

State of Maine
Department of Conservation

Maine Land Use Regulation Commission

Public Hearing

September 19, 2007 through September 21, 2007

Zoning Petition ZP 702, Maine Mountain Power, LLC

Held at the Sugarloaf Grand Summit Conference Center
Carrabassett Valley, Maine

1 (The hearing commenced on September 19, 2007 at 8:37 a.m.)
 2 * * * * *
 3 THE CHAIR: Good morning, everyone. Are we all ready
 4 to go, everybody?
 5 MR. THALER: Yes.
 6 THE CHAIR: Mr. Plouffe, are you all set?
 7 MR. PLOUFFE: Yes.
 8 THE CHAIR: Well, good morning everyone. We'd like
 9 to get started here. We're still missing one of our attorneys,
 10 but I assume that she's going to be here. Obviously, as you
 11 know, we have a little other business to dispose of before we
 12 start the hearing, so we'll do that first and then move on to
 13 the hearing.
 14 First off, I guess I would ask the commissioners who
 15 are present to introduce themselves as we always do. I think
 16 you probably all know us, but we'll follow procedure here. So
 17 Gwen, why don't we start with you, please.
 18 MS. HILTON: Gwen Hilton, Starks, Maine.
 19 MS. KURTZ: Rebecca Kurtz, Rangeley Plantation.
 20 MR. SCHAEFER: Steve Schaefer, Grand Lake Stream.
 21 MR. REID: Jerry Reid from the attorney general's
 22 office.
 23 MR. HARVEY: Bart Harvey, Millinocket.
 24 MS. CARROLL: I'm Catherine Carroll, the Commission
 25 staff director.

1 MR. LAVERTY: Ed Laverty, Medford.
 2 MR. WIGHT: Steve Wight, Newry.
 3 MS. SPENCER-FAMOUS: Marcia Spencer-Famous, LURC
 4 staff in Augusta.
 5 MS. MACALUSO: Melissa Macaluso, LURC staff.
 6 MR. HARVEY: And our court reporter.
 7 THE REPORTER: Lisa Fitzgerald.
 8 THE CHAIR: Thank you, Lisa. All right, I guess
 9 obviously, as you all know, we had some issues with ex parte
 10 communications and there's been a lot of memos going back and
 11 forth on that. I guess to start the hearing we're going to try
 12 to at least deal with that issue to the extent that we can
 13 today. I'm going to ask Jerry Reid just to start that rolling
 14 and then we'll go from there. So Jerry.
 15 MR. REID: Thank you, Mr. Chair. Let me just say a
 16 few things by way of background to get us started here this
 17 morning.
 18 The issue of some alleged procedural irregularities
 19 affecting this proceeding first kind of came up at the
 20 August 1st Commission meeting in Greenville when several
 21 Commission members put public statements on the record that
 22 they had been contacted in a way that was at least potentially
 23 inappropriate and raised concerns about ex parte communications
 24 relevant to the Maine Mountain Power and TransCanada
 25 proceedings.

1 At that point Chair Harvey asked the parties to those
 2 two proceedings to submit written comments on whether those
 3 communications were unlawful, whether they felt they were
 4 harmed by those communications, and if so, what they would like
 5 to see done about it.
 6 Shortly after that, those three parties submitted
 7 Freedom of Information Act requests with the Department of
 8 Conservation and LURC asking for copies of all documents that
 9 are potentially relevant to those disclosures made at the
 10 Greenville Commission meeting, and although LURC and DOC worked
 11 diligently to try to turn those documents over as quickly as
 12 possible, the first, for your request, was not fully responded
 13 to until right around the time of the deadline for submission
 14 of comments right either shortly before August 31st or a few
 15 days after that.
 16 There were three sets of comments submitted by Maine
 17 Mountain Power, TransCanada, and the Coalition of Environmental
 18 Intervenors in the Maine Mountain Power proceeding by
 19 August 31st, but after that, Attorney Plouffe, on behalf of the
 20 Coalition of Environmental Intervenors in this case submitted a
 21 second letter, September 13th.
 22 That letter outlined in some detail a new set of
 23 concerns that Attorney Plouffe had based on the large part of
 24 his review of those documents and also made several requests,
 25 including that this morning each Commission member again speak

1 on the record as to whether they feel they can participate
 2 objectively and impartially in this proceeding.
 3 The letter also requested two Commission members,
 4 Commissioner Wight and Commissioner Schaefer, consider recusing
 5 themselves from this proceeding, and the letter also requested
 6 that the Commission deliberate -- at least initially -- on this
 7 matter without having a staff recommendation before it. That
 8 last issue is not one that we need to resolve at the outset of
 9 the hearing, although I'm happy to talk about it with
 10 commissioners if that's your pleasure. We could also defer
 11 that to the conclusion of the hearing. But the other two
 12 issues we do need to resolve right away.
 13 I have asked each commissioner to come prepared this
 14 morning and make a statement as to whether they feel under all
 15 the circumstances we have here and those circumstances include
 16 both the disclosures that were made at the August 1st
 17 Greenville Commission meeting, as well as concerns that were
 18 outlined in detail in Mr. Plouffe's letter, whether they feel
 19 they can participate objectively and impartially on all issues
 20 that will be coming up during this proceeding.
 21 I've also asked Commissioner Schaeffer and
 22 Commissioner Wight to speak directly to the question of
 23 recusal, and the other thing I should mention is, we have a
 24 letter that was distributed to all Commission members from
 25 Attorney Thaler on behalf of Maine Mountain Power that responds

1 to Attorney Plouffe's letter, the September 13th letter, and
2 makes certain points in response, including from the
3 perspective of Maine Mountain Power recusals are not warranted
4 in the case of Commission members Wight and Schaefer.

5 So with that, I would defer to you, Chair Harvey, on
6 specifically how you would like to proceed. I would give every
7 Commission member a chance to speak.

8 THE CHAIR: I think what we'll do is just go down the
9 line. We'll start down with Gwen and you can each make
10 whatever statement you like. The comment -- obviously Jim
11 Nadeau is not able to be with us today but I believe Jerry will
12 speak on his behalf based on some communications that they had.

13 Why don't we start with Gwen and we'll move right
14 down the table.

15 MS. HILTON: I do feel that I am able to participate
16 in the wind power projects in an unbiased, impartial and
17 objective way. I have not been swayed or influenced one way or
18 the another by another person through ex parte communication or
19 otherwise.

