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March 19, 2019

Todd A. Bianco, Ph.D.
Coordinator
Rhode Island Energy Facility Siting Board
89 Jefferson Boulevard
Warwick, RI 02888

Re: Invenergy Thermal Development LLC – Clear River Energy Center
Docket No. SB-2015-06

Dear Dr. Bianco:

Enclosed for filing in this matter are an original and six copies of the Town of Burrillville's Motion to Admit Blackstone Heritage Corridor's Letter as a Full Exhibit. Electronic copies have been sent to the service list.

If you need any further information, please do not hesitate to contact me.

Very truly yours,



Michael R. McElroy

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 : DOCKET No. SB-2015-06
ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND :

**TOWN OF BURRILLVILLE'S MOTION TO ADMIT
BLACKSTONE HERITAGE CORRIDOR'S LETTER AS A FULL EXHIBIT**

The Town of Burrillville ("Town") moves to admit Blackstone Heritage Corridor's Letter to the EFSB dated August 25, 2016 ("BHC Letter") as a full exhibit. A copy of the BHC Letter is attached hereto as Exhibit 1. In support of this Motion, the Town states as follows:

I. Background

During the EFSB hearing on March 12, 2019, the Town sought to impeach Invenergy during cross-examination of Invenergy witnesses Chad Jacobs and Jim Riordan using the BHC Letter. Invenergy has made multiple statements regarding the alleged position of BHC on this project. The BHC Letter establishes that Invenergy's statements about BHC's position are inaccurate. Contrary to Invenergy's claim, BHC has many concerns regarding the adverse environmental impacts of the Clear River Energy Center.

The BHC Letter was marked for identification as Town Exhibit 44. When the Town asked the EFSB to admit the BHC Letter, Invenergy objected. The EFSB permitted the Town to brief the issue of whether the BHC Letter should be admitted as a full exhibit.

A. What is the Blackstone Heritage Corridor?

On November 10, 1986, Congress passed the Blackstone River Valley National Heritage Corridor Act of 1985 ("Act"). Pub. L. 99-647, 100 Stat. 3625. The Act established the Blackstone River Valley National Heritage Corridor ("Corridor"). The Corridor follows the

Blackstone River for 26 miles from Worcester, MA to Providence, RI and consists of sites in 24 cities and towns, including the Town of Burrillville.

The Act also created the Blackstone River Valley National Heritage Corridor Commission (“Commission”). Created by federal statute, the Commission was a statutory body that derived its authority from the Act. The purpose of the Commission was to “assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters [in the Corridor].” The members of the Commission were nominated by the governors of Rhode Island and Massachusetts and appointed by U.S. Secretary of the Interior.¹

The Commission was charged with creating a Cultural Heritage and Land Management Plan (“Plan”) by coordinating existing state plans to present a unified historic preservation and interpretation plan for the Corridor. Once the Plan was reviewed and approved, the Commission was charged with implementing the Plan, including working with state and local governments to adopt land use policies consistent with the Plan and to take actions to implement those policies.

The Act was amended by Congress several times between 1985 and 2014 to extend the Commission and to provide additional federal funding.

B. What is Blackstone Heritage Corridor, Inc.?

In late 2014, Congress again amended the Blackstone River Valley National Heritage Corridor Act of 1985 (“Act”). This is the most recent amendment to the Act (“2014 Amendment”). In the 2014 Amendment, Congress replaced the Commission with a “local coordinating entity” which was to be selected by the Commission and approved by the Secretary

¹ The members included the director of the National Park Service, the directors of the Department of Environmental Management from Rhode Island and Massachusetts, the state historic preservation officers from Rhode Island and Massachusetts, the directors of the Department of Economic Development from Rhode Island and Massachusetts, representatives from local governments from Rhode Island and Massachusetts, and other individuals nominated by the governors of Rhode Island and Massachusetts.

of the Interior. Carl Levin and Howard P. McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L 113-291, §§ 3031, 3052.

Under the 2014 Amendment, the local coordinating entity is charged with assuming “the duties of the Commission for the implementation of the Cultural Heritage and Land Management Plan” that had previously been developed by the Commission. The 2014 Amendment also states that any reference to “Commission” in the Act shall be considered to be a reference to the “local coordinating entity” (with certain exceptions). Therefore, the local coordinating entity fully stepped into the shoes of the Commission as a federal statutory body and must fulfill all statutory duties previously assigned to the Commission under Section 6 of the Act.

