

MEMORANDUM FROM OLEG NIKOLYSZYN, ESQ., SOLICITOR

To: Burrillville Planning and Zoning Boards, and Mr. Joseph Raymond

DATE: April 24, 2016

The consultants listed below will be present to answer any questions of the members of the Planning and Zoning Boards, as well as the Building Official, on April 28, 2016.

This is a workshop session specifically scheduled to educate the members of the boards in anticipation of the formal hearing to be held by the planning board, scheduled for June 6, 2016 (the Zoning Board will hold its own hearing at a later date). There will be no questions or comments permitted from the audience. The audience will be permitted to ask questions and comment on June 6, 2016. At that time, Invenergy will also be given an opportunity to present its consultants. This workshop session, however, is strictly to educate the members of the planning and zoning boards, and they are the only ones who will interact with the consultants. Residents are invited to attend on April 28, and likewise be informed, but their input will be restricted to June 6, 2016.

All consultants were hired by the Town of Burrillville for purposes of reviewing the proposed Clear River Energy Facility project, as contained in Invenergy's Application to the Energy Facilities Siting Board.

In anticipation of the public hearing scheduled for June 6, 2016, we have submitted to Invenergy a number of questions (data requests), at different times, and dealing with different subject matters. Only some data requests have been answered to date, but we anticipate having all the answers by June 6, 2016. Nevertheless, in an interest of providing our planning and zoning board members information well in advance of the formal (and public) hearing on June 6, 2016, we think we have enough information to start educating ourselves now.

Attached to this Memorandum is a list of questions we have submitted, categorized by topics. We anticipate that our consultants will address each topic in the order they are presented.

CIVIL ENGINEERING:

James Jackson of CDR Maguire (along with Tom Hevner of Sovereign Consulting Inc., a leading environmental consultant). They will testify/educate us regarding the following issues:

- 1) Overall project with proposed utility routes; site conditions and resources that may be impacted by construction.
- 2) Environmental Issues (mostly done by Sovereign Consulting) to delineate

wetlands and impact of the project, and mitigating measures that may be utilized.

3) Traffic: impacts from construction and material deliveries, as well as during operations, and deliveries of fuel oil and supplies. Also to consider new intersection design (site driveway), vehicular and pedestrian safety. Overall, avenues of remediation that may be required.

4) Stormwater Issues: identify best management practices to treat stormwater before it leaves the site, and the increased run-off. Proposal to treat and detain the flow of stormwater.

5) Utilities: This item is to be considered by Pascoag Utility District. We will give a very brief overall description. But, overall description of the dedicated pipeline to transport the contaminated water, as well as the return of processed water to the sewer treatment plant (this will include improvements to the sewer lines). An overview of types and concentrations of contaminants that may be transmitted with the wastewater. Recommendations to mitigate the impact will be discussed.

6) Hazardous Materials: Presented by Mr. Thomas Hevner of Sovereign Consulting - will review the provisions for delivering and storing hazardous materials on the site.

NOISE CONSULTANT:

David Hessler, of Hessler Associates, Inc. (Worldwide Consulting in Engineering Acoustics). Mr. Hessler specializes in acoustics for over 39 years, and has been involved in development of over 50 power plants (in the last 10 years) all over the world (China, South America, Europe, North America, Saudi Arabia, etc.). He is very familiar with what can and cannot be done to mitigate noise.

The Town's ordinance provides that 43 dBA is the uppermost limit permitted. However, the **ordinance also provides that this limit does not apply** to a facility that "...has been granted a permit or license by a federal and/or state agency and the authorization to operate within set noise limits;"

The EFSB is such a state agency that makes our ordinance inapplicable. However, we are asked for an advisory opinion, and Mr. Hessler will hopefully advise the boards what can be done to mitigate the noise. He will especially educate us on the different noise level expected on start-up versus the normal operation.

AIR CONSULTANT:

Eric Epner, of Fuss & O'Neill.

Mr. Epner will discuss the modeling used for air dispersion and health-risk assessment.

EFSB ORDER:

The Energy Facility Siting Board specified what topics our boards are to provide advisory opinions (**Once again, the Town Council was not asked to provide any opinions whatsoever**):

Planning Board:

1. Whether the Facility would be consistent with the Town’s comprehensive plan, and,
2. Whether Invenergy will be able to comply with the Town’s noise ordinance during construction and operation.