20 MS. KURTZ: I feel that I reviewed all of the
21 materials regarding the procedural issues we're discussing, and
22 I believe I remain unbiased and impartial regarding this wind
23 power application, as well as the other wind power applications
24 that the Commission is considering.

25 MR. SCHAEFER: I have read Mr. Plouffe's

1 September 13th letter and understand that he is requesting
2 either that I recuse myself from ZP 702 or state publicly how I
3 can be impartial.

4 His concern appears to be based on comments I made to
5 Steve Wight in a phone call from Steve Wight in January. Steve
6 Wight's notes from that conversation apparently describe me as
7 wanting to help the applicant and help with the rewrite.

8 I voted to deny the application in January -- I,
9 along with majority of my fellow commissioners -- voted to
10 accept the revised application in June. That, I guess, could
11 be interpreted as helping the applicant.

12 Those actions and comments are on the record and I
13 stand by them. I never intended to nor did I ever help the
14 applicant in any other way that is not fully reflected in the
15 public record.

16 However, the vote on this revised proposal will be
17 determined by the upcoming hearing and careful analysis of the
18 testimony and, if any, staff recommendations. I go into this
19 hearing with an open mind as always and will do my best. I
20 didn't know how I was going to vote in January; I don't know
21 how I'm going to vote on the upcoming proposal.

22 With that being said, I am respectfully declining to
23 recuse myself.

24 MR. REID: I do have a statement that was e-mailed to
25 me from Commissioner Nadeau, who I understand is going to be in

1 attendance tomorrow. It says, To my fellow commissioners, the
2 applicant, intervenors, and public, due to the increased
3 publicity and comments made since August 1 regarding Maine
4 Mountain Power's application, which also includes comments made
5 between commissioners, I would like to go on the record by
6 making a public statement as follows:

7 I would like to make it clear to everyone that as
8 decision maker on Maine Mountain Power's application that
9 throughout the process of reaching a decision, I will remain
10 unbiased, impartial, and objective throughout the proceedings.

11 THE CHAIR: Thank you. I think I can echo those
12 comments. We've obviously been through a lot of discussion
13 here but my -- the oath that we all took to do this job with an
14 open mind and unbiased view still applies, as far as I'm
15 concerned, and I believe that I will do this with an open mind,
16 and let this public record that we're hopefully going to
17 generate here in the next couple of days speak for itself and
18 lead us. I intend to keep an open mind about it. Thank you.

19 MR. LAVERTY: I'm Ed Laverty. I've spoken on the
20 public record previously about concerns I had regarding
21 potential ex parte communications.

22 As I said then, I will say now, that I do not feel
23 that they have in any way affected my ability to cooperate in
24 this hearing and the decision regarding this application
25 objectively and impartially.

1 I would also just like to say for the record that
2 while this whole discussion of ex parte communication has been
3 unfortunate and rather painful, I think its resolution as we
4 move forward will actually enhance the legitimacy and
5 credibility of the regulatory process, not only as it applies
6 to the Maine Mountain Power application before us, but in
7 subsequent LURC proceedings in the near future.

8 I look on this as painful optimism.

9 MR. WIGHT: I'm Steve Wight. I, too, consider myself
10 to be impartial and able to participate in these proceedings;
11 however, the letter sent by Attorney Bill Plouffe to
12 Chairman Harvey on September 13, forwarded to me on
13 September 17th, and sent to the press on the same date has
14 caused me deep concern.

15 In that letter Attorney Plouffe detailed
16 communications from LURC and commissioners obtained through the
17 provision of the Freedom of Information Act. Mr. Plouffe
18 described the communications as forming an incomplete picture
19 of an egregious plot, collusion, involving me and various
20 others.

21 Saying it was missing many of the puzzle pieces, he
22 developed what he called a working hypothesis. From my science
23 class days, I know that hypothesis is a theory to be proven.
24 Mr. Plouffe, lacking the necessary evidence to prove his
25 hypothesis proceeded to create a fictional account of what

1 might have happened or ways notes could have been interpreted.
 2 In this fictional account, he has misinterpreted
 3 notes from the telephone conversation between Attorney Jeff
 4 Thaler and Catherine Carroll as an indication that I held
 5 conversations with Applicant Harley Lee, and I was further
 6 working as an agent of an nefarious coalition in State
 7 government to aid this coalition in their "joint goal of an
 8 approval" of the original application of Maine Mountain Power,
 9 the one which the Commission had already turned down by a vote
 10 of 6:1 on January 24th.

11 The letter continues the fictional account with words
 12 such as "if," "I suspect," and "apparently," used to attempt to
 13 string together the hypothesis. There are two sides to every
 14 story.

15 Unfortunately, Mr. Plouffe has spread his version far
 16 and wide, creating an extremely difficult atmosphere in which
 17 the Commission must go forward with its work. Therefore, in
 18 the interest of the integrity of the process before us and on
 19 the advice of LURC counsel, Assistant AG Jerry Reid, I have
 20 made the painful decision to bow out to the tactics I have been
 21 confronted by and recuse myself from the proceedings of ZP 702.

22 THE CHAIR: I thank you, Steve, and others.

23 MR. THALER: Mr. Chairman. This is Jeff Thaler,
 24 attorney for Maine Mountain Power. I'd like the opportunity to
 25 briefly make a statement on behalf of the applicant.

1 THE CHAIR: Why don't you come down front, Jeff.
 2 MR. THALER: Thank you. Mr. Chairman and members of
 3 the Commission, I'm Jeff Thaler, attorney for Maine Mountain
 4 Power. Some of the representatives are over to the right, my
 5 client.

6 I think that Ed Laverty's phrase about painful
 7 optimism best describes what we hope and trust will happen
 8 going forward, but we do need to, as the applicant states for
 9 the record, some concerns about what's brought us here today
 10 and what we just heard.

11 We know that you, the commissioners, are public
 12 servants dealing with a growing workload without a growing
 13 salary, at least last I knew. We know that and we appreciate
 14 your efforts in listening to the evidence about our project.

15 We're very troubled and disturbed by accusations and
 16 efforts that appear aimed at pressuring commissioners and LURC
 17 staff who have said anything positive about this project over
 18 the last year, publicly or privately.

19 Last January each of you publicly stated your views
 20 on this project, and Mr. Wight stated his support. That
 21 doesn't make him biased or an advocate for that project, just
 22 as six of you stated concerns about the two-mountain project,
 23 and that doesn't make you biased against Maine Mountain Power.

