

October 4, 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 and the Clear River Energy Center Project (“Invenergy”), enclosed please find an original and three (3) copies of Invenergy’s Responses to the Town of Burrillville’s 38th Set of Data Requests.

Please let me know if you have any questions.

Very truly yours,



ALAN M. SHOER  
[ashoer@apslaw.com](mailto:ashoer@apslaw.com)

Enclosures

cc: Service List

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ENERGY FACILITY SITING BOARD

IN RE: Application of Invenergy Thermal  
Development LLC's Proposal for  
Clear River Energy Center

Docket No. SB-2015-06

**INVENERGY THERMAL DEVELOPMENT LLC'S RESPONSES TO  
THE TOWN OF BURRILLVILLE'S 38<sup>th</sup> SET OF DATA REQUESTS**

- Request 38-1                      With regard to any and all meetings, conferences, emails, letters, memoranda, notes, or other communications between Invenergy and the U.S. Army Corps of Engineers:
- (1) Please summarize what occurred in each of those meetings (i.e., emails, calls, or other exchanges of information).
- (2) Please provide copies of all documents related in any way to said meetings, (i.e., emails, calls, or other exchange of information or documentation of any kind), including, but not limited to, minutes of any meetings (formal or informal), notes from any meetings (formal or informal), emails, or correspondence.
- Response 38-1                      (1) Aside from the application to the U.S. Army Corps of Engineers ("ACOE"), already provided to the Town of Burrillville ("Town"), **Exhibit 38-1** contains summaries of all written communications between Invenergy Thermal Development LLC ("Invenergy") and the ACOE.
- (2) Aside from the application to the ACOE, already provided to the Town, **Exhibit 38-1** includes all documents related to all written communications between Invenergy and the ACOE.
- RESPONDENT:                      Michael E. Feinblatt, ESS Group, Inc.
- DATE:                                      October 4, 2017

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Request 38-2 Has Invenergy asked the U.S. Army Corps of Engineers (formally or informally), whether an environmental assessment and/or environmental impact statement might be required?

If so:

(1) Please identify and describe each such request (formal or informal).

(2) Provide any and all documents related to such request and any response to the same.

(3) Please summarize what the U.S. Army Corps of Engineers has told Invenergy (formally or informally), in writing or otherwise, regarding whether an environmental assessment and/or environmental impact statement might be required for the project. Please also provide any and all documents, including correspondence, memoranda, emails, notes, or otherwise with respect to any such request and any such response to the request.

If you have not made such a request (formally or informally), of the Army Corps of Engineers, please explain why you have not made such a request.

Response 38-2 Invenergy has not asked the ACOE (formally or informally) whether an EA and/or EIS might be required. 33 CFR 325, Appendix B, Section 7a, requires the district engineer to complete an EA as soon as practicable after all relevant information is available. Because an EA is required, there would be no reason to ask the ACOE whether an EA will be completed for this project. The purpose of the EA is to determine whether an EIS will be required. It would be premature to ask the ACOE whether an EIS will be required for this project until it completed its review of the application and have completed the EA for the project.

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

DATE: October 4, 2017

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Request 38-3            With regard to all data responses from Invenergy, please identify each witness who will be sponsoring each data response at the EFSB hearings, and making himself or herself available for cross examination with regard to each such data response.

Response 38-3        Please see the letter attached as **Exhibit 38-3**, which was filed with the Board on September 21, 2017.

DATE:                    October 4, 2017

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Request 38-4            With regard to each section of the Invenergy EFSB application, please identify each witness who will be sponsoring each section of the application and making himself or herself available for cross examination on each section of the application, including any supplemental responses or sections related to the application.

Response 38-4        **Exhibit 38-4** contains a chart identifying the witnesses that will be available to testify concerning the areas within their expertise described in the corresponding sections of the application.

DATE:                    October 4, 2017

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**INVENERGY THERMAL DEVELOPMENT LLC'S RESPONSES TO  
THE TOWN OF BURRILLVILLE'S 38<sup>th</sup> SET OF DATA REQUESTS**

Request 38-5                      With regard to the Benn Water & Heavy Transport letter dated January 6, 2017 included as part of Invenergy's revised water supply plan, please describe Benn Water's source water, water chemistry, whether the volumes are adequate, and Berm Water's ability to deliver the required volumes on a daily basis, both in the summer and the winter seasons. Please also identify if Invenergy has performed the due diligence set forth in paragraph 4 of the January 6, 2017 memorandum of agreement and set forth the results of the due diligence. If the due diligence has not been performed, please explain why the due diligence has not been performed.

Response 38-5                      The requested information was included in Invenergy's Supplement to the Water Supply Plan filed with the Board on September 28, 2017. The agreements that were provided in the Supplement were the result of the due diligence set forth in the Memorandum of Agreement the Clear River Energy Center ("CREC") has with Benn Water & Heavy Transport Corp. ("Benn Water").

RESPONDENT:                      John Niland, Invenergy Thermal Development LLC

DATE:                                      October 4, 2017

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Request 38-6 Please provide any and all available information regarding Benn Water & Heavy Transport Corp, including, but not limited to, the number and type of vehicles available to transport the water, the number or employees, the number of drivers with appropriate CDL licenses necessary to drive the vehicles, available insurance coverages, and any other information that would determine the suitability of Berm Water to provide the water services described in the January 6, 2017 memorandum of agreement.