Blackstone Heritage Corridor, Inc. (“BHC”) was selected by the Commission to be the successor organization to the Commission. BHC’s mission is to “work with community partners to preserve and promote the [Corridor’s] historic, cultural, natural and recreational resources for current and future generations.” Blackstone River Valley National Heritage Corridor, Inc.’s Audited Financial Statements, September 30, 2015 at 6.

C. What has Blackstone Heritage Corridor, Inc. said about the adverse environmental impacts of the Clear River Energy Center?

Pursuant to its duties under the Act and the 2014 Amendment, BHC evaluated the Clear River Energy Center EFSB application and submitted a letter dated August 25, 2016 to the EFSB summarizing BHC’s concerns. The BHC Letter was written and signed by BHC’s deputy director at that time, Megan DiPrete. The BHC Letter is currently included with the extensive written public comment filings available on the EFSB website for this docket.²

² The General Assembly has determined that public input must be considered by the EFSB during its decision-making process. R.I.G.L. § 42-98-9.1(e). Written public comment filings for Docket SB-2015-06 can be found here: http://www.ripuc.org/efsb/2015_SB_6_comment.html (last visited March 18, 2019).

BHC explains in its letter that it has reviewed Invenergy's application and is providing comments "pursuant to [BHC's] responsibilities as described by [the Act] as amended most recently by [the 2014 Amendment]." BHC Letter, at 7. Following its review, BHC's overall position is that "the project may have the potential for significant adverse impacts to the resources of the [Corridor]." *Id.* at 1.

The BHC Letter further states:

- "The site is located in perhaps the most natural and forested area of Rhode Island..." *Id.* at 3.
- "After construction, which will certainly be accomplished by moving goods and equipment on minor rural roads, delivery of fuels, chemicals and other supplies will be made via large tanker style trucks to the site." *Id.* at 4.
- "The extensive elimination of forest and impact to water sources will permanently impact the ability of the land to benefit the Town of Burrillville, the "Quiet Corner" of northeast Connecticut, the nearby region of Massachusetts, and the Blackstone River Valley National Heritage Corridor." *Id.* at 4.
- "Existing forest resources have extraordinary value relative to intercepting stormwater and thereby attenuating stormwater impacts. Given the expanse of anticipated forest removal for this project as well as the acres of filling and alteration of wetlands and areas of hydric soils, we can expect millions of gallons of additional stormwater will be introduced to the wetlands and water systems associated with [CREC]. Clearing additional land in order to construct stormwater basins addresses only a portion of the issue and typically creates additional issues such as time and duration of flows, as well as appropriate recharge. The consequences of such significant additional stormwater flow cannot be overstated." *Id.* at 5.
- "Both the volume of trucking and the material being transported present risk on a number of levels." *Id.* at 5.
- "One acre of forest can store more than 3.5 megatons of carbon, and can filter more than 2.5 megatons of carbon dioxide. Given the extensive removal of forest vegetation required [...], BHC has concerns about the adverse impact of the proposal with regard to air quality and carbon sequestration." *Id.* at 5.

- “Even providing culverts for wildlife passage, the concern is that entire habitat regions will be severely restricted or even eliminated.” *Id.* at 6.
- “In addition to the disruption of stormwater management, carbon management, and water recharge, it is unclear what the impact will be on the natural existence of and migration patterns for local wildlife. The site is located in a predominant north/south wildlife corridor between, generally, the Douglas (MA) State Forest, protected lands in the northeastern portion of Connecticut and the protected and managed lands of the Scituate Reservoir. This miles-long corridor is a regional critical habitat and ecosystem.” *Id.* at 6.
- “The project proponent has indicated that a number of these items could be further analyzed in later permit review stages, after EFSB approval is attained. However, these items and their impacts are integral to whether this project (as well as the appurtenant elements whose potential impacts have thus far been omitted from review) is being appropriately sited.” *Id.* at 7.
- “[BHC] is unable at this time to indicate that the project will not have significant adverse impacts upon the resources of the Congressionally-designated and nationally-significant John H. Chafee Blackstone River Valley National Heritage Corridor.” *Id.* at 7.