24 We think that -- for Mr. Plouffe, for example, in his
 25 letter, which I again I appreciate Jerry at the end of his

1 comments mentioned my response, my response was that we are
 2 still being produced documents from LURC and DOC. I was going
 3 to bring before you the volumes so far. We've had some of them
 4 produced on CD. They're eight boxes high, so I've been
 5 preparing for this hearing. I haven't gone through all the
 6 boxes, I confess, but I didn't want to see a rush to
 7 conclusions here that from Mr. Plouffe were suppositions and
 8 guesses and frankly selective portions of the record as we have
 9 them.

10 It's wrong and unfair, for example, to suggest that
 11 Commissioner Schaeffer -- and I appreciate your decision not to
 12 recuse yourself -- talking about redrafting of the decision
 13 when it was Mr. Plouffe's own client, himself, last January who
 14 held a press conference a couple days before the meeting and at
 15 the meeting attacked the format of the decision. The drafting
 16 and the format of it was an issue they raised, not us.

17 Likewise, for Mr. Plouffe in his letter to say that a
 18 meeting held by three commissioners -- Mr. Laverty, Mr. Nadeau,
 19 and Mr. Schaefer -- with LURC staff to talk about energy issues
 20 generally and what you wanted to learn from the State expert
 21 agencies -- DEP, PUC, and others -- what questions you had in
 22 his letter, he said that was unlawful.

23 What he doesn't say in his letter is that two days
 24 earlier Commissioners Kurtz and Hilton had the same meeting
 25 with LURC staff on the same topics and all the discussions that

1 you had resulted in the August 1 proceeding where you asked
 2 questions and you got answers from the PUC and others.

3 We think it's unfortunate and interesting that
 4 Mr. Plouffe's letter omits that the first meeting that took
 5 place and that it was because two of those commissioners --
 6 commissioners Hilton and Kurtz -- happened to be the ones who
 7 had direct conversations with Mr. Plouffe's client, Ed
 8 Marsthill, which were without notice to anybody else and
 9 certainly not to the parties here.

10 We're not asking for the recusal of any commissioners
 11 because of that, but we do need to point out in the record that
 12 the only, only hard evidence of any communication on
 13 substantive matters in this proceeding between any party and
 14 any commissioner about our project was Jody Jones, unsolicited,
 15 volunteering, telling the commissioners on that site visit
 16 Audubon's position on wind power, the identical position that's
 17 the first sentence of her prefiled testimony in this case.
 18 That was wrong and that was unlawful.

19 But we're not asking for recusal of anybody who was
 20 exposed to that by Ms. Jones because we have trust and faith in
 21 each of you in terms of your impartiality and objectivity on
 22 this project.

23 This is a situation where you've all sworn oaths when
 24 you became commissioners, you made statements on the record on
 25 August 1, and we take at face value and place our faith in your

1 hands that you mean what you say. We think it's regrettable
2 that other parties or party won't take those statements or
3 doesn't appear to do so at face value.

4 Let me just say in conclusion -- and I appreciate
5 your consideration this morning -- we have from Day 1 on this
6 project wanted it to be evaluated, considered, and decided on
7 the merits. That's why we're here, that's what you're here
8 for. We want it decided on the evidence in our application, in
9 our prefiled, and in the testimony and questioning you're going
10 to have over the next couple of days.

11 We don't want any commissioner or staff member to
12 feel that they shouldn't ask a question that might appear
13 critical of an opposing intervenor because somehow that might
14 look biased, and we're afraid that Mr. Plouffe's letter was
15 intended to have that effect, to make you bend over backwards
16 and thus appear more critical and distant from us than them. I
17 certainly ask you not to do that and I trust that you won't
18 based on your comments this morning.

19 We think that it's regrettable that Mr. Wight has
20 recused himself, but we respect his decision and we respect his
21 concern for the integrity of the process, and we agree, this
22 has been a painful discussion for anyone, and one that in my 30
23 years in practicing law and many years in front of this
24 Commission and the Board of Environmental Protection I've never
25 seen the type of accusations -- or at the planning board level

1 in this state -- that have been made in that letter.

2 We believe and trust that you will be unbiased, that
3 you will be even-handed, and that you'll consider all the
4 evidence and whether we have provided you sufficient evidence
5 to be granted approval of the preliminary development plan and
6 the rezoning.

7 We're ready to show you we deserve such approval and
8 I thank you for your time, Mr. Chairman.

9 THE CHAIR: Thank you. I assume that Mr. Plouffe
10 might want to make some comments.

11 Yes, he does.

12 MR. PLOUFFE: Thank you very much. I knew what -- I
13 knew that writing my two letters would not be well received.
14 It's very difficult to represent groups and make a decision to
15 do what I did. It's very difficult for Steve Wight to do what
16 you did, Steve, and I appreciate what you did. You've been on
17 this Commission for 20 years and it's a tremendous amount of
18 service.

19 I had my jaw dropped at the Greenville High School
20 when I heard Ed Laverty say what he said. I knew nothing about
21 any of these things, nothing.

22 In my many years of appearing before boards and
23 commissions at the State level and at the local level, I had
24 never heard what I heard Ed Laverty say happened.

25 I was just trying to in the end find out the truth,

1 what happened, and I had actually hoped this morning that
2 beyond just what Jerry said responding to what Bill Plouffe
3 said in the pieces of the puzzle that he got from the Freedom
4 of Access Act, there may have been a more thorough discussion
5 of what has happened in this case for two years.

6 What I found in my Freedom of Access Act request was
7 extremely disturbing to me, but I don't have all the pieces of
8 the puzzle. I happened to interpret some cryptic notes and
9 think maybe this is what happened? Yes. If that's not what
10 happened, I wanted to hear about it.

11 I was just trying to get out in the public what is
12 going on here apparently out of the public hearing and sight to
13 some extent.

14 Do people make mistakes in these processes?
15 Absolutely, yes. I represent a number of municipalities with
16 planning boards and boards of appeals. Do those people, my
17 clients, make mistakes sometimes along these lines? Sometimes.
18 But some of the things that were done in this case I've never
19 seen done at a municipal level.

20 I was just trying to get what is the truth, get it
21 out all in the open, let's decide how to address it, and then
22 let's move forward. I was doing it not just for this case but
23 for the future perceptions of this agency by members of the
24 public as you go into some very, very difficult proceedings.