Response 38-6 Benn Water's fleet consists of seven (7) class eight road tractors with a selection of five (5) semi tanker trailers that are 8,000 gallons or more. Only one of which, would be required to service CREC's average daily needs.

Benn Water currently employs nine (9) employees.

The insurance requirements are outlined in Exhibit A of the Benn Water Transportation Agreement.

Eight (8) of the nine (9) employees possess the necessary CDL credentials.

RESPONDENT: John Niland, Invenergy Thermal Development LLC

DATE: October 4, 2017

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Request 38-7                      Please explain in detail which of the EC4 GHG Plan's 10 mitigation options siting the CREC in Burrillville would fulfill and which it would fail to fulfill in whole or in part.

Response 38-7                      The Pre-Filed Direct Testimony of Dr. Ellen G. Cool of Levitan & Associates, Inc., testifying as the sponsor for the Advisory Opinion of the Rhode Island Office of Energy Resources, detailed why the development and operation of CREC would not hinder or impair Rhode Island's ability to implement the GHG mitigation options detailed in the EC4's December 2016 Rhode Island Greenhouse Gas Emissions Reduction Plan. Dr. Cool advised that the development and operation of CREC will not hinder Rhode Island's ability to implement the proposed mitigation options, at page 26 of her testimony. As stated by Dr. Cool, except for preservation of the nuclear units, "each of these mitigation options can be implemented, at least in part, through public policy tools that are available to Rhode Island, and that build upon existing state programs, such as Least Cost Procurement, the RES, the Renewable Energy Growth Program, the Long Term Contracting Standard for Renewable Energy and the Affordable Clean Energy Security Act." (Pages 26-27 of Dr. Cool's testimony.) She then goes on to state: "These tools available to Rhode Island and the other states in the region will continue to increase the percentage of energy sold in Rhode Island that is derived from clean energy resources. . . CREC's operation would contribute to lowering GHG emissions in the near term until a decreased demand for fossil-fueled generation leads to its output being replaced by lower and zero carbon emitting resources in the long term." (Page 27) I agree with Dr. Cool's analysis.

The following details the EC4 GHG Plan's 10 mitigation options and the expected impact of the siting the CREC in Burrillville would have on each:

Mitigation Option	Expected CREC Impact
Energy Efficiency	CREC would help fulfill as the most efficient fossil-fuel generator in ISO-NE displacing the operation of less efficient existing generating resources in the region
VMT Reductions	CREC will not hinder implementation
Utility-Scale Renewable Energy	CREC's would help fulfill as its quick-start and fast ramping capabilities will be uniquely compatible with the intermittent nature of utility-scale renewable



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	technologies, unlike many of the existing generating resources in the region which have slower startup and load ramping capabilities which are not compatible with the intermittent nature of renewables
Distributed Generation	CREC will not hinder implementation
Clean Energy Imports	CREC will not hinder implementation
Nuclear Re-Licensing	CREC will not hinder implementation
Electric Heat	CREC will not hinder implementation and will support this goal by making electricity available on demand
Biodiesel/Biomass Heat	CREC will not hinder implementation
Electric Vehicles	CREC will not hinder implementation and will support this goal by making electricity available on demand
Transport Biofuels	CREC will not hinder implementation

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

DATE: October 4, 2017

INVENERGY THERMAL DEVELOPMENT LLC  
By its Attorneys,

/s/ Alan M. Shoer

Alan M. Shoer, Esq. (#3248)

Richard R. Beretta, Jr. Esq. (#4313)

Nicole M. Verdi, Esq. (#9370)

ADLER POLLOCK & SHEEHAN, P.C.

One Citizens Plaza, 8<sup>th</sup> Floor

Providence, RI 02903-1345

Tel: 401-274-7200

Fax: 401-351-0604

Dated: October 4, 2017

#### CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2017, I delivered a true copy of the foregoing responses to the Town of Burrillville's 38<sup>th</sup> Set of Data Requests via electronic mail to the parties on the attached service list.

/s/ Alan M. Shoer

# **EXHIBIT 38-1**

Topic: email exchange with COE regarding interpreting the Corps mitigation guidance:

Mon 1/23/2017 1:23 PM

Mike: thanks again for assistance with interpreting the Corps mitigation guidance - one more (hopefully last question). As the cover type affects the mitigation multipliers, temporary impacts from swamp mats are proposed in two scenarios first to facilitate clearing in forested wetland and secondly for construction of the transmission line. With respect to the latter should we assume this temporary impact will be to the existing forested condition or the actual converted condition as the forested wetland would be cleared by the time these mats are placed for construction. Thanks Craig

Craig A. Wood | ESS Group, Inc.  
p 401.330.1208 | c 401.447.3358 | [cwood@essgroup.com](mailto:cwood@essgroup.com)

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Tuesday, January 17, 2017 9:14 AM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>; [jamie.durand@powereng.com](mailto:jamie.durand@powereng.com)  
Cc: Minkin, Jeremy P (Paul) CIV USARMY CENAE (US) <[Paul.Minkin@usace.army.mil](mailto:Paul.Minkin@usace.army.mil)>  
Subject: RE: Burrillville Interconnection Project & Clear River Energy Center

Craig - I spoke with Paul M. Secondary edge effects are from permanent fill. We don't use secondary edge effects on temporary fills such as swamp mats.