ZONING BOARD:

The EFSB has requested that the Zoning Board provide an advisory opinion upon the following matters:

1. Whether the Facility will meet the requirements of our zoning ordinances, and whether any variance should be granted;
2. Whether a special use permit should be granted to exempt the Facility from construction hour restrictions, and
3. Whether Invenergy will be able to be compliant with the noise ordinance during construction and operation, and if not, whether a variance should be granted.

Please keep in mind, in accordance with my opinion dated March 31, 2016, that our advisory opinions are not decisions that may be appealed. Likewise, it should be noted that only the EFSB can make a determination that the Facility as a whole is inappropriate, not needed, or too injurious to the public or the environment, and not permit its construction. Our advisory opinions can be accepted and made a specific condition of the granting of a license by the EFSB, or they can be completely ignored, or the EFSB can adopt some or part of our advisory opinions.

I need to point out that the EFSB has ordered many other state agencies to provide advisory opinions that “overlap” some issues that we may also consider. The Rhode Island law provides that in such an eventuality, the EFSB will give more weight to the agency with most expertise in that field. Listed here are the agencies that are to provide advisory opinions upon the following issues:

1. Department of Environmental Management:
 - Whether the proposed fuel oil storage facilities would conform to DEM’s oil pollution control regulations and if not, whether a waiver is justified.
 - The impact of the facility’s withdrawal of groundwater on the remediation of the Pascoag well.
 - The impact on fishing and wildlife that would be cause by disruption of the habitat.

- How the facility will affect compliance with the Regional Greenhouse Gas Initiative (RGGI) annual emissions cap and the federal Clean Power Plan.
 - Whether the facility will present an unacceptable harm to the environment.
2. Department of Health:
- The potential public health concerns relating to the facility, including, but not limited to, biological responses to power frequency, electric, and magnetic fields associated with the operation of the facility.
 - The potential impact on the quality of drinking water associated with the construction and operation of the facility.
 - DOH is specifically asked to review and comment on Section 6.11 and Appendix F of the application.
3. Statewide Planning Program:
- The socioeconomic impact of the proposed facility, including its construction and operation.
 - The facility's consistency and compliance with the State Guide Plan.
 - In coordination with the Rhode Island Office of Energy Resources, a particular examination of the facility's consistency and compliance with the State Energy Plan.
4. The Rhode Island Office of Energy Resources:
- The impact of the facility on anticipated greenhouse gas emissions that would result from the proposed facility and accumulated impact over the life of the project.
 - Whether the facility will conform to the requirements and provisions of the Resilient Rhode Island Act and state energy policies.
5. Pascoag Utility District:
- The impact of the facility on the water supply and use in the district, as well as an explanation about how the water in the well proposed for use will be remediated.
 - Review and comment on Sections, 3.1, 6.2, and Appendix C of the Invenergy application.

FINALLY, there are issues that even the EFSB has no authority over. They are called **EXEMPT LICENSES**. This means that the DECISIONS/LICENSES of the following agencies will be binding upon the EFSB. These are as follows:

- Freshwater wetland alteration permits issued pursuant to the Freshwater Wetlands Act.
- Air pollution prevention of significant deterioration permit for construction of a facility that will discharge air pollutants from the combustion of natural gas and fuel oil issued pursuant to authority delegated to DEM by the EPA.
- Water quality certification pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act.
- RI Pollution Discharge Elimination System permit for point source discharge, issued pursuant to authority delegated to DEM by EPA.
- Coastal Resources Management Council permit.

This means that the above Exempt Licenses, if issued by the named agencies, will become the final decisions, regardless of what our Town Boards decide by way of advisory opinions. In a nutshell, the decisions of the DEM regarding Freshwater wetland alteration; air pollution prevention ... from the combustion of natural gas and fuel oil; water quality certification; and pollution discharge elimination system for point source discharge will be controlling.

Attached are the data requests the Town issued to Invenergy, I mentioned above.