25 I consider the next several months maybe watershed

1 months for this agency. What you have to do with the CLUP,
2 Plum Creek, other wind power projects are so important, and
3 it's really important that everyone feels that everything is
4 being done in the public.

5 It was not easy for me and my client to do what we
6 did. I appreciate your taking it up. I very much appreciate
7 the disclosures that were made in Greenville and the advice
8 that Jerry Reid has given to you.

9 THE CHAIR: Thank you. Any other commissioners feel
10 they need to say any more on this subject? Are we ready to
11 move ahead?

12 MR. THALER: Mr. Chairman, if we're ready to move
13 ahead, there was a point of procedure I think the parties just
14 want to address, and I know Amy Mills, I guess, is not here,
15 but while Jerry's here, just about redirect, recross, and
16 rebuttal so all the parties will know the ground rules ahead of
17 time.

18 THE CHAIR: Amy, where are you? Hiding in the back.
19 Come right down front. This is your question. I don't think
20 we're going to bring Jerry into it.

21 MR. THALER: I wasn't trying to put Jerry on the
22 spot.

23 THE CHAIR: Who's going to participate in this
24 discussion, Jeff, this procedural discussion? Is Mr. Plouffe?

25 MR. THALER: It was just a clarification.

1 THE CHAIR: Okay. Well, ask your question. It
2 sounds like it's not a yes or no answer on my part.

3 MR. THALER: At least one may be.

4 THE CHAIR: Okay.

5 MR. THALER: I think all parties just want to know
6 ahead of time before we start whether there will be the
7 opportunity for redirect and recross-examination after
8 questioning is completed of a party as blocked out in the time
9 or not.

10 THE CHAIR: Did we redress this is any of the
11 prehearing orders?

12 MR. THALER: The prehearing order quoted the rules
13 that -- I don't have it right in front of me to quote -- it
14 says parties can have redirect and recross unless the
15 discretion of the chair says no or not. It's in your
16 discretion ultimately. We just want you to exercise your
17 discretion before we all get started so we know we're on the
18 same page.

19 THE CHAIR: You're asking me to exercise my
20 discretion on something I don't know about; right?

21 MR. THALER: Well, I'll let you consult with your
22 attorney.

23 THE CHAIR: I think that -- not being an attorney --
24 it's hard to sort through rebuttal and closing statements and
25 all that, but I believe that -- obviously you'll all have an

1 opportunity to provide a closing statement at the end of the
2 hearing, I believe that's correct, if you want to make one to
3 us. Obviously, a limited amount of closing statements are
4 provided to us.

5 Your question has to do with an individual witness,
6 the way I understand it, and whether or not you can -- you can
7 cross-examine him, your own witness I guess, based on if
8 Mr. Plouffe does something you don't like to elicit an answer
9 that you're uncomfortable with, you can go back and ask your
10 witness a question that may, in your mind, could correct or
11 correct the record I guess is what you're saying.

12 MR. THALER: Right, redirect normally. Bill and I
13 just consulted with the other parties who again are sharing our
14 position. But it's a situation where the parties -- we don't
15 do direct examination in a typical way where we question or
16 examine our witnesses and then cross happens and then redirect
17 as in court.

18 The witnesses come before you, present a summary of
19 their prefiled, and in that summary they can, as we did a year
20 ago and was provided for in the rule, respond to prefiled
21 statements of others that we're already aware of.

22 Then there's cross-examination. If bill, for
23 example -- using a hypothetical -- were cross-examining one of
24 my panels and maybe a witness wasn't able to finish an answer
25 or there was something that needed to be clarified, then

1 redirect, I would be able to get up and just clarify certain
2 points and then sit down, that would be redirect.

3 Rebuttal -- and we needed to clarify this point as
4 well from the procedural order and then the aftermath of
5 that -- normally as we understand it is -- we've all got
6 prefiled testimony, so it's not like a typical trial, and we're
7 all -- in some respects witnesses can rebut what was prefiled
8 during their presentations in questions and answers.

9 Rebuttal at the end of the hearing is after, for
10 example, again, hypothetically, my clients are questioned,
11 we're done, tomorrow something comes up or some of Bill's
12 witnesses say things that weren't in the prefiled and that
13 therefore we couldn't know were going to be said, that we'd
14 like to be able to briefly address at the end of the hearing in
15 rebuttal to that before we all leave here.

16 That rebuttal then indicates only the things that are
17 new arising at the hearing that people didn't know about
18 beforehand. You don't get a second bite of things that were
19 prefiled.

20 Bill, do you generally agree?

21 So I think there is room built in the schedule for
22 rebuttal at the end, but it's not supposed to be people lying
23 in wait until the end to talk about things that were prefiled
24 is what I'm getting at.

25 So rebuttal at the end should be fairly limited and
1 focused.

2 THE CHAIR: Your question had to do with --

3 MR. THALER: Redirect.

4 THE CHAIR: During cross-examination of witnesses
5 what happens after you're done cross-examining Bill's witness?
6 Does Bill have the right to come back and ask and pose a
7 question of his own witness is what it amounts to?

8 MR. THALER: Correct; and same for me or any other
9 party.

10 THE CHAIR: Obviously the rules speak to that and
11 allow it to happen by leave; is that correct?

12 MR. THALER: That is absolutely correct. I will just
13 clarify for the record, the procedural order actually didn't
14 address this issue. It had it in the title but didn't discuss
15 it.

16 THE CHAIR: Well, I think that, you know, I guess in
17 discussing with Amy that we'll leave it by my leave. Obviously
18 if there's some compelling reason and you can convince me of
19 that, I'll be happy to allow you to do that but hopefully don't
20 take advantage of it because we're just going to just -- and it
21 obviously has to be very relevant to the testimony that was
22 just given I think. Isn't that how this works?

23 MR. THALER: That's fair, and I can certainly live
24 with that, and I think it's appropriate that at the time, if,
25 for example, when all the questioning is done by the panel,

1 I'll come up and say, Mr. Chairman, I would like to ask
2 redirect of Witness A or B on a certain topic and you can
3 exercise your discretion.

4 THE CHAIR: Okay. I'll try to do that for you. Is
5 that okay? As I say, we're committed to building as complete a
6 record as we can, so we're obviously not going to try to limit
7 it, but I don't want to get the thing extended out forever
8 either.