Mike

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Tuesday, January 10, 2017 10:21 AM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>; [jamie.durand@powereng.com](mailto:jamie.durand@powereng.com)  
Subject: RE: Burrillville Interconnection Project & Clear River Energy Center

Craig - Paul Minkin is away this week. I believe it's just for permanent fill. Temporary fill would include swamp mats and I don't think we mean to include them. I'll clarify with Paul when he returns.

Mike

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Friday, January 06, 2017 1:42 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>;  
[jamie.durand@powereng.com](mailto:jamie.durand@powereng.com)  
Subject: [EXTERNAL] RE: Burrillville Interconnection Project & Clear River Energy Center

Mike: just want to be clear for Secondary edge effects, is it the distance from both temporary and permanent fill or just Permanent. The permanent fill for the ROW work is extremely minor. Thanks Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Monday, December 5, 2016 11:12 AM  
To: [jamie.durand@powereng.com](mailto:jamie.durand@powereng.com)  
Cc: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Subject: RE: Burrillville Interconnection Project & Clear River Energy Center

Jamie and Craig -

For the new 0.8 mile corridor there's not additional mitigation above and beyond the usual although we can consider any fragmentation as an impact. If cutting the ROW near the plant isolates the southern part of the SAS and changes its function/values we'd like a little extra mitigation for that. An issue is it's hard to quantify the fragmentation impacts and we don't have firm guidance for this. It's small and tough to calculate.

Secondary edge effects from Table C-2 are not 10% to 25%; it's 10% or 25%. Right, this is for fill impacts and not cutting for ROW impacts. The first 50' from the fill impact is considered high impact and uses 25%. From 50' - 150' away from the fill it's 10%.

Thank You, Mike

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US)  
Sent: Tuesday, November 15, 2016 12:02 PM  
To: 'jamie.durand@powereng.com' <[jamie.durand@powereng.com](mailto:jamie.durand@powereng.com)>  
Cc: 'cwood@essgroup.com' <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Subject: RE: Burrillville Interconnection Project & Clear River Energy Center

FYI. I forwarded this to Paul Minkin and Ruth Ladd asking for clarification but believe they are both out this week. I'll get back to you when I have an answer.

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
Phone: 978-318-8131

-----Original Message-----

From: [jamie.durand@powereng.com](mailto:jamie.durand@powereng.com) [<mailto:jamie.durand@powereng.com>]  
Sent: Wednesday, November 09, 2016 7:43 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Cc: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>; Niland, John <[JNiland@invenergyllc.com](mailto:JNiland@invenergyllc.com)>; Whoriskey, Erin M. <[Erin.Whoriskey@nationalgrid.com](mailto:Erin.Whoriskey@nationalgrid.com)>; Levine, Wendy B. <[Wendy.Levine@nationalgrid.com](mailto:Wendy.Levine@nationalgrid.com)>; Beron, David <[David.Beron@nationalgrid.com](mailto:David.Beron@nationalgrid.com)>; Mike Feinblatt <[mfeinblatt@essgroup.com](mailto:mfeinblatt@essgroup.com)>  
Subject: [EXTERNAL] Burrillville Interconnection Project & Clear River Energy Center

Hi Mike-

As a follow-up to our meeting yesterday regarding recommended wetland compensation in the recent New England District Guidance, we would like to pose the following questions:

1. As you are aware, 0.8 mile of the interconnect will be located within a new corridor. Table C2 in the Corps Guidance for "removal of forested wetland cover for new corridor" lists "project specific" for the % of standard amount. The associated area is approximately 1.6 acres of the 10 total acres proposed for permanent conversion of forested wetland to scrub-shrub wetlands. Can you provide some guidance on calculating the amount of additional mitigation that may be required beyond the 15% of the standard amount for the clearing within the existing right-of-way?
2. Can you provide clarification on how we should be calculating the area associated with secondary impact edge, or the parameters of the affected area that are to be assessed? We assume this higher percentage (10 -25%) would apply to anticipated permanent impacts (i.e., wetland fill) only.

Thank you for any insight that you can provide,

Jamie Durand  
POWER Engineers, Inc.

Craig Wood  
ESS Group, Inc.

**Topic: email exchange with COE regarding supporting narrative to ACOE application:**

Wed 11/30/2016 9:47 AM

Right, I'm at CRMC on TH 12/8 from 10-12 that morning.

I was at RIDEM with Chuck, Marty, Alicia R and Neal P from 10-2:30 yesterday. Am meeting with CRMC and RIDEM dredge people tomorrow at Warwick Cove.

These days in RI away from the office makes it hard to catch up on my work sometimes!

Mike

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]

Sent: Wednesday, November 30, 2016 9:40 AM

To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>

Subject: [EXTERNAL] RE: Invenergy ACOE Application

Excellent, Ron Gagnon set up a DEM meeting on the 8th at 10 am, I think you said you will be at CRMC, thanks Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]

Sent: Wednesday, November 30, 2016 9:22 AM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Subject: RE: Invenergy ACOE Application

Hi Craig -

A joint supporting narrative submitted to both ACOE and RIDEM is fine. It's OK if there's information in there not under Corps jurisdiction.

We receive apps with info required by RIDEM that doesn't pertain to our authority. It's not an issue.

Also, Paul Minkin is now back. I'll meet with him and get back to you about your 2 questions on our recommended compensation as mitigation from our recent NED Guidelines.