Respectfully submitted by,

/s/Oleg Nikolyszyn
Town Solicitor
April 24, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC's :
APPLICATION TO CONSTRUCTION THE : DOCKET No. SB-2015-06
CLEAR RIVER ENERGY CENTER IN :
BURRILLVILLE, RHODE ISLAND :

THE TOWN OF BURRILLVILLE'S DATA REQUESTS TO
INVENERGY THERMAL DEVELOPMENT LLC
(BY TOPIC)

NOISE

- 1-1 Please explain in detail whether the proposed facility will fully comply with the Town's noise ordinance.
- 1-2 Please explain in detail whether and to what extent the facility will seek relief from the Town's noise ordinance limitations.
- 1-3 Please explain in detail the difference in expected noise levels between start up and shut down operations and normal operations.
- 1-4 Please explain in detail the expected noise level that will be generated during steam releases.
- 1-5 Please explain in detail the expected noise levels that will be generated during (a) normal operations, (b) startup operations, (c) normal shut down operations, (d) steam releases, and (e) emergency shut down operations. Please provide details for both natural gas operations and fuel oil operations. Please identify the models used to project the noise levels during each such phase of operations (a) through (e).
- 1-6 Please explain in detail all noise suppression/mitigation efforts that are being proposed by the facility.
- 1-7 Please explain in detail the additional noise to be generated by the proposed on site compressor.
- 1-8 Please explain whether the facility will be able to maintain compliance with the Town's overall 43 dBA noise limit (applicable at the nearest houses)

during all non-emergency operating conditions, including most importantly, normal startups and shut downs.

- 1-9 Please explain why is there no mention of the potential noise impact during normal startup and shut down in the noise section of the permit application.
- 1-10 Does Invenergy, or its parent or related company, operate another combined cycle plant that uses an air cooled condenser (ACC)? If so, please identify the plant and the noise mitigation installations in each such plant.
- 1-11 Do you agree that the noise generated during the steam turbine bypass phase of startup—when high pressure steam is injected directly into the vacuum of the main duct of the ACC is going to be extremely loud if no mitigation efforts are made? Please provide details.
- 1-12 Please detail all steps Invenergy plans to take, such as for example, with the bypass valve, hogging air injector and drain vent, to maintain the sound level below 43 dBA during normal startups.
- 1-13 Please provide details regarding the expected noise to be generated by traffic (truck and other vehicles) during construction and routine operations.
- 1-14 Please identify the details of the expected noise to be generated during construction operations.
- 2-1 Table 1 on Page 7 of Appendix A (“Transient Operation Noise Level Evaluation for the Clear River Energy Center”, Michael Theriault Acoustics, Inc., March 2016) contains the expected near field sound pressure levels at various points along the air cooled condenser (ACC) duct during steam turbine bypass. Could you please explain the source or derivation of the values specifically associated with the following sources:
 - a. ACC Main Horizontal Ducts
 - b. ACC Riser Ducts
 - c. ACC Finger Ducts
 - d. HRH Steam Bypass Ducts
 - e. LP Steam Bypass Ducts
- 2-2 Will the facility use a steam jet air ejector or vacuum pumps for condenser vacuum hogging during start-up?
- 2-3 Will the steam turbine drains tank discharge directly into the vacuum of the ACC duct to preserve demineralized water or will it vent to atmosphere?
- 2-4 Will either or both of the hot reheat (HRH) and low pressure (LP) bypasses join the ACC duct inside the turbine building or outside?

- 2-5 What is the anticipated sound power level of each ACC fan? Is the make and model known at this point? If so, please identify the make and model.
- 2-6 The noise modeling analysis suggests that the best sound level that can be realized at Receptor M1 during a normal start-up is 46 dBA. Does that mean that Invenergy believes that compliance with the overall 43 dBA Town Ordinance (neglecting the octave band component) cannot be achieved?
- 4-30 Is there available sound generating equipment or a machine that can demonstrate the 45 decibel sound level?

TRAFFIC

- 1-13 Please provide details regarding the expected noise to be generated by traffic (truck and other vehicles) during construction and routine operations.
- 1-15 Please provide any study or other information in Invenergy's possession regarding traffic issues that may arise during and after construction, including identifying the access road that will be used during and after construction, the location and details of the proposed road(s), and the impact of traffic on the neighborhood during and after construction.
- 4-3 How many trucks will be traveling Town roads during construction of this project?
- 5-5 Please provide a complete traffic study, including all traffic impacts, potential truck routes, and restrictions.