D. What has Invenergy said about the BHC and the Corridor?

The BHC Letter documents that BHC has many concerns about the adverse environmental impacts of this project. Invenergy has acknowledged BHC’s oversight responsibilities for the project site and has consulted with BHC during its planning phase. Several witnesses attest that Invenergy met with representatives of BHC, the Corridor and/or the Commission while preparing the CREC application and related reports.

- Section 3.2.10.2 of Invenergy’s wetland application entitled “Recorded Archaeological Resources” states that “[t]he Applicant has met with the Blackstone Valley Heritage Corridor, Inc. as part of its consultation process.” Application to Alter Freshwater Wetlands, at 69 (March 2017); Invenergy Exhibit 10.

- Christopher Donta testified that “Invenergy has also consulted with representatives with the Blackstone Valley Heritage Corridor.” Donta Pre-Filed Direct, at 3 (June 30, 2017); Invenergy Exhibit 28.
- John Niland testified that “Invenergy has consulted with the Narragansett Indian Tribe and the Blackstone Valley Heritage Corridor Commission.” Niland Pre-Filed Direct, at 28 (June 30, 2017); Invenergy Exhibit 58.
- Section 3.1.10.2 of Invenergy’s wetlands application, entitled “History” states that:

The CREC is within the John H. Chaffee [sic] Blackstone River National Heritage Corridor (the “Corridor”). In 1986, Congress established the Corridor to preserve and interpret the unique and significant contributions of the valley’s resources and history to the nation’s heritage. The Blackstone River Valley is one of the nation’s richest, best preserved repositories of landscapes, structures, and sites attesting to the rise of industry in America.

Although all of Burrillville lies within the Corridor, the CREC is not located near any known historic elements that have been outlined as contributors to the historic nature of the Corridor. [...] We therefore believe that the proposed impacts of the CREC will not affect the settings, characteristics, or feelings of these historical resources, or the Corridor.

Application to Alter Freshwater Wetlands, at 41-42 (March 2017). Invenergy Exhibit 10(emphasis added).

- Section 1.4 of Invenergy’s stormwater management plan, entitled “Historic Preservation and Cultural Resources Information” states that:

The CREC is within the John H. Chaffee [sic] Blackstone River Valley National Heritage Corridor (the “Corridor”). Although all of Burrillville lies within the Corridor, the CREC is not located near any known historic elements that have been outlined as contributors to the historic nature of the Corridor. We therefore believe that the proposed impacts of the CREC will not affect the settings, characteristics, or feelings of these historical resources, or the Corridor.

Stormwater Management Plan, at 8 (March 2017), Invenergy Exhibit 10 (emphasis added).

- Christopher Donta testified as follows:

Q: Have you reviewed the comments from the Blackstone River Valley National Heritage Corridor?

A: Yes.

Q: Do you have any response to those comments?

A: The Blackstone Heritage Corridor, Inc. (“BHC”), the designated local coordinating entity for the John H. Chafee Blackstone River Valley National Heritage Corridor, comments that their strategic plan include encouraging regional planning to protect shared cultural resources and to identify and protect important cultural resources from adverse development impacts. They further state that they have not yet reviewed the archaeological survey and site examination report. Given that my expertise is relative to cultural heritage management, I cannot provide authoritative comment regarding non-cultural issues such as environmental stewardship.

[...] I note that in reviewing documentation relative to the Blackstone Valley National Heritage Corridor, the National Park Service and the BHC point to several historical resources in Burrillville that may be considered contributing elements of the Corridor or places to see relative to the Corridor in Burrillville. These include White Mill Park, [...], the Bridgeton Car Park, [...], the Burrillville Historical and Preservation Society, [...], and the Black Hut Management Area, [...]. It is my professional opinion that the proposed impacts of the Project will not affect the settings, characteristics, or feelings of these historical resources.

Donta Pre-Filed Direct, at 6-7 (June 30, 2017), Invenergy Exhibit 28 (emphasis added).³

Invenergy has therefore acknowledged that it reviewed the BHC Letter and met with BHC, but Invenergy has attempted to minimize the serious concerns raised by BHC. Invenergy has incorrectly claimed that the proposed power plant will have no adverse environmental impacts to the Corridor. The Town seeks to impeach these claims using the BHC Letter.

³ Invenergy’s counsel argued that Mr. Donta is the appropriate witness to answer questions about the BHC letter. The Town disagrees with this argument, because several Invenergy witnesses and documents reference the Corridor. However, the Town would welcome the opportunity to cross-examine Mr. Donta on the contents of the BHC Letter.