Best, Mike

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
Phone: 978-318-8131

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Tuesday, November 29, 2016 9:56 AM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Subject: [EXTERNAL] Invenergy ACOE Application

Hi Mike: The Invenergy Team would like to have a record of our recent conversation regarding the RIDEM and ACOE wetlands permitting submissions. We discussed the concept of a joint supporting narrative for both the RIDEM Application to Alter a Freshwater Wetland and the ACOE Individual Permit Application. We recognize that the supporting materials necessary for the RIDEM regulatory process may contain some information that the ACOE will not necessarily need to review but this approach is a common place and acceptable to the Corps. Can you confirm the above? Regards, Craig

Craig A. Wood, PWS | Principal Ecologist ESS Group, Inc.  
10 Hemingway Drive, 2nd Floor  
East Providence, RI 02915 | p 401.330.1208 c 401.447.3358

**Topic: Email correspondence regarding potential preservation sites for wetland mitigation**

Fri 3/10/2017 3:33 PM

I discussed with Chuck yesterday. Someone else in DEM may have a list of desirable properties but Chuck does not. Have a good weekend.

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Friday, March 10, 2017 2:25 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Subject: [EXTERNAL] RE: Clear River Energy Center

Curious if you had any success obtaining the list of properties yesterday. Have a good weekend Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Tuesday, February 21, 2017 3:00 PM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Subject: RE: Clear River Energy Center

Craig - FYI. RIDEM maintains the same stance: "Due to potential of perceived conflicts, DEM has declined to present conservation land options at this time."

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US)  
Sent: Tuesday, February 21, 2017 2:54 PM  
To: 'Primiano, Lisa (DEM)' <[lisa.primiano@dem.ri.gov](mailto:lisa.primiano@dem.ri.gov)>; Horbert, Chuck (DEM) <[chuck.horbert@dem.ri.gov](mailto:chuck.horbert@dem.ri.gov)>  
Cc: Gray, Terry (DEM) <[terry.gray@dem.ri.gov](mailto:terry.gray@dem.ri.gov)>; Kay, Mary (DEM) <[mary.kay@dem.ri.gov](mailto:mary.kay@dem.ri.gov)>  
Subject: RE: Invenergy; Clear River Energy Center; Possible Mitigation Site?

Lisa, The consultant has also contacted me looking for info. I can see why DEM wouldn't want to be offering information about land that may eventually end up as mitigation for the project. I'm confident we'll eventually come up with a suitable parcel.

Thank You, Mike

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751

-----Original Message-----

From: Primiano, Lisa (DEM) [<mailto:lisa.primiano@dem.ri.gov>]  
Sent: Tuesday, February 21, 2017 2:46 PM  
To: Horbert, Chuck (DEM) <[chuck.horbert@dem.ri.gov](mailto:chuck.horbert@dem.ri.gov)>; Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Cc: Gray, Terry (DEM) <[terry.gray@dem.ri.gov](mailto:terry.gray@dem.ri.gov)>; Kay, Mary (DEM) <[mary.kay@dem.ri.gov](mailto:mary.kay@dem.ri.gov)>



Subject: [EXTERNAL] RE: Invenergy; Clear River Energy Center; Possible Mitigation Site?

Mike, DEM has been contacted by the consultant for Invenergy on this very topic. Due to potential of perceived conflicts, DEM has declined to present conservation land options at this time. Other conservation organizations may have options for your consideration.

Lisa

Lisa Primiano, Chief  
Division of Planning & Development  
235 Promenade Street - Room 334  
Providence, RI 02908  
401-222-2776, extension 4307  
dem.ri.gov

-----Original Message-----

From: Horbert, Chuck (DEM)  
Sent: Tuesday, February 21, 2017 2:22 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Cc: Primiano, Lisa (DEM) <[lisa.primiano@dem.ri.gov](mailto:lisa.primiano@dem.ri.gov)>; Gray, Terry (DEM) <[terry.gray@dem.ri.gov](mailto:terry.gray@dem.ri.gov)>  
Subject: RE: Invenergy; Clear River Energy Center; Possible Mitigation Site?

Hi Mike:

I unfortunately have no suggestions for you. That type of information is more the bailiwick of Lisa Primiano's program, and I see you have copied her.

Chuck Horbert, Program Supervisor  
RIDEM Office of Water Resources  
Freshwater Wetlands Program  
(401) 222-4700, ext. 7402

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Tuesday, February 21, 2017 2:22 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Subject: [EXTERNAL] RE: Clear River Energy Center

You are a good man thank you, Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Tuesday, February 21, 2017 2:14 PM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Subject: RE: Clear River Energy Center

Craig - I sent an email to Chuck H and copied Lisa P and Terry G.

It basically said both our agencies continue to review the Invenergy app for proposed CREC. The fill in waters/wetlands for the access road and other work (swamp mats, cutting in wetlands) will require mitigation. We don't usually authorize much wetland impact in RI and seldom have a need for compensatory wetland mitigation but this pending Individual Permit is different.

I said we're both leery of requiring conversion of upland to wetland and that we think open space for land preservation is a better option. A potential parcel shouldn't be mostly wetland which is undevelopable but should be a mix of upland and wetland habitat with a possibility of being developed. I wrote that I plan to contact The Nature Conservancy, Audubon Society and Burrillville Land Trust but wondered if RIDEM had any information on possible conservation lands in Burrillville and I appreciated any assistance RIDEM could provide in this matter.