9 MR. THALER: We don't either. And we would love to
10 see this finish on time and ahead of schedule and under budget
11 on Friday. Thank you.

12 THE CHAIR: Well, are there any other things?
13 Obviously to start this session I have to read into the record
14 a formal opening statement, so I will do that.

15 This is the opening statement on Zoning Petition
16 ZP 702, Maine Mountain Power, LLC, Redington Township, Wyman
17 Township, Franklin County.

18 Good morning everyone. My name is Bart Harvey and
19 I'm the chairman of the Land Use Regulation Commission and the
20 presiding officer of the hearing.

21 Commission members present today for the hearing,
22 Gwen Hilton, Rebecca Kurtz, Steve Schaefer, Ed Laverty;
23 Commission counsel, Amy Mills; staff members present, Catherine
24 Carroll, director; Marcia Spencer-Famous, senior planner; and
25 Melissa Macaluso; our court reporter is Lisa Fitzgerald.

1 Today's hearing is being held pursuant to the
2 provisions of Title 12 MRSA Section 685-A, and the hearing will
3 be conducted in accordance with Chapter 5 of the Commissions
4 for the Conduct of Public Hearings.

5 This hearing is being held to receive testimony in
6 the matter of Zoning Petition ZP 702 submitted by Maine
7 Mountain Power, LLC, to rezone 487 acres of Redington Township,
8 Franklin County from a mountain area protection subdistrict to
9 a planned development subdistrict to develop a wind power
10 facility.

11 Within the planned development subdistrict, the wind
12 power facility would include 18 turbines on Black Nubble
13 Mountain, access roads, and underground utility lines.

14 The petitioner's adjacent parcel on the Redington
15 Pond Range would be restricted from development as a wind farm.
16 Outside the planned development subdistrict in Redington
17 Township and Wyman Township, the wind power facility would
18 include access roads, utility lines, a substation, and a
19 maintenance building.

20 The purpose of this hearing is to allow the
21 petitioner, intervenors, and government agencies to present
22 summaries of their prefiled direct testimony and evidence as to
23 whether the development proposal meets the criteria for
24 amendment to land use boundaries as specified in Title 12 MRSA
25 Section 685-A Subsection 8-A of the Commission's statute and

1 the relevant provisions of the Commission's land use district
2 and standards.

3 We will first hear from the Commission staff, who
4 will provide a brief overview of the proposal and
5 administrative history. Representatives of the petitioner will
6 then provide a summary of their proposal and their prefiled
7 testimony.

8 Following, the petition of witnesses from the
9 National Park Service and the intervenors will present
10 summaries of their prefiled testimony.

11 The State soil scientist and representatives of the
12 Maine Public Utilities Commission and Maine Department of
13 Inland Fisheries & Wildlife will be available to answer
14 questions about their review comments.

15 At the conclusion of the testimony from each witness,
16 cross-examination may be conducted first by the Commission,
17 then by the staff, next by the petitioner, and finally by the
18 intervenors. However, Commission members, staff, and counsel
19 for the Commission may ask questions at any time.

20 This just gets to the issue we just spoke about.
21 Before the testimony is presented, anyone requesting time for
22 rebuttal at the end of the hearing should indicate their wish
23 to do so, and the request will be taken under consideration as
24 the hearing proceeds, and I think Amy is suggesting that we
25 need to hear from you at this point or -- when I finish reading

1 this -- as to whether you anticipate you want rebuttal time at
2 the end of the hearing. That would be sometime Thursday or
3 Friday.

4 All witnesses must be sworn and will be required
5 before they give testimony to state for the record their name,
6 residence, business, or professional affiliation, the nature of
7 their interest in the hearing, and whether or not they
8 represent another individual, firm, or other legal entity for
9 the purpose of the hearing.

10 In addition to being transcribed, we will be
11 recording the proceedings today, so I would request that you
12 speak clearly and use a microphone.

13 All questions and testimony must be relevant to the
14 Commission's criteria for rezoning, criteria for approval of
15 this project. Irrelevant and unduly repetitious material will
16 be excluded.

17 The record will remain open for comments after the
18 hearing as is typical and I will -- we will discuss -- I'll
19 read that into the record at the end of the hearing. We'll
20 talk about the timing, the closing dates and all that.

21 If you want to receive -- for people attending the
22 hearing that want to receive a copy of the final action taken
23 by the Commission as a result of this hearing may leave their
24 names and addresses with the staff.

25 I guess at this time I need to swear in any witnesses

1 who plan to testify today. I don't know how far we're going to
 2 get today, but I'll probably have to do this again tomorrow.
 3 (Witnesses were sworn en masse.)
 4 THE CHAIR: We'll have to do this again tomorrow.
 5 We're going to start by asking Marcia to do the administrative
 6 history and offer the exhibits for the record. When she's done
 7 that, if anybody -- the rebuttal testimony question, if anybody
 8 wants to respond to that, I would appreciate it. And then
 9 we'll have some idea of what's going to happen at the end of
 10 the hearing.
 11 Marcia.
 12 MS. SPENCER-FAMOUS: Do you want to do the rebuttal
 13 right now?
 14 THE CHAIR: If people are ready to indicate to me.
 15 I'm assuming they're all going to want to do rebuttal. It's
 16 almost a given. I don't know why I bothered to ask.
 17 MR. THALER: I guess, Mr. Chairman, for the applicant
 18 consistent with what we just discussed, I don't know if anybody
 19 knows for sure whether they will need rebuttal because we don't
 20 know if anything new will come up during the hearing, but I
 21 think, for myself -- and suspect you're probably right -- I'd
 22 at least like to reserve the opportunity.
 23 THE CHAIR: I understand. That's why I say it's
 24 probably a question that doesn't need to be asked.
 25 MR. PLOUFFE: I agree.