II. Argument

The BHC Letter is admissible to impeach Invenergy's claims because (1) the BHC Letter is relevant to the issue of unacceptable environmental harm, (2) the BHC Letter falls within an exception to the hearsay rule, and (3) if necessary, representatives from BHC are willing and able to appear before the EFSB to be cross-examined on the BHC Letter.

A. *The relevance of the BHC Letter is not contested.*

The BHC Letter is relevant to this proceeding and its relevance is not contested.⁴ Under Rule 402 of the Rhode Island Rules of Evidence, all relevant evidence is admissible except as otherwise provided by law.⁵

The BHC Letter contradicts claims made by Invenergy's witnesses that the project will not adversely impact the environmental resources of the Corridor. These claims were made by John Niland, Christopher Donta, Chad Jacobs and Jim Riordan. They were also made in applications and filings prepared by these witnesses. The Town seeks to admit the BHC Letter to impeach Invenergy's credibility regarding these claims. Credibility is always relevant. *United States v. Repak*, 852 F.3d 230, 250 (3d Cir 2017).

B. *The BHC Letter falls within one or more exceptions to the hearsay rule.*

1. Rule 803(8)

The BHC Letter is admissible because it is a public report setting forth factual findings of an investigation of a federal statutory body made pursuant to authority of law under Rule 803(8) of the Rhode Island Rules of Evidence.⁶

⁴ During the March 12, 2019 hearing, Invenergy's counsel did not object to the admission of the BHC Letter on the basis of relevancy. Invenergy's primary objection was that there was no witness from BHC to cross-examine regarding the letter.

⁵ The EFSB Rules of Practice and Procedure provide that the rules of evidence as applied in civil cases in Rhode Island Superior Court shall be followed to the extent practicable. 445-RICR-00-00-1 § 1.29. Evidence not otherwise admissible may be submitted, unless precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. *Id.* Any part of the evidence may be received in written form, when a hearing will be expedited and the interests of the parties will not be substantially prejudiced. *Id.*

The BHC letter is a report or statement of a “public office or agency.” R.I. R. Evid. 803(8)(C). BHC stepped into the shoes of the Commission following the 2014 Amendment to the Act. BHC is a federal statutory body and must fulfill all statutory duties previously assigned to the Commission

The BHC Letter consists of “factual findings” related to the CREC application. R.I. R. Evid. 803(8)(C). The term “factual findings” encompasses not only a recitation of facts, but also the conclusions and opinions that flow from a factual investigation. *Cribb v. Augustyn*, 696 A.2d 285, 289 (R.I. 1997) (citing *Beech Aircraft Corp v. Rainey*, 488 U.S. 153, 164 (1988)).

The factual findings in the BHC Letter result from an “investigation made pursuant to authority granted by law.” R.I. R. Evid. 803(8)(C). As noted in the BHC Letter, BHC's review of Invenergy’s application and its corresponding comments were made “pursuant to [BHC’s] responsibilities as described by [the Act] as amended most recently by [the 2014 Amendment].” BHC Letter, at 7.

Once the above requirements are met, the evidence should be admitted unless the party opposing the evidence makes an affirmative showing of untrustworthiness. *U.S. v. Davis*, 826 F.Supp. 617, 622 (D.R.I. 1993) (“[O]nce the *prima facie* elements of FRE 803(8)(C) are fulfilled, *the entire document is presumed admissible*, and the opponent must then demonstrate untrustworthiness.” (emphasis in original)). However, the factual findings and related conclusions and opinions within the BHC Letter are trustworthy.⁷ The author of the BHC Letter

⁶ Rule 803(8) states: “Public Records and Reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matter there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the state in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.”

⁷ The Advisory Committee of the Rhode Island Rules of Evidence proposed four trustworthiness factors. These are: (1) the timeliness of the investigation upon which the report is based, (2) the skill and the experience of the

is an experienced planner and had been employed with BHC since its inception. There is no evidence of possible bias, and the review of the CREC application occurred close in time to the drafting and submission of the BHC Letter.

Therefore, the BHC Letter should be admitted as a full exhibit under R.I. R. Evid. 803(8).