Mike

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Friday, February 17, 2017 4:36 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Subject: [EXTERNAL] FW: Clear River Energy Center

Mike: as you know Terry Gray has told Invenergy that RIDEM did not want to get involved in the CREC mitigation to avoid any appearance that CREC is buying a property on RIDEM's behalf in exchange for some form of preferential treatment. However, DEM would provide the list of properties they are interested in acquiring to the USACE if they requested it directly. Could I impose on you to make this inquiry, I think the process will be best served with the most current data available? Craig ps have a nice weekend

Craig A. Wood, PWS | Principal Ecologist ESS Group, Inc.  
10 Hemingway Drive, 2nd Floor, East Providence, RI 02915 | p 401.330.1208 c 401.447.3358

From: Primiano, Lisa (DEM) [<mailto:lisa.primiano@dem.ri.gov>]  
Sent: Tuesday, January 3, 2017 3:08 PM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Cc: Gray, Terry (DEM) <[terry.gray@dem.ri.gov](mailto:terry.gray@dem.ri.gov)>; Kay, Mary (DEM) <[mary.kay@dem.ri.gov](mailto:mary.kay@dem.ri.gov)>  
Subject: RE: Clear River Energy Center

Good afternoon Craig,

I appreciate your outreach to DEM in an effort to investigate possible acquisition of conservation lands in Burrillville as wetland mitigation to satisfy Section 404 and other regulatory requirements. I have consulted with Terry Gray (copied above) and others at DEM. Due to inherent conflicts of DEM with facility approvals and permitting, we defer you to other land conservation organizations that may have

an interest in land conservation in the area. These organizations include the Audubon Society of RI and The Nature Conservancy, who may have other priority conservation land parcels in Burrillville.

Sincerely, Lisa Primiano

Lisa Primiano, Chief  
Division of Planning & Development

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Friday, December 16, 2016 10:08 AM  
To: Primiano, Lisa (DEM) <[lisa.primiano@dem.ri.gov](mailto:lisa.primiano@dem.ri.gov) <<mailto:lisa.primiano@dem.ri.gov>> >  
Subject: Clear River Energy Center

Lisa: As we discussed, the proposed Clear River Energy Center in Burrillville will require mitigation for unavoidable impacts to wetlands. The proponents preferred compensatory wetland mitigation for the Project is acquisition of open space for land preservation, primarily due to the fact that there are on known suitable wetland restoration opportunities near the proposed impacts. We are seeking your assistance in the identification of parcels in Burrillville that may be of interest for open space acquisition by the State of other conservation organizations.

The background information below may be of some assistance. There is no exact formula dictating the size of a parcel necessary to meet the anticipated mitigation requirement but it would not be hundreds of acres. Please note given that Janet is on the board at EFSB and it is our understanding she does not want to be involved in any permitting/agency actions, you may wish to coordinate with your associate director or Mary Kay chief legal counsel.

#### BACKGROUND

The current proposed footprint of the Clear River Energy Center facility, the new 345 kV overhead transmission line, and the new gas line have been designed and sited to avoid and minimize impacts to wetland resources to the extent practicable. Compensatory mitigation for unavoidable direct, indirect and secondary impacts will be required to satisfy Section 404 of the Federal Clean Water Act permit requirements. According to United States Army Corps of Engineers (USACE) regulations, the fundamental objective of compensatory mitigation is to offset environmental losses resulting from unavoidable impacts to waters of the United States. The criteria for compensatory mitigation are set forth in the USACE's mitigation regulations, the U.S. Environmental Protection Agency's (USEPA's) companion CWA regulations (40 CFR 230) and in the USACE's New England District (NED) Compensatory Mitigation Guidance (July 2010). While compensatory mitigation guidance is not included in the RI Fresh Water Wetlands Act Rules and Regulations, it is typically a component of formal applications following similar general goals and objectives.

Wetland mitigation can include 1) the restoration or reestablishment of a former wetland, 2) the creation or establishment of a new wetland, 3) the enhancement or rehabilitation of a degraded wetland or 4) land preservation. According to the NED Compensatory Mitigation Guidance, compensatory mitigation sites should be located to provide the desired water resource functions, taking into consideration factors such as watershed location, aquatic habitat diversity, connectivity, and, for wetlands and streams, a balance of wetlands and uplands.

As detailed in the Compensatory Mitigation Guidance, the NED has developed standard compensatory mitigation ratios to provide a framework for all compensatory mitigation. The compensation ratios focus on direct permanent impacts, with additional mitigation required to address temporary fill impacts and secondary impacts, such as conversion of forested wetlands to scrub-shrub or emergent wetlands. While these ratios are the starting point for developing appropriate compensatory mitigation, there is flexibility on a project-by-project basis in order to achieve the most appropriate mitigation for a specific project.

Let me know if you have any questions. Many Thanks, Craig

Craig A. Wood, PWS | Principal Ecologist ESS Group, Inc.  
10 Hemingway Drive, 2nd Floor, East Providence, RI 02915 | p 401.330.1208 c 401.447.3358

**Topic: Email correspondence regarding file access**

Thu 4/6/2017 1:34 PM

FYI. A helpful ESS person (didn't catch his name) contacted me and showed me how to access the files from the file sharing site. I'm all set now.