SECURITY

- 1-16 Please identify in detail the company's security plans during and after construction.

WATER

- 1-17 Please identify in detail the company's plans regarding water quality, water use, storm water run off, and waste water.
- 4-21 What is the method of replenishment of the aquifer?
- 4-23 If the used water is clean and can be introduced back into the stream and local ponds, could Invenergy build a dam to provide adequate time for the water to percolate through to Pascoag aquifer and complete the circle allowing a flushing action to assist in the removal of the existing contaminates? If not, why not?

- 5-2 Please identify the exact water pipe line route and plans for construction.
- 5-3 Please identify and describe the proposed water treatment system with activated carbon, including a description of the safety protocols that will be present for treatment of the contaminated water. Please include an evaluation of carbon breakthrough and provide a copy of the proposed treatment system operations and maintenance manual.
- 5-4 Have you made an evaluation of the presence of contaminants in the cooling water relative to evaporation, the potential increased concentrations, and to the waste stream going to the Burrillville water treatment facility?
- 5-12 Can any emissions or pollution from the contamination build up in the activated carbon filtration system pollute the local air or water? Please explain.
- 5-13 Where does the spent activated carbon laden with MTBE go once it is used?
- 5-16 What is the output production rating of the defunct Pascoag Utility District water wells?
- 5-17 Can these water wells meet the proposed type of long term water supply demand without significant constraints on the ground water resources adjacent to the wells?
- 5-18 If Pascoag Utility District wells do not meet the demand for the power facility, where will the water come from?
- 5-19 Exactly where will the facility obtain potable water for human consumption?

AIR

- 1-18 Please identify any study or other information the company has regarding the expected impact of air emissions on the air quality in the homes in the immediate neighborhood of the proposed facility.
- 4-44 Please explain the air pollutant trading allowance program generally. Explain the cost of allowances, amount paid by Invenergy and the amount of pollution being purchased above regulatory limits. Please explain this for each pollutant type. Please explain what is the flow of the money for such purchases (i.e., does it get deposited to a State or Federal Agency or traded to another project in the U.S.)?

- 4-45 You state that H-rated General Electric engines are the highest efficiency in the Nation. Does that mean they are the best in terms of air quality? Do other engines exist that burn cleaner?
- 4-46 What has been Ocean State Power's air emissions, by pollutant type as reported to the EPA, over the past ten years and how does that compare to what Invenergy projects for the Clear River Energy Center during its first ten years of operation?
- 5-12 Can any emissions or pollution from the contamination build up in the activated carbon filtration system pollute the local air or water? Please explain.

PROPERTY VALUES

- 1-19 Please explain how Invenergy plans to deal with the impact of diminished property values in the neighborhood.

DECOMMISSIONING

- 3-1 Please set forth in detail Invenergy's plans to decommission the Clear River Energy Center, including Invenergy's proposal for fully funding the entire decommissioning process, including, but not limited to, any costs associated with clean up of any hazardous wastes.

LOCATION

- 3-2 Please explain what alternatives, other than the ones provided in the filing that relate to alternative energy options and no action, the company has considered relating to siting options throughout southern New England for this facility, including the criteria utilized for eliminating these other alternative sites that led to the selection of the Clear River site.
- 4-35 Were any other towns investigated as locations to build the plant? Please explain.
- 4-36 Are there any other "Brown" areas in the state that could accommodate the plant?

