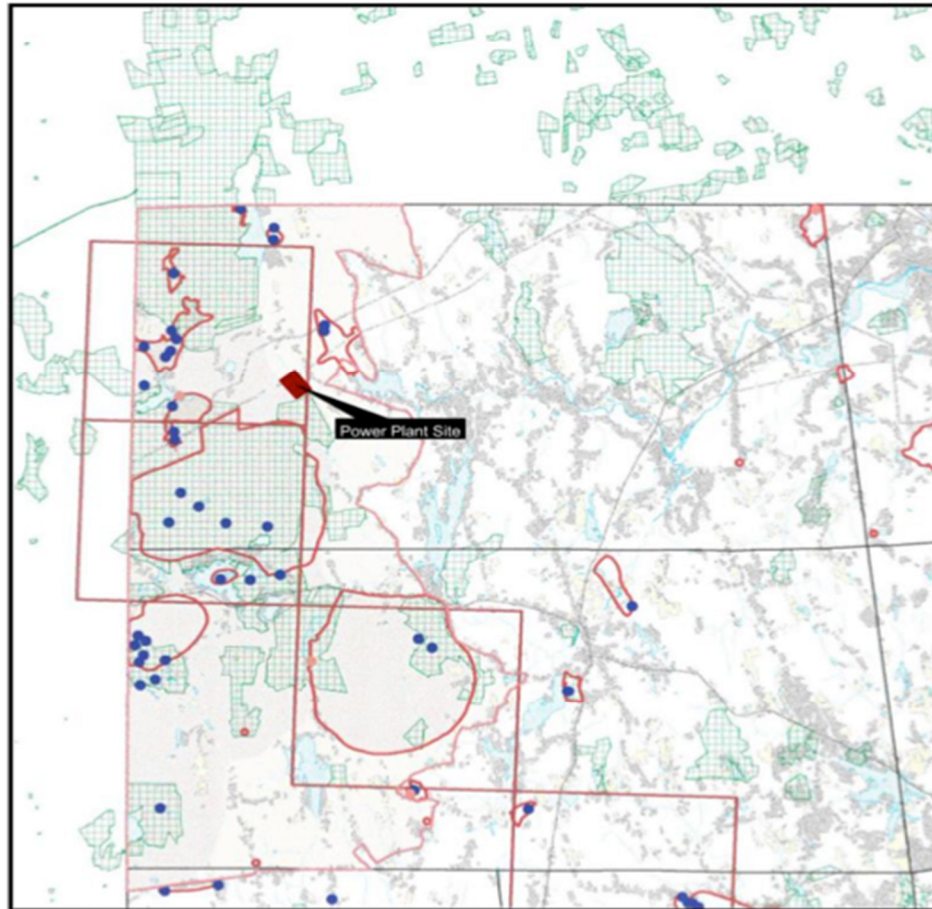
**Map 2:** The proposed site for the Clear River Energy Center, from Invenergy's "Application" to the EFSB, Oct. 29, 2015. (Borderline of the George Washington Wildlife Management Area and "power plant" text bubble have been added.) The Buck Hill Road Site was centered beneath the "Algonquin Compressor Station" label.

**RHODE ISLAND RESOURCE PROTECTION PROJECT  
HABITAT RESOURCES**



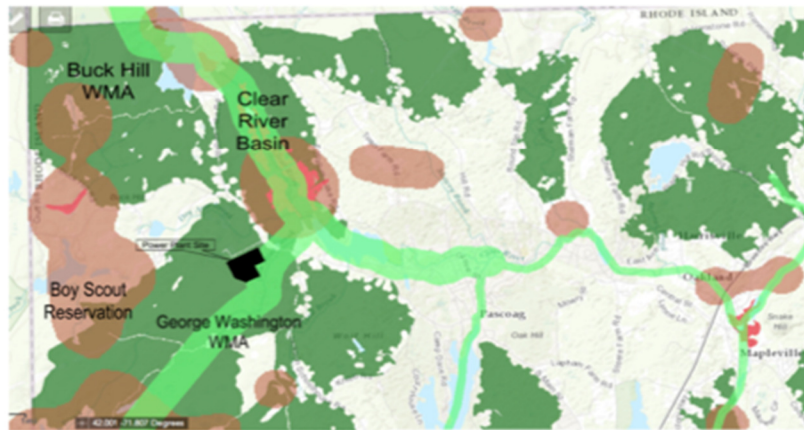
**Map 3:** A massive research and inventory project initiated by the New England office of the US Environmental Protection Agency, the 1995 Rhode Island Resource Protection Project remains the seminal data and mapping resource for all subsequent environmental inventory and mapping projects. The Invenergy site is clearly within the bounds of thickly layered value designations covering the RI, Ct, and Ma border region.