The 2 hard copies also arrived. I'll give one to the EPA rep.

Thanks, Mike

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US)

Sent: Thursday, April 06, 2017 11:13 AM

To: 'smartin@essgroup.com' <[smartin@essgroup.com](mailto:smartin@essgroup.com)>; 'Craig Wood' <[cwood@essgroup.com](mailto:cwood@essgroup.com)>; 'sarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil' <[sarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil](mailto:sarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil)>

Cc: Newman, Barbara H CIV CENAE CENAD (US) <[Barbara.H.Newman@usace.army.mil](mailto:Barbara.H.Newman@usace.army.mil)>

Subject: Clear River Energy Center App Not Accessible

Stephanie M and Craig W -

I received an email saying two copies of the IP app for the CREC project were delivered here this morning. They haven't arrived yet.

It also said "we have also uploaded pdfs of the three volume set to the ACOE Safe Access File Exchange: Package ID: 9157688"

Another email said to access the file via the following:

File Description: US Army Corps of Engineers Individual Permit Application for the Clear River Energy Center and Burrillville Interconnection Project

Package ID: 9157688                      The file(s) will be available at:  
<https://safe.amrdec.army.mil/safe/pickupfiles.aspx?id=9157688>

Until: 4/15/2017                              The password is T%2##9zn%E\*#3\$b

But I get a message saying" "Your connection is not secure. The owner of safe.amrdec.army.mil has configured their website improperly. To protect your information from being stolen, Firefox has not connected to this website."

Our DoD system does not like file sharing sites. We are banned from DropBox and other sites. I suspect that's what happened here.

Mike

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
Phone: 978-318-8131  
[michael.j.elliott@usace.army.mil](mailto:michael.j.elliott@usace.army.mil)

**Topic:** Email correspondence regarding ACOE Public Notice

Mon 5/1/2017 10:57 AM

Mike: let us give some thought to the number of plans with Corps work shown. Let us know when you would like a site visit. Thanks, Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]  
Sent: Monday, May 1, 2017 9:59 AM  
To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>  
Cc: Mike Feinblatt <[mfeinblatt@essgroup.com](mailto:mfeinblatt@essgroup.com)>  
Subject: RE: Clear River Energy Center and Burrillville Interconnection Project Individual Application

Craig - That's good. I would like to see the site sometime. I expect our Public Notice will come out around the same time as CRMC (mid-June?).

I don't want to scan/email all 128 of the plans. It's not necessary to understand the project and would cause computer/memory problems. Any ideas to reduce the number of plans to send? Delete any plans that don't have Corps work (mats or fill in wetlands)? How many plans would drop out? These linear projects make it tough to present the application. Maybe highlight the areas that need authorized work (mostly mats) with a few typical plans of mats? Ideas? We want to show the access road fill and the mat impacts.

Mike

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]

Sent: Monday, May 01, 2017 9:34 AM

To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>

Cc: Mike Feinblatt <[mfeinblatt@essgroup.com](mailto:mfeinblatt@essgroup.com)>; Rackmales, David N CIV USARMY CENAD (US) <[David.N.Rackmales@usace.army.mil](mailto:David.N.Rackmales@usace.army.mil)>

Subject: [Non-DoD Source] RE: Clear River Energy Center and Burrillville Interconnection Project Individual Application

Hi Mike: Just letting you know Chuck received the signatures holding up his technical review for the application. He told me to expect 45 days or so to complete. This will include a site visit to verify additional wetland boundaries not previously reviewed. We have offered to join them if desired. We are also happy to show you the site when or if you are interested as well as assist you with any questions/comments pertaining to your Public Notice.

Craig

-----Original Message-----

From: Elliott, Michael J CIV CENAE CENAD (US) [<mailto:Michael.J.Elliott@usace.army.mil>]

Sent: Monday, April 24, 2017 3:39 PM

To: Craig Wood <[cwood@essgroup.com](mailto:cwood@essgroup.com)>

Cc: Mike Feinblatt <[mfeinblatt@essgroup.com](mailto:mfeinblatt@essgroup.com)>; Rackmales, David N CIV USARMY CENAD (US) <[David.N.Rackmales@usace.army.mil](mailto:David.N.Rackmales@usace.army.mil)>

Subject: RE: Clear River Energy Center and Burrillville Interconnection Project Individual Application

Hi Craig -

We don't publish a Public Notice in front of the state (RIDEM). The Corps and RIDEM issue their respective PNs at approximately the same time.

The CREC application is waiting to be signed by the current actual owner of the property (Algonquin Gas Transmission).

Algonquin informed RIDEM to expect the finalized application from them this week. It will likely be some time after that before DEM is ready to ship this large app out to Public Notice.

I'll work more on our draft PN this week and we'll be ready when RIDEM is. Are you willing to help by answering questions if they up and helping me sort through the app for the important info? We will assemble a coherent summary of the project and its water/wetlands impacts.