CONSTRUCTION

- 4-1 How much cut and fill of earthen material will be involved in this project?
- 4-2 How much existing material is reusable on site, how much material must be trucked off site, and how much material will need to be brought onto the site?
- 4-3 How many trucks will be traveling Town roads during construction of this project?
- 4-4 Is this a project where concrete foundations will be required to be done in a constant pour? If so, what are the volumes? (A constant pour means that trucks will be dumping and then returning to the concrete plant at a rate of one truck each way every twenty minutes on an average. As an example, utilizing a fleet of fifteen yard concrete trucks and a constant pour of 1,000 yards would consist of 66 truck trips both coming and going every twenty minutes. This 1,000 yard pour would be for a continuous period of 22 hours non-stop of trucks traveling through the village of Pascoag and along Wallum Lake Road which consists of a residential area.) How many times is this going to happen during the two separate proposed construction phases?
- 4-5 Has Invenergy considered bringing a portable cement manufacturing plant onto the site to resolve the problem of trucking through the area? If not, why not?
- 4-6 The plans that were incorporated into the package consist of five sheets with no details. Please provide fully detailed plans.
- 4-11 Will independent environmental compliance monitoring be active on the site during construction hours throughout the construction process? Please explain in detail.
- 4-40 During construction, will travel on truck routes or to abutting homes be restricted during certain times of day?
- 4-41 What can the company do, or has it done in the past in regards to its energy projects, to mitigate noise, sight, and air disturbances?
- 5-2 Please identify the exact water pipe line route and plans for construction.
- 5-8 Please provide detailed information regarding the impacts on biodiversity of noise, the towers, the diesel fuel tanks, the air cooled condensers, the construction site, the new overhead transmission line right of way, the connection to the existing 345 kV line, the construction of the switch yard, the new gas line connection to the newly reconstructed compressor station,

the new facility access road, the construction of an underground pipe to a sewer main to the Burrillville sewage treatment plant, and the construction of a 6.8 mile new 345 kV line.

- 5-10 Please calculate the number of impacted acres of land, for not only the construction of the power plant, but the construction of the staging area, the new road built for the construction phase, the construction of the 150-foot wide overhead transmission line right of way, the construction of new gas, waste water, and power lines, and any other impacted acres.
- 5-20 Please describe the extent of land clearing that will be required along the 6-mile stretch of the existing National Grid corridor.

AMMONIA

- 4-7 What is the volume of ammonia to be stored? What is the concentration level of the ammonia? What are the security plans and evacuation plans and procedures?

DIESEL FUEL

- 4-8 What is the volume of diesel fuel to be stored? Is this the volume required for the amount of time that the plant will be allowed to run on diesel fuel? Can the storage volume be reduced with trucking to the site in instances when the diesel is to be used? If not, why not?
- 4-25 What is the capacity and structure of the retaining dike around the fuel tanks?
- 5-11 With regard to the diesel fuel, are the filling, conveyance, and pumping areas going to be lined to protect the ground water? Please explain.
- 5-14 Please explain where your oil supply will come from.
- 5-15 Please explain in detail when oil will be involved in the operation of the facility.

WETLANDS

- 4-9 It appears that the site slopes upward from Wallum Lake Road at an approximate elevation of 560 towards the area of development to a high point elevation of 580 at the approximate center of the area of development and then down to the western most edge of the development at the edge of the wetland buffer. Is this correct?
- 4-10 It appears that access to the site requires three separate wetland crossings and the perimeter of much of the site abuts directly to the wetland buffers. Is this correct?
- 4-12 It appears that storm water detention pound #1 is located within a limited upland area surrounded by wetlands. Is this correct? It appears that this location could cause damage to the surrounding wetlands. Could the detention pond be relocated to a more suitable location? If not, why not?
- 4-14 It appears that the “construction laydown” area abuts against wetland buffers. Is this correct? Exactly what is going to be stored within this area? Please explain in detail your proposal for protection of the wetlands in this area, considering the materials being stored.
- 5-6 With regard to wetlands and species, please identify measures that Invenergy is proposing to reduce impact and to provide mitigation for impacts that cannot be avoided.
- 5-21 Will the 4 to 5 acres of permanent wetlands that will be filled and altered be restored elsewhere or replicated? Please explain.

STORM WATER

- 4-12 It appears that storm water detention pound #1 is located within a limited upland area surrounded by wetlands. Is this correct? It appears that this location could cause damage to the surrounding wetlands. Could the detention pond be relocated to a more suitable location? If not, why not?
- 4-13 It appears that the site entrance at Wallum Lake Road is down gradient of the project. Is this correct? Could additional storm water storage be required at the entrance to prevent storm water flows from being increased onto Wallum Lake Road?
- 4-15 The site appears to be creating a large amount of impervious space. Is this correct? Please explain the site’s storm water management plan. Has a storm water report been done? If so, please provide a copy. Will the detention basins handle a one hundred year storm event? Is the site going to comply with best management practices?