1 THE CHAIR: At this point, just to make it simple,
 2 I'm going to assume that everybody's going to want to do a
 3 rebuttal and we'll allow you to do that.
 4 MR. THALER: Thank you.
 5 THE CHAIR: Marcia.
 6 MS. SPENCER-FAMOUS: I'm not going to read the entire
 7 Exhibit 20 because it's six pages long, but I am offering the
 8 entire thing to be filed. As an explanation, the record
 9 includes everything from last year, everything in between.
 10 This was as I was advised by our AG and that's all in the
 11 record.
 12 I'll start reading with Item 9 of the administrative
 13 history, which is a reopening of the record. There are copies
 14 available for everyone of this entire staff statement that's
 15 going to be entered into the file.
 16 I also have copies available of the exhibits' list,
 17 which also is an expanded version of last year's just added on
 18 to the end of it. I've distributed those to the commissioners.
 19 I've also distributed to the commissioners that additional
 20 public comment that came in the last couple of days that didn't
 21 go into their Commission packets because I had said that I
 22 would previously. There are also copies of those for anyone
 23 who would like a copy.
 24 Reopening of the record. On May 9th, 2007 the
 25 petitioner submitted a request to reopen the record to allow a

1 revised proposal for an 18-turbine wind farm on Black Nubble
 2 Mountain.
 3 On June 6, 2007 staff recommended that the record be
 4 reopened and after deliberation the Commission voted to reopen
 5 the record.
 6 The Commission set June 20th, 2007 as the date for
 7 the prehearing conference. On June 20th a prehearing
 8 conference was held. The prehearing conference summary and
 9 memorandum were sent to the parties on July 17th, 2007.
 10 The parties previously granted intervenor status in
 11 2006 would continue but no opportunity for new parties to
 12 request intervenor status was provided.
 13 In 2006 Central Maine Power and the Coalition to
 14 Reduce Dependence on Foreign Oil dropped their intervenor
 15 status. In August of 2007, intervenor Western Mountains
 16 Foundation requested its status be changed to interested
 17 matter. In 2007 intervenors Natural Resources of Council of
 18 Maine and Conservation Law Foundation expressed support for the
 19 revised proposal.
 20 On July 12th the petitioner submitted a revised
 21 proposal to rezone 487 acres on Black Nubble Mountain from a
 22 mountain area protection subdistrict and soil and geology
 23 subdistrict to a planned development subdistrict to develop a
 24 54-megawatt Black Nubble wind farm.
 25 The proposal also includes a provision to restrict

1 from wind power the petitioner's 517-acre parcel on Redington
 2 Pond Range. The proposed wind farm would include 18 3-megawatt
 3 turbines, 6.5 miles of new gravel access road, upgrades of
 4 existing land management road, above- and below-ground 34.5 kV
 5 and 115 kV utility lines, a new substation, and a maintenance
 6 and operations building, and other associated activities and
 7 structures.
 8 The turbine towers would be 253 feet in height. At
 9 the tip of the blade extending upward, the height would be 410
 10 feet. During construction approximately 63 acres would be
 11 cleared above 2700 feet in elevation. Of the 63 acres, 51
 12 would be disturbed, as well as cleared, and prepared for
 13 construction, approximately 30 acres above 2700 feet in
 14 elevation would remain unvegetated. Approximately 423 acres of
 15 the petitioner's 487-acre parcel -- or 89 percent -- would not
 16 be affected by the project.
 17 On August 2nd prefiled testimony was submitted by the
 18 party. An objection to one section of the prefiled testimony
 19 submitted by intervenor Appalachian Trail Conservancy was
 20 submitted by the petitioner.
 21 Intervenor TransCanada did not prefile testimony but
 22 sent a letter stating its position about the issue of
 23 transmission congestion.
 24 Three procedural orders regarding the hearing
 25 testimony were sent to the parties on August 9th, 20th, and

1 September 11th. The final hearing schedule was distributed to
2 the parties on September 13th, 2007.

3 The matter being considered at this time is the
4 rezoning parcel on Black Nubble Mountain and the associated
5 preliminary development plan. A final development plan and the
6 permit to construct will be considered only if the rezoning is
7 approved.

8 This is a continuation of the record that closed
9 August 21st, 2006. The revised proposal for a 54-megawatt wind
10 farm is now being considered. The original proposal submitted
11 in 2006 was a 90-megawatt wind farm and all materials received
12 by LURC relating to Zoning Petition ZP 702 from the time the
13 record closed in August 2006 until the record was reopened on
14 June 6, 2007 are included in the exhibits.

15 I am now offering Exhibits 1 through 27 to the file.

16 THE CHAIR: Does anybody need us to read to you all
17 those exhibits or are you all satisfied?

18 MR. THALER: We will trust you they are what she says
19 they are. We'll get copies later today.

20 THE CHAIR: Thank you. Is that it, Marcia, for you?

21 MS. SPENCER-FAMOUS: That's it.

22 THE CHAIR: Well, I believe then that we are
23 prepared -- now at the point where the applicant will be
24 presenting their testimony, and I guess we're going to have
25 them come up front here.

1 MR. THALER: Yes, Mr. Chairman.

2 THE CHAIR: Why don't you come right up here.

3 MR. THALER: We have four people on our other two
4 panels. If you wanted to break when these two panels are done
5 --

6 THE CHAIR: I'll ask Lisa when we get there if she
7 needs to take a few minutes. We'll give her 5 minutes. You
8 can take a few minutes to reshuffle the deck.

9 MR. THALER: That's why it might be appropriate --

10 THE CHAIR: We won't count that time against you,
11 then.

12 MR. THALER: Thank you very much.

13 Mr. Chairman, I think if you're ready, we're ready to
14 proceed, and Randy Mann will start us off.

15 MR. MANN: Good morning Mr. Chairman, commissioners,
16 and LURC staff. My name is Randy Mann, I'm responsible for
17 wind energy development at Edison Mission Energy. I'm speaking
18 today on behalf of Maine Mountain Power.

19 On behalf of our team, I would like to first say
20 thank you very much for taking the time to listen to us today
21 and the opportunity to present the Black Nubble project.

22 It will be a 54-megawatt wind project using 18
23 3-megawatt wind turbines on the Black Nubble Mountain. The
24 project represents an investment of over \$100 million in
25 Franklin County and western Maine.

1 We've assembled a really top-notch team to bring this
2 project to fruition. It includes my company, Edison Mission,
3 which is one of the largest owners and developers of wind
4 projects in the US; we've also got Harley Lee and Endless
5 Energy Corporation, a development company here in Maine.
6 Vestas, the No. 1 wind turbine manufacturer in the world, and
7 Sargent Corporation, it's highly experienced with building
8 roads, including for wind projects, in the mountains of Maine.
9 It's a good team; I think you're familiar with most of those
10 companies.