2. Rule 803(6)

Alternatively, the BHC Letter is admissible because it is a record of regularly conducted activity under Rule 803(6) of the Rhode Island Rules of Evidence.⁸ The Rhode Island Supreme Court has enunciated a four-part test, based on the rule, for the admissibility of a document under Rule 803(6):

First, the record must be regularly maintained in the course of a regularly conducted business activity. Second, the source of the information must be a person with knowledge. Third, the information must be recorded contemporaneously with the event or occurrence, and fourth, the party introducing the record must provide adequate foundation testimony.

R.I. Managed Eye Care, Inc. v. Blue Cross & Blue Shield of R.I., 996 A.2d 684, 691 (R.I. 2010) (quoting *Fondedile, S.E. v. C.E. Maguire, Inc.* 610 A.2d 87, 94 (R.I. 1992)). In order to provide an adequate foundation, “a party must prove the first three requirements and authenticate the document or record.” *Id.*

The Act and the 2014 Amendment require BHC to implement the previously approved Cultural Heritage and Land Management Plan (“Plan”). This Plan is cited to within the BHC Letter, demonstrating that the CREC application conflicts with the elements set forth in the Plan.

investigating officer, (3) the question of whether any hearing was held, and (4) the possible bias of the investigator. *Cribb v. Augustyn*, 696 A.2d 285, 289 (R.I. 1997) (citing R.I. R. Evid. Adv. Committee Notes to Rule 803).

⁸ Rule 803(6) states: “Records of Regularly Conducted Activity: A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions or diagnoses, made at or near the time by, or from information transmitted by, another person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term “business” as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.”

This is consistent with the BHC's mission as set forth in the Act as amended and is part of its regularly conducted business activity.

The Supreme Court has consistently held that Rule 803(6) is interpreted expansively in favor of admitting hearsay records into evidence. *R.I. Managed Eye Care, Inc. v. Blue Cross & Blue Shield of R.I.*, 996 A.2d 684, 693 (R.I. 2010); *Fondedile, S.E. v. C.E. Maguire, Inc.* 610 A.2d 87, 94 (R.I. 1992) (“In most situations, a trial justice should interpret foundation requirements in favor of admitting records and thereafter let the trier of fact determine the evidence’s probative value.”).

Therefore, in the alternative, the BHC Letter should be admitted as a full exhibit under R.I. R. Evid. 803(6).

C. Representatives from Blackstone Heritage Corridor are available to testify regarding the BHC Letter.

Invenergy has objected to admittance of the Letter as a full exhibit because Invenergy has not yet had the opportunity to cross examine a witness concerning the letter. However, if needed, the Town has confirmed that BHC representatives are willing and available to testify before the EFSB regarding the BHC Letter. BHC Executive Director Devon Kurtz, BHC Board Member Lee Dillard Adams, and former Executive Director Megan DiPrete have offered to appear before the EFSB to testify regarding the letter and its contents and to respond to cross-examination.

Mr. Kurtz was selected as new Executive Director of BHC following the departure of Ms. DiPrete. Mr. Kurtz was previously BHC’s Director of Audience Engagement.

Ms. Adams has served on the BHC Board of Directors since April 2017. Ms. Adams is the former Central Regional Director of the Department of Environmental Protection in Massachusetts.

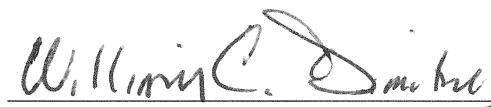
Ms. DiPrete is the author and signatory of the BHC Letter. Ms. DiPrete left BHC in April 2018 to become Division Chief, Planning and Development at RI Department of Environmental Management.

The addition of these witnesses would not cause delay in these proceedings. If permitted, the Town anticipates that Mr. Kurtz, Ms. Adams, and/or Ms. DiPrete would appear on an already scheduled hearing date.


III. Conclusion


Therefore, for the reasons given and upon the authorities set forth above, the Town moves to have the BHC Letter admitted as a full exhibit in EFSB Docket No. SB-2015-06, either immediately or after cross examination of the BHC witnesses.

Respectfully submitted,
Town of Burrillville
By its attorneys



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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March, 2019, I sent a copy of the foregoing to the attached service list.