WASTE WATER

- 4-16 It appears that the set of plans includes nothing about waste water being transported off of the site by means of a sewer ejection force main line to a point of gravity flow (somewhere in the village of Pascoag) to the Town of Burrillville Sewage Treatment Plant. It appears that this waste water is going to have more concentrated amounts of contaminates than what is pumped out of the ground from the existing contaminated aquifer. Is this correct? This contaminated wastewater will run through the Town of Burrillville Sewer Lines. What is being done to insure that the wastewater will not leach into the soils surrounding the lines that it flows through?
- 4-17 Does the Burrillville Sewage Treatment Plant have the technology to properly treat this waste water or is it going to be dumping contaminates into the river? If it will be dumping without treatment, will this further contaminate the land all the way to Narragansett Bay? Please explain.
- 4-18 Will Invenergy agree to install a waste water pretreatment plant of its own? If not, why not?
- 4-19 What is the quality of the water post condensers and pre-discharge into the system?
- 4-20 What, if any, treatment of the discharged water will be required prior to releasing the water back into the environment?
- 4-22 It appears that the discharge of the used water to the waste water treatment facility will remove the water from the aquifer cycle and then after treatment by the sewer plant send it down stream on the other side of town. Is this correct?
- 5-9 Please provide details regarding the amount of all contaminants that would be going into the Clear River, together with any studies to support your response.

OPERATIONS

- 4-24 What polluting materials are expected to be maintained on hand at the facility? Are there Material Safety Data Sheets available for these items? If so, please provide them.
- 4-26 What Hazmat capabilities will be in place at the plant?
- 4-27 At production, will a constant replenishment of the bump strip be necessary?
- 4-31 Will the pumping or compressor stations on the pipe line have a condensate knock out system that separates the condensate from the gas? If not, why not?
- 4-32 Will the plant itself have a knock out system? If not, why not?
- 4-33 What will happen to any of the condensates that are separated from the gas? Please explain.
- 4-34 Will the condensate be treated at the plant or returned to the gas pumping station in double walled pipe systems? Please explain.
- 4-37 Please explain your proposal for what will be done if the plant is in violation of Town Ordinances, especially as it relates to noise, water, air, and property devaluation.
- 4-38 Please provide the contingency plans for catastrophic or emergency events.
- 4-39 Please provide the disaster recovery plans.
- 4-41 What can the company do, or has it done in the past in regards to its energy projects, to mitigate noise, sight, and air disturbances?
- 5-8 Please provide detailed information regarding the impacts on biodiversity of noise, the towers, the diesel fuel tanks, the air cooled condensers, the construction site, the new overhead transmission line right of way, the connection to the existing 345 kV line, the construction of the switch yard, the new gas line connection to the newly reconstructed compressor station, the new facility access road, the construction of an underground pipe to a sewer main to the Burrillville sewage treatment plant, and the construction of a 6.8 mile new 345 kV line.

RENEWABLES

- 4-28 With Invenergy being committed to renewable power production, would Invenergy be willing to repair existing dams and construct a mini power producing facility utilizing a water wheel versus a water turbine so as to maintain the cultural heritage of the town? (Burrillville is an old mill town and water wheel power was the mainstay of its founding.)
- 4-29 Both solar and wind power production are variable or of limited production use. However, the streams flow 24 hours per day and only slow down during the dry season. The old water wheel system was strong enough to power a full size textile mill. A water wheel should be able to turn a 15 to 20 Kw generator. Do you agree?

MITIGATION

- 4-42 What, if any, community based programs has the company instituted regarding energy use/consumption/incentives to mitigate local impacts?
- 4-43 Has the company extended solar or wind applications to public areas such as schools or other municipal buildings to mitigate local impacts?
- 5-1 Is Invenergy proposing in any supplemental environmental projects that would be in addition to the typical regulatory requirements, such as enhanced wetlands and wildlife habitat restoration/replication in the vicinity of the proposed development?
- 5-6 With regard to wetlands and species, please identify measures that Invenergy is proposing to reduce impact and to provide mitigation for impacts that cannot be avoided.
- 5-7 Is Invenergy proposing to acquire conservation land? If so, please provide details.
- 5-21 Will the 4 to 5 acres of permanent wetlands that will be filled and altered be restored elsewhere or replicated? Please explain.
- 5-22 Is Invenergy willing to fund local educational programs aimed at locally conserved lands, including those acquired by Invenergy, if any, under an agreement?