11 Why wind energy? Quite simply wind energy is the
12 most cost effective, most valuable source of renewable energy
13 and that's why it's growing rapidly across the country, but you
14 can't build it everywhere. You need to have certain features,
15 including a great wind resource. The western mountains of
16 Maine have that resource and that's why we're here today. Just
17 so you know, this is a picture of the same type of wind turbine
18 that we're proposing to deploy up on the Black Nubble Mountain.

19 How does our project benefit Maine? Quite simply our
20 project generates clean renewable energy and will generate
21 enough energy to serve about 21,000 homes here in Maine.

22 What that does is really two things: First of all,
23 it helps Maine diversify away from its overreliance on fossil
24 fuels and natural gas generation. We'll talk about why that's
25 really important.

1 The second thing that our project will do is it will
2 reduce air pollution, about 400,000 pounds per day of
3 emissions, and those are emissions that cause smog, acid rain,
4 global warming. Our project will reduce those emissions and
5 benefit Maine.

6 I know that you remember that we were here last year
7 to talk about a two-mountain project and we heard you loud and
8 clear that that project was too big, you didn't want to see it
9 on Redington Mountain because you were concerned about that
10 peak, and you didn't want to see it so close to the Appalachian
11 Trail.

12 We heard you loud and clear, we listened, we went
13 back and thought about it, and worked very hard to reconfigure
14 our project so that we could take into account your concerns.
15 What we have today is a smaller project, it will leave
16 Redington Mountain untouched and untouched from wind
17 development, we have one mountain only three times as far away
18 from the Appalachian Trail, but it will still deliver
19 significant air pollution and economic benefits to Maine.

20 Here are the numbers. It's an eye test of a chart
21 but it's got a couple of key numbers in there that I want you
22 to focus on. One is that because we have this smaller
23 footprint on Black Nubble only, we're disturbing a lot less
24 acreage. Clearing above 2700 feet is less than half.

25 We're also needing to build a lot fewer roads, almost

1 half as many new roads. So really, in moving away from
2 Redington Mountain, we have very significantly down-sized the
3 footprint of our project but we still deliver those important
4 air pollution benefits.

5 We'll talk today about how we chose the Black Nubble
6 site, and my partner, Harley, has spent over a decade looking
7 at more than a dozen sites for potential wind energy
8 development across New England.

9 We settled on Black Nubble because it's got great
10 wind regime, because it's very close to high-voltage
11 transmission system that's necessary to get the power out to
12 Maine consumers, and there aren't that many places where we're
13 close to the high-voltage transmission system and you have that
14 outstanding resources. Moreover, we're close to existing
15 development, we're close to logging roads, and we'll make use
16 of those in our project.

17 Again, we're close to development. This is just a
18 list of some of the things that are in the same neighborhood as
19 the Black Nubble project: Ski resorts, logging, logging roads,
20 biomass power plant. A lot of development in this area, and
21 that's important to us as wind power developers because, again,
22 we are able to use some of those existing roads, some of those
23 existing transmission lines, power substations to help our
24 project get power to market and minimize the disturbance to the
25 environment.

1 We've engaged a whole series of experts to help us
2 design this project and plan this project so that we'll have a
3 minimal effect on the environment. You're going to hear from a
4 lot of those experts today in each of these areas. As you
5 listen to them, what you'll be hearing are all the ideas and
6 steps that we've taken to try to develop this project again
7 with the least impact on the environment that we can have.

8 We'll have experts talking about soils, we'll have
9 experts talking about wetlands, we'll have experts talking
10 about wildlife, and as you'll hear from them, you'll hear their
11 conclusions that we've minimized the impact on each of these
12 areas developed in the project.

13 We'll also talk about how we're not touching the
14 Redington Mountain and leaving that site undisturbed from wind
15 development.

16 Wind turbines are big, we know that. I like to think
17 of them as being majestic. When you're standing right up close
18 to them, they're big. But because this is a wooded area, a
19 mountainous area, our visual expert will show you that from
20 over 95 percent of the area surrounding this project, you won't
21 be able to see the turbines. When you do see them, they'll
22 explain to you the size that they'll be, small.

23 We also know that this project -- that the
24 Appalachian Trail runs through this area, it's an important
25 feature of the land here. By moving our project off of

1 Redington and onto Black Nubble only, we're three times as far
2 away from the Appalachian Trail. Our visual experts will show
3 you the views that you can see from the Appalachian Trail of
4 this project. I think you'll see that the project is visible
5 only from a view places on the Appalachian Trail and then it's
6 a small view.

7 Our project will generate a lot of benefits to the
8 local community. There's jobs, construction jobs, operating
9 jobs, and we're going to make it a priority to hire locally to
10 fill those jobs. That's just good business practice for us.

11 We also have significant tax payments that we'll be
12 making, about half a million dollars a year. Again, leaving
13 much of the mountain untouched, all of Redington and most of
14 Black Nubble, and that will enable the mountains to be
15 maintained for recreational uses that they've been generally
16 used for.

17 We've been really gratified and excited that the
18 public has recognized the benefits of our project. Independent
19 polling has shown that supporters outnumber opponents of this
20 project 9:1. We've also got thousands of people signing
21 petitions in support of the project, and many of Maine's
22 leading organizations have come out supporting this project.
23 Some of those organizations are here today to testify in
24 support of the project.

25 In summary, we're here because the mountains of

1 western Maine have a really strong wind resource, and in
2 particular, the Black Nubble site is a very good place to
3 develop wind. It's got the wind regime, it's got proximity to
4 transmission, it's got proximity to the fringe of the LURC
5 jurisdiction, and it will enable us to reduce Maine's
6 dependence on fossil fuels and to reduce air pollution that
7 comes into Maine.

8 We have a well-designed project, we think it attempts
9 to minimize the impact on the environment, and we've got a good
10 team pulled together to bring this project to fruition here in
11 Maine.

12 With that we're going to start with Panel 1. It will
13 include myself, Harley Lee from Endless Energy, John Hanisch
14 from ARCADIS, and Steve Garwood from PowerGrid Strategies, and
15 also Matt Most from Edison Mission Corporation.

16 We're going to be talking about demonstrating need,
17 best reasonably available site, the benefits of the project,
18 how the project is consistent with the LURC standards, and the
19 public support that this project has gained. Matt.

20 MR. MOST: Thanks Randy. Good morning, my name is
21 Matthew Most, and I'm with Edison Mission Group. I have
22 nearly ten years in the power and emission allowance markets.
23 I've been working with Edison Mission subsidiary companies.