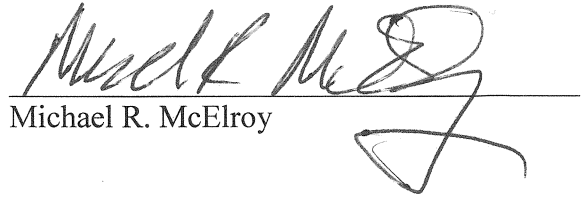

Michael R. McElroy

Exhibit 1

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PUBLIC UTILITIES COMMISSION



**Blackstone
Heritage
Corridor, Inc.**

✓
Mr. Todd Bianco
Coordinator
Energy Facility Siting Board
89 Jefferson Blvd.
Warwick, RI 02888

August 25, 2016

RE: SB 2015-06 Invenergy Thermal Development LLC's Application to Construct the Clear River Energy Center Power Plant in Burrillville, RI.

Dear Mr. Bianco:

There is a proposal before the EFS Board relative to authorizing construction of a roughly 67-acre energy production facility off of Wallum Lake Road in Burrillville.

Blackstone Heritage Corridor, Inc. is writing to express its position that the project may have the potential for significant adverse impacts to the resources of the federally-designated John H. Chafee Blackstone River Valley National Heritage Corridor.

Authority:

The John H. Chafee Blackstone River Valley National Heritage Corridor was established by an Act of Congress in 1986. That U.S. Public Law, 99-647, in Section 9, obligated the Corridor to review and comment on a variety of projects by providing the following:

"Any federal entity conducting or supporting activities directly affecting the Corridor *shall*-

- 1) *Consult with* the Secretary and *the Commission* with respect to such activities,
- 2) *Cooperate with* the Secretary and *the Commission* in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and
- 3) To the maximum extent practicable, *conduct or support* such activities in a manner which *the Commission* determines will not have an adverse effect on the Corridor."

(Emphasis added)

In 2014, U.S. Public Law 113-291 was adopted. The law established the Blackstone River Valley National Historical Park. In section 3052, it also provided that the BHC would perform the functions previously performed by the Commission.

“For purposes of (99-647 Section 9), a reference to the “Commission” shall be considered to be a reference to the local coordinating entity.”

Blackstone Heritage Corridor, Inc. (BHC) is the designated local coordinating entity for the John H. Chafee Blackstone River Valley National Heritage Corridor.

Scope of Review:

The property is located in Burrillville, RI. Therefore, the project site is located within the John H. Chafee Blackstone River Valley National Heritage Corridor.

BHC works with community partners to preserve and promote the Valley’s historic, cultural, natural and recreational resources for current and future generations.

The BHC Strategic Plan identifies a number of elements related to this project. While not exhaustive, our plan describes several objectives which relate to this application and which are identified in no particular order below:

Environmental Stewardship

- Promote stewardship, including a culture and ethic of long term care for our natural resources.

Land Use

- Promote new development that is compatible with the traditions and character of the region, does not adversely impact natural and cultural resources, avoids fragmentation of resource and animal corridors, provides a variety of residential housing options, and minimizes sprawl.
- Identify and protect important natural and cultural resources from adverse development impacts
- Promote and facilitate open space planning and implementation to preserve important natural and cultural resources, working lands, and recreational opportunities.
- Promote the designation and enhancement of scenic roads and views, greenways and blueways.
- Promote conservation and development techniques and policies that protect water quality and supply.
- Encourage regional planning to protect shared natural and cultural resources and promote intercommunity cooperation.

Air

- Protect forest resources, which absorb and filter air pollutants, generate oxygen, store great quantities of carbon, and help maintain the necessary balance of air components.

- Encourage land use planning and design that will lower harmful emissions and prevent air quality degradation.
- Protect fish and wildlife habitats from air pollutants.
- Encourage the development and use of renewable energy.

Water

- Reduce and eliminate point and non-point source pollution to preserve and enhance the quality of the region's surface and ground waters.
- Facilitate informed decisions regarding alterations of the natural flow of water across the landscape to safeguard surface water flows and ground-water recharge.
- Support opportunities to remediate legacy sediment contamination within the watershed.
- Support resiliency efforts to protect against the effects of climate change.
- Promote watershed-wide low impact development practices, appropriate revision of bylaws and regulations, and enforcement of regulatory tools for improved storm water management and water quality protection
- Ensure adequate supplies of water that will balance the needs of human, wildlife and plant life populations.
- Encourage residents to understand the interrelationships of human activities and water quality and quantity through education and outreach.