Thanks, Mike

Michael J. Elliott  
Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
Phone: 978-318-8131  
[michael.j.elliott@usace.army.mil](mailto:michael.j.elliott@usace.army.mil)

-----Original Message-----

From: Craig Wood [<mailto:cwood@essgroup.com>]  
Sent: Monday, April 24, 2017 12:47 PM  
To: Elliott, Michael J CIV CENAE CENAD (US) <[Michael.J.Elliott@usace.army.mil](mailto:Michael.J.Elliott@usace.army.mil)>  
Cc: Mike Feinblatt <[mfeinblatt@essgroup.com](mailto:mfeinblatt@essgroup.com)>  
Subject: [Non-DoD Source] FW: Clear River Energy Center and Burrillville Interconnection Project Individual Application

Hi Mike: The applicants requested that a check in with you regarding the status of your completeness review/public notice for this project. Thought there was a 15-day period for this but not sure when the process starts. Let me know if I can help in any way. Thanks, Craig

Craig A. Wood, PWS | Principal Ecologist ESS Group, Inc.  
10 Hemingway Drive, 2nd Floor, East Providence, RI 02915 | p 401.330.1208 c 401.447.3358

# **EXHIBIT 38-3**



September 21, 2017

**Via Federal Express/Electronic Mail**

Todd Anthony Bianco, EFSB Coordinator  
RI Energy Facility 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 and the Clear River Energy Center Project (“Invenergy”), we provide the following information to identify the individuals that will be adopting certain responses to certain Invenergy data responses. These individuals, adopting the responses to certain data requests, will be available, if needed, at the hearings.

- Invenergy’s responses to the Conservation Law Foundation’s (“CLF’s”) Data Requests Nos. 1-3 – 1-4, 2-5 – 2-7, 2-9 – 2-11, 2-18, identify Mark Repsher and others as the Respondents. Mark Repsher will not be testifying, and Ryan Hardy will be available to respond to any questions regarding these Data Requests.
- Invenergy’s response to the Town of Burrillville’s (“Town’s”) Data Request, No. 1-17, identifying Craig Wood as the Respondent, will be adopted by Jason Ringler and Jim Riordan.
- Invenergy’s responses to the Town’s Data Requests, Nos. 1-1 – 1-12, 2-1 – 2-5, 2-6, 6-8 and CLF’s Data Request, No. 4-1, identify Mike Theriault (and sometimes others) as the Respondent(s). Mike Theriault will not be testifying, and Michael Hankard will be available to respond to any questions regarding these Data Requests.
- Invenergy’s response to the Energy Facility Siting Board’s Data Request, No. 1-3, identifying Meghan Wims and John Niland as Respondents, will be adopted by John Niland only.
- The following data responses identified Amit Nadkarni as the Respondent, and these will be adopted by the following witnesses:
  - Mark Wiitanen adopts the following Amit Nadkarni data responses: Invenergy’s responses to CLF’s Data Request, No. 4-1; Invenergy’s responses to the Town’s Data Requests, Nos. 6-7, 6-12, 22-3, 22-30 – 22-35, 22-56, 25-2 – 25-5;

- George Bacon adopts the following Amit Nadkarni data responses: Invenergy's responses to the Town's Data Requests, Nos. 8-1 – 8-2, 22-2, 22-8 – 22-11, 22-24, 22-30 – 22-34; and
- John Niland adopts the following Amit Nadkarni data responses: Invenergy's responses to the Town's Data Requests, Nos. 6-12, 22-8 – 22-11 and 22-40.
- Invenergy's responses to the Town's Data Requests, Nos. 9-1 – 9-7 and the Rhode Island Department of Environmental Management's ("RIDEM's") Data Requests, Nos. 1-1 – 1-6, 1-10 – 1-13, 1-15 – 1-17, 3-3 – 3-4, 3-16, 3-60, identify Daniel Mitas (and sometimes others) as the Respondent(s). Daniel Mitas will not be testifying, and Mark Wiitanen will be available to respond to any questions regarding these Data Requests.
- Invenergy's response to RIDEM's Data Request, No. 2-7, identifying William Ahlert as the Respondent, will be adopted by George Bacon.
- Invenergy's responses to RIDEM's Data Requests, Nos. 3-36 and 3-37, identifying Benjamin Cotts as the Respondent, will be adopted by William Bailey.
- Invenergy's response to the Town's Data Request, No. 22-13, identifying Daniel Ewan, as the Respondent, will be adopted by John Niland and George Bacon.
- Invenergy's response to the Division of Planning's Data Request of March 29, 2017, identifying Edinaldo Tabaldi as the Respondent, will be adopted by Mason Smith.
- Invenergy's responses to RIDEM's Data Requests, Nos. 4-14, 4-19, 4-21, 4-27, 4-28, 4-32 – 4-33, 4-38 list Jamie Durand (and sometimes others) as the Respondent(s). Jamie Durand is not expected to testify because the information in his responses relates to the TNEC right-of-way which is the subject of a separate EFSB proceeding. *See* Docket No. SB-2017-01.
- Although Harri Kytomaa is not testify as an Invenergy witness, he will be available to answer questions regarding the data request responses that he authored (Invenergy's responses to the Town's Data Requests, Nos. 17-1 – 17-4, 27-1, 27-21).