The Nature Conservancy  
Northwest Corner  
Focus Area - Protected Zones



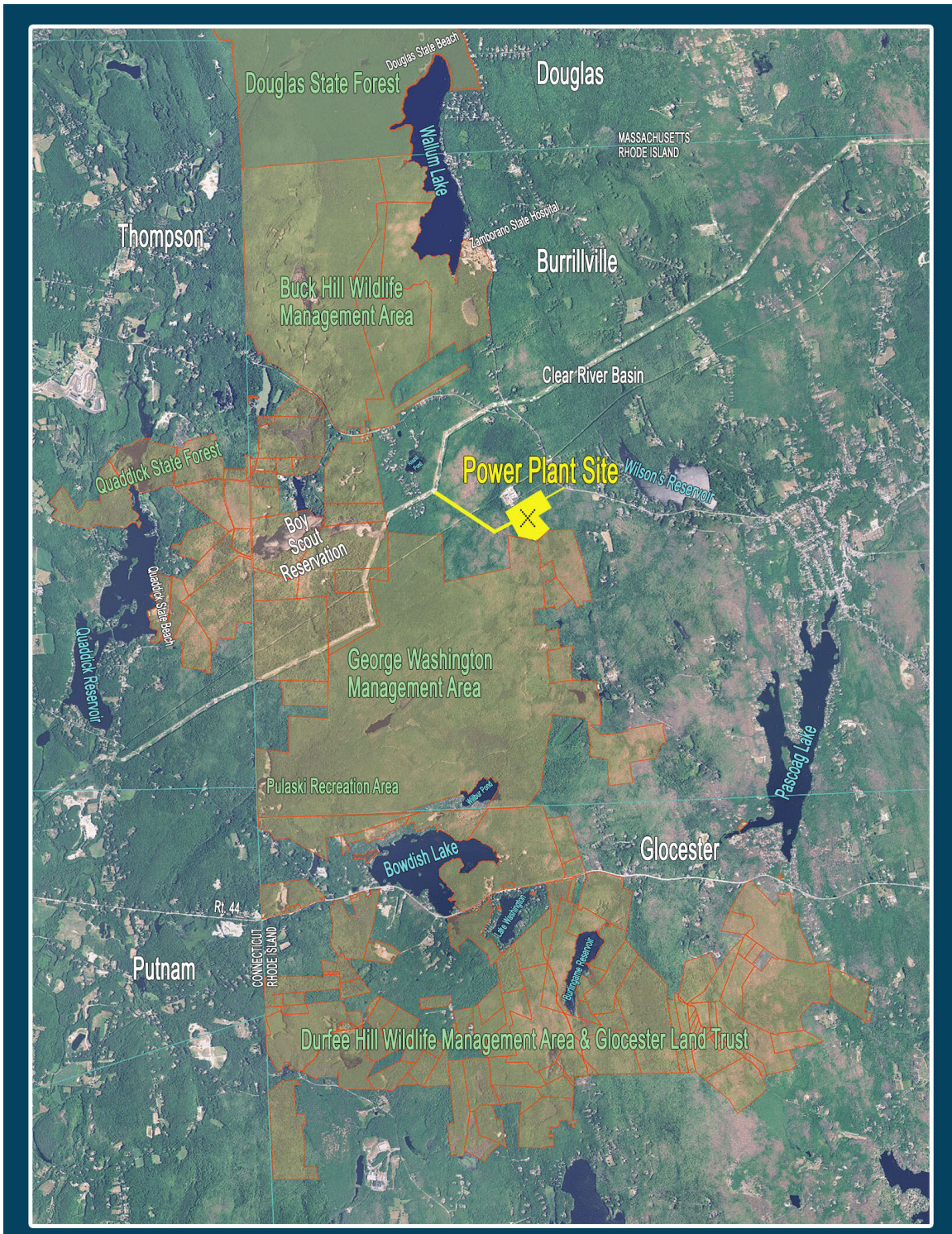
**Map 4:** The Nature Conservancy in Rhode Island's 1997 "Northwest Corner Conservation Plan" was one outcome of the 1995 RI Resource Protection Project. The region encompassed by the pink curving bound beginnings at the bottom left in Foster, and ending at the Ma line in Burrillville, is one of five Rhode Island natural areas prioritized for protection by TNC. The power plant site is well within the area.

The Nature Conservancy / Department of  
Environmental Management  
2015 Wildlife Action Plan  
Conservation Opportunity Areas Map



Red	Critical Habitats
Dark Green	500+ Acre Forests
Light Green	Wildlife Corridors
Orange	Natural Heritage Areas (Identified Rare Species)

**Map 5:** This shot of the 2015 RI Wildlife Action Plan's digital "Conservation Opportunity Areas" map displays, for the sake of clarity, four of the map's seven value layers. Since Invenergy's "Biological Inventory" found 47 species deemed by the WAP as "Species of Greatest Conservation Need," and 17 of them had the added status of being "State-Listed," it is plausible that when the WAP is revised in 2025, the power plant site, including the whole Dry Arm Brook wetland, will be layered in pink as a "Natural Heritage Area" on the Plan's *Conservation Opportunity Areas* map. This especially suggested by the discovery of Spotted Turtles during the Inventory.



**Map 6:** Conserved forests of the tri-state corner: All six state forests, 24.1 sq. miles; RI state forests, 12.4 square miles; Boy Scout & Feinstein Cub World Reservation, 2.5 sq. miles. (Not pictured is the Mine Brook Wildlife Management Area abutting the Douglas State Forest to the northwest.) Narrow yellow corridor depicts the power line right of way Invenergy would cut to access the existing Natl. Grid power line. The center of the "Buck Hill Road site" is beneath the "P" in "Power." Nearest "Urban Services Boundary," per the RI State GuidePlan,---areas within which might be suited for Industrial zoning---lies 1.5 miles due east of the site, past Wilson's res., on the western edge of Pascoag village.