Wildlife

- Protect wildlife habitats, including unfragmented forest, grasslands, successional habitats, freshwater wetlands, streams, ponds, lakes, rivers and estuarine habitats, capable of supporting native wildlife species.
- Protect and promote corridors that link critical habitats and minimize habitat fragmentation.
- Improve and restore degraded aquatic and terrestrial habitats.
- Protect large blocks of unfragmented forestland and implement appropriate forest management.
- Promote safe and convenient water access and water trails for boating, paddling, fishing, swimming, skating, and simply enjoying the natural beauty of the region's lakes, streams, and rivers.
- Foster economic development activities that promote outdoor, nature-based recreation.

Discussion:

The site is located in perhaps the most natural and forested area of Rhode Island, and is just a mile or so from two additional states (Connecticut, Massachusetts).

Located in the Town of Burrillville, RI, it is situated within the John H. Chafee Blackstone River Valley National Heritage Corridor. Topographically, it lies near the western boundary of the Blackstone River Watershed. The site drains to the Clear River which in turn flows to the Branch River, a primary tributary of the Blackstone River.

Areas to the north, south and west of the property include large tracts of permanently protected open space.

The current proposal is part of a collection of proposals including expansion of the existing compressor and utility corridor work, and indicates that collectively as much as 121 acres of land to be cleared for the primary activity. While this particular project involves a (significant) portion of the impacts, the 3 projects are interrelated and their impacts should be evaluated in the collective.

The project expects to require up to 925,000 gallons of water per day (gpd) for its operations. Discharge is planned to the municipal wastewater treatment system. The water would be drawn from as-yet-unidentified sources and removed from the ecosystem for treatment.

After construction, which will certainly be accomplished by moving goods and equipment on minor rural roads, delivery of fuels, chemicals and other supplies will be made via large tanker style trucks to the site.

1. Environmental Stewardship

Blackstone Heritage Corridor, Inc. embraces and encourages stewardship of the Valley's resources. It is through such thoughtful effort to protect natural resources that those resources remain available to support the region's environmental health for future generations. The extensive elimination of forest and impact to water sources will permanently impact the ability of the land to benefit the Town of Burrillville, the "Quiet Corner" of northeastern Connecticut, the nearby region of Massachusetts, and the Blackstone River Valley National Heritage Corridor.

BHC requests information be provided indicating that these resources will be protected and stewarded for current and future generations.

2. Land Use

According to maps available from the USDA, the project site is nearly entirely compromised of (>80%) hardwood deciduous forests and areas of softwood and mixed forests, as is much of the land in this portion of the watershed and National Heritage Corridor. The soils are predominantly hydric, with seasonal high water tables, and there are areas with slope and/or bedrock constraints.

As noted elsewhere in this letter, there has been no material provided to BHC that indicates the project will conserve or protect water quality and supply, provide open space and recreational opportunities or protect natural resources from adverse development impacts.

Where the project is located in the very northwestern portion of Rhode Island, there has been no information provided to demonstrate coordinated review with nearby Massachusetts and Connecticut; such review should include discussion of existing and anticipated development projects and assessment of various natural and economic resources. These evaluations should also demonstrate inter-municipal and inter-state coordination and, as noted previously, should consider the various projects in a coordinated and cumulative fashion.

Existing forest resources have extraordinary value relative to intercepting stormwater and thereby attenuating stormwater impacts. Given the expanse of anticipated forest removal for this project as well as the acres of filling and alteration of wetlands and areas of hydric soils, we can expect millions of gallons of additional stormwater will be introduced to the wetlands and water systems associated with the Clear River. Clearing additional land in order to construct stormwater basins addresses only a portion of the issue and typically creates additional issues such as time and duration of flows, as well as appropriate recharge. The consequences of such significant additional stormwater flow cannot be overstated.

Trucking delivery is by way of State Route 100, classified as a Minor Arterial roadway, and a portion of Wallum Lake Road that is classified as a Major Collector roadway. Other nearby roads which may ultimately receive such traffic include two Minor Collector roadways; Buck Hill Road and Jackson Schoolhouse Road. According to Google Maps, Buck Hill Road is the suggested route between the site and Interstate 395. Providence is best accessed, also according to Google Maps, through small villages and towns. Both the volume of trucking and the material being transported present risk on a number of levels. It is unclear what if any measures are proposed to ensure the integrity of the resources of the Blackstone River Valley and the National Heritage Corridor.

BHC understands that an archaeological survey and an archaeological site examination have been performed. However, BHC has not had the benefit of review of those materials. Given the vast area of anticipated disturbance, such a survey will be helpful to BHC's effort to determine whether the project will have a significant adverse impact on those resources.