Additionally, the following data responses that identified John Niland as the Respondent will *also* be adopted by the following witnesses:

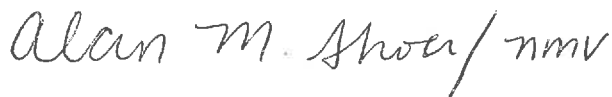
- George Bacon adopts and will be available to respond to questions regarding Invenergy's response to RIDEM's Data Request, No. 4-1 and Invenergy's responses to the Town's Data Requests, Nos. 4-24, 4-26, 7-2, 21-1 – 21-7, 22-29, 22-38, 23-4;
- Brandon Blanchard adopts and will be available to respond to questions regarding Invenergy's response to the Town's Data Request, No. 22-4;
- Michael Feinblatt adopts and will be available to respond to questions regarding Invenergy's response to the EFSB's Data Request, No. 1-4 and Invenergy's responses to the Town's Data Requests, Nos. 4-45, 19-1, 22-17, 22-29;
- Michael Hankard adopts and will be available to respond to questions regarding Invenergy's responses to the Town's Data Requests, Nos. 4-30, 4-41

- Ryan Hardy adopts and will be available to respond to questions regarding Invenergy's response to RIDEM Data Request, No. 3-14 and Invenergy's responses to the Town's Data Requests, Nos. 5-15, 7-2, 15-2, 16-1 – 16-4, 18-2, 22-20 – 22-22, 27-22;
- Jeffery Hershberger adopts and will be available to respond to questions regarding Invenergy's responses to the Town's Data Requests, Nos. 22-36 and 22-37;
- Trevor Hollins adopts and will be available to respond to questions regarding Invenergy's response to RIDEM's Data Request, No. 3-57;
- Chad Jacobs adopts and will be available to respond to questions regarding Invenergy's responses to the Town's Data Requests, Nos. 4-1, 4-2, 4-6, 4-9, 18-1;
- Harri Kytomaa adopts and will be available to respond to questions regarding Invenergy's responses to the Town's Data Requests, Nos. 17-1 – 17-4;
- Gordon Perkins adopts and will be available to respond to questions regarding Invenergy's response to the Town's Data Request, No. 12-1;
- Jason Ringler adopts and will be available to respond to questions regarding Invenergy's response to RIDEM's Data Request, No. 3-54; and
- Mark Wiitanen adopts and will be available to respond to questions regarding Invenergy's responses to the Town's Data Requests, Nos. 4-3 – 4-5, 4-24, 4-26, 4-31 – 4-34, 4-38 – 4-40, 15-1, 21-1 – 21-7, 22-1, 22-5 – 22-7, 22-15, 22-18, 22-29, 23-2 – 23-5.

All the other individuals identified on the remaining Invenergy responses to data requests will, if needed, be available at the hearings.<sup>1</sup>

Please let me know if you have any questions.

Very truly yours,



ALAN M. SHOER  
[ashoer@apslaw.com](mailto:ashoer@apslaw.com)

Enclosures

cc: Service List

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<sup>1</sup> Additionally, it should be noted that, in response to the Town's Data Request, No. 38-3, Invenergy will be filing a chart identifying the data responses each witness will be sponsoring.

**EXHIBIT 38-4**

<b>SECTION</b>	<b>SECTION NAME</b>	<b>NAME</b>
<b>1.0</b>	<b>PROJECT OVERVIEW</b>	John Niland, Mark Wiitanen, Michael Feinblatt
<b>2.0</b>	<b>IDENTIFICATION AND DESCRIPTION OF APPLICANT AND AFFILIATES</b>	John Niland & Mark Wiitanen
<b>3.0</b>	<b>PROJECT DESCRIPTION AND SUPPORT FACILITIES</b>	John Niland, Richard Lipsitz, Edward Pimentel, Mark Wiitanen, John Carter, Michael Feinblatt, George Bacon, Jeffrey Hershberger, Chad Jacobs, James Riordan, Michael Hankard, Maureen Chlebek, Robert Smith, Keith MacDonald & Brandon Blanchard
<b>4.0</b>	<b>PROJECT COST, SCHEDULE AND FINANCING PLAN</b>	John Niland & Ryan Hardy
<b>5.0</b>	<b>PROJECT BENEFITS</b>	Mason Smith, Ryan Hardy & Michael Feinblatt
<b>6.0</b>	<b>ASSESSMENT OF ENVIRONMENTAL IMPACTS</b>	Michael Feinblatt, Mark Wiitanen, Jeffrey Hershberger, George Bacon, Chad Jacobs, James Riordan, Jason Ringler, Maureen Chlebek, Robert Smith, Keith MacDonald, Brandon Blanchard, Michael Hankard, William Bailey, Gordon Perkins, John Carter, Trevor Hollins & Christopher Donta
<b>7.0</b>	<b>ASSESSMENT OF NEED</b>	John Niland & Ryan Hardy
<b>8.0</b>	<b>CONFORMANCE WITH RHODE ISLAND ENERGY</b>	John Niland, Michael Feinblatt & Ryan Hardy
<b>9.0</b>	<b>LIFE CYCLE MANAGEMENT PLAN</b>	Michael Feinblatt, Mark Wiitanen, Jeffrey Hershberger, George Bacon, Chad Jacobs, James Riordan, Jason Ringler, Maureen Chlebek, Robert

SECTION	SECTION NAME	NAME
		Smith, Keith MacDonald, Brandon Blanchard, Michael Hankard, William Bailey, Gordon Perkins, Trevor Hollins & Christopher Donta
<b>10.0</b>	<b>STUDY OF ALTERNATIVES</b>	John Niland & Ryan Hardy
<b>11.0</b>	<b>STATUS OF APPLICABLE FEDERAL, STATE, LOCAL AND FOREIGN PERMITTINGS</b>	John Niland & Michael Feinblatt