BHC requests information to demonstrate that there will be no significant impact upon the resources of the National Heritage Corridor with respect to trucking/traffic/roadway impacts, stormwater, loss of forest canopy, alteration of soils, floodplains, and the surface water systems leading to the Blackstone River.

3. Air

Carbon dioxide is naturally captured from the atmosphere through biological, chemical, or physical processes. One acre of forest can store more than 35 megatons of carbon, and can filter more than 2.5 megatons of carbon dioxide. Given the extensive removal of forest vegetation required for the collective projects as described above, BHC has concerns about the adverse impact of the proposal with regard to air quality and carbon sequestration.

BHC requests further information to demonstrate provision for carbon sequestration sufficient to reflect the loss of forest resources performing natural carbon sequestration.

4. Water

The project indicates up to 925,000 gpd may be needed at the facility. It is important that projects maintain a balance of water resources. Removing large quantities of water from the ecosystem is a concern; discharging large quantities of water to a wastewater treatment facility is also a concern since it results in

increased and mechanical discharges into other sub-basins, leaving the original sub-basin from which the water came still without that quantity.

Concerns related to management of stormwater are identified above. Significantly altering the natural balance of water in aquifers or ponds can result in atypical movement of contaminants. Maintaining adequate hydrology is essential to ensure that new channels do not open for historic contamination to shift or even for naturally-occurring elements to surface.

Given the region's reliance on groundwater and surface water systems, this project constitutes an extraordinary tax upon the region's resources. We note that the current year has seen very little rainfall compared with about 52 inches/year typical (USClimateData.com), so natural water systems are challenged. Withdrawing an additional 925,000 gpd from groundwater even over a short period of time poses significant threats to the drinking water systems, soil health, vegetative health and community health. Removing the water from the area further compromises the recharge opportunities, exacerbating drought conditions. This in turn also raises wild fire risk, and increases the threats in a forested area not well-served by municipal water supplies.

BHC requests that information be provided to ensure that the impact to ground- and surface- water resources will not permanently impact the region and threaten the health of the National Heritage Corridor ecosystems.

5. Wildlife

As previously described, more than 100 acres of existing forest is expected to be cleared for this project and those appurtenant with it, and existing rainwater flows will be inextricably altered. Even providing culverts for wildlife passage, the concern is that entire habitat regions will be severely restricted or even eliminated.

In addition to the disruption of stormwater management, carbon management, and water recharge, it is unclear what the impact will be on the natural existence of and migration patterns for local wildlife. The site is located in a predominant north / south wildlife corridor between, generally, the Douglas (MA) State Forest, protected lands in the northeastern portion of Connecticut and the protected and managed lands of the Scituate Reservoir. This miles-long corridor is a regional critical habitat and ecosystem.

Preserving largescale land areas that are currently not protected and which would create corridors appropriate for wildlife travel and habitat could be an opportunity to offset the obvious first-tier impacts of the proposed development. Because the project is located at the edge of the watershed, this of course presents additional challenges.

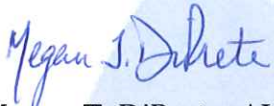
BHC requests additional information to demonstrate that there will be no significant adverse impacts upon the wildlife corridor resources of the National Heritage Corridor.

Summary:

The project proponent has indicated that a number of these items could be further analyzed in later permit review stages, after EFSB approval is attained. However, these items and their impacts are integral to whether this project (as well as the appurtenant elements whose potential impacts have thus far been omitted from review) is being appropriately sited. Significant additional information demonstrating the long-term integrity of the region is required. Blackstone Heritage Corridor, Inc. is unable at this time to indicate that the project will not have significant adverse impacts upon the resources of the Congressionally-designated and nationally-significant John H. Chafee Blackstone River Valley National Heritage Corridor.

These comments are provided pursuant to responsibilities as described by Public Law 99-647 as amended most recently by Public Law 113-291. Please feel free to contact BHC's deputy director and community planner with any additional questions.

Yours truly,



Megan T. DiPrete, AICP
Deputy Director

Certificate of Service

I hereby certify that on August 26, 2016, I sent a true copy of the preceding to the Energy Facilities Siting Board via hand delivery and electronic mail, and to the parties on the attached service list via electronic mail.



Megan T. DiPrete