24 As a Maine native, I'm real excited to come home to
25 support this project and try to demonstrate the needs that this

1 project helps to accomplish. As we all heard at the August 1st
2 meeting with a panel of Maine regulatory experts, Maine has a
3 need to decrease its overreliance on fossil fuels, a need to
4 reduce electricity prices and volatility of electricity prices,
5 a challenging goal to meet a very aggressive and local energy
6 portfolio standard, and finally, also an aggressive goal to
7 meet Maine's obligations under the Regional Greenhouse Gas
8 Initiative.

9 As the PUC pointed out, there's a crucial need to
10 decrease the region's reliance on fossil fuel generation and to
11 reduce the electricity costs and price volatility that we're
12 seeing in the electricity system delivered in Maine.

13 This chart points out exactly what the source of that
14 problem is. This chart was presented by the OEIS at the
15 August 1st meeting. As you can see, there's a significant
16 reliance on fossil fuels in Maine. The yellow and the purple
17 areas show the oil and natural gas components, the fuel
18 components that go into the generation mix for power generation
19 here in Maine.

20 Natural gas is a very volatile product. Natural gas
21 experiences this volatility largely due to the fact that it's a
22 commodity that's difficult to store. As a result, it makes the
23 supply of natural gas a challenge. The supply of natural gas
24 can be affected by winter weather for heating demand, it can be
25 affected by summer weather for air conditioning demand.

1 It's affected dramatically by hurricanes where
2 hurricanes disrupt the supply of natural gas by affecting the
3 Gulf of Mexico and the intensity of our natural gas project
4 there.

5 And finally, natural gas is impacted by oil pricing,
6 since natural gas and oil can be substitutes for each other in
7 our homes for heating purposes and for power generation.

8 Now, since natural gas is such a volatile commodity,
9 it makes power prices very volatile. As you see in the chart,
10 the yellow portion of the chart shows that natural gas makes up
11 the bulk of our electricity generation in this part of the
12 country. So as a result we see power pricing move dramatically
13 with natural gas.

14 Now, any renewable resources that we can add to the
15 mix of the supply of electricity in this area has a tendency to
16 reduce the amount of that fossil fuel that is consumed to make
17 electricity and thus reduce that dependence, reduce that
18 volatility effect, and reduce costs.

19 Maine is also challenged with very aggressive
20 Renewable Energy Act. Maine has shown some real aggressive
21 leadership on this issue. Maine is requiring a 10 percent
22 increase in the amount of renewable generation that is consumed
23 in the state of Maine.

24 Now, this Act requires up to 25 projects of the size
25 that we're talking about here today. It's a very sizable goal,

1 and projects like the Black Nubble project were pointed out by
2 the PUC of the precise type of project that's required in order
3 to meet this aggressive new law.

4 Finally, the Regional Greenhouse Gas Initiative is
5 another area where Maine is demonstrating aggressive leadership
6 really for the entire country, and the standard here is a
7 10-percent reduction in greenhouse gas emissions by 2018.

8 Now, again, at the August 1st meeting
9 Commissioner Littell pointed out that we need to do everything
10 we possibly can in order to meet this aggressive goal, and that
11 includes, importantly, the development of renewable energy
12 sources simply because they have the ability to displace or
13 replace fossil fuel-based electricity generation.

14 MR. LEE: My name is Harley Lee from Endless Energy.
15 I'm going to talk about why we think Black Nubble is the best
16 reasonably available site, and I'll give you the selection
17 criteria we used, a little bit of background on some of the
18 sites we've looked at, and then finally, why we think it's the
19 best reasonably available site.

20 Also, I want to point out, this PowerPoint, we will
21 have a handout of this available to give to you after we're
22 done.

23 The siting criteria we used, first and foremost, is
24 the strong wind resource. By having a strong wind resource, it
25 allows you to produce more power using fewer turbines and do it

1 economically. It's the single biggest driver of economics of
2 wind. Being close to high voltage power lines is extremely
3 important.

4 We looked at some sites that were distant from power
5 lines, and the footprint of the power line alone would have
6 been twice the entire footprint of our project. So it's easy
7 to overlook that. We looked at sites, but the power line
8 oftentimes can be a big, big driver. So one of the advantages
9 of our site is that we are so close.

10 Close to access roads, obviously is helpful. The
11 topography is important, it's easy to look at a wind resource
12 map and says there's 500 sites or something like that. But the
13 overall vast majority of sites simply aren't site appropriate
14 for wind development, constructability.

15 And finally land available for purchase and nearby
16 land for easements. We mentioned those criteria. Obviously
17 there's permitting criteria. LURC emphasizes adjacency. They
18 like to see new development near existing development, and
19 obviously if you could be on the fringe, it helps preserve the
20 core of the jurisdiction, and we're on the extreme fringe for
21 this site, environmental suitability, and compatibility of land
22 use patterns.

23 This map shows some of the sites we've looked at.
24 There's basically two categories. We looked at several coastal
25 sites throughout New England and mountain sites, and in the

1 middle we also did a measurement program for Madison Electric.
2 We've done pretty much what the wind resource map shows, is
3 that the ridges really are much, much stronger than the coast,
4 and the coastal site, although you can generate some power, you
5 won't be able to generate a large amount of economical power.

6 This is the wind resource map. You've probably seen
7 this a few times by now. The key point to mention here is that
8 people look at this map and say, oh, we should do it on the
9 coast, but those are really offshore resource ratios, those
10 lines, and there's not a single offshore wind farm in the US.
11 The water is too deep there, it's really not practical.

12 What that leaves you with is the best resources on
13 the ridges, but unfortunately most of the population, as well
14 as the load that Maine is closer to the coast, you get most of
15 the power lines down there and the wind up here, and if you
16 look at the intersection of power lines and wind resource,
17 you've got one major power line that feeds this area, and that
18 explains one of the big drivers of why we're here is because it
19 has that combination of power line and wind resource.

20 This is an aerial photo of the area. Once again, we
21 worked very hard to be adjacent to the existing development.
22 There's the Sugarloaf Ski Resort right out -- well, we're in
23 it -- golf course, condos, parking lot, sewage lagoon, and on
24 the other side of our project we've got the Saddleback Resort,
25 we have the Navy base here with helipads and torture chambers

1 and interesting things going on and machine gun fire.

2 Once again, that power line mentioned comes in here
3 and as I said before, it's very close to our site. As I said
4 before, it's very easy to overlook the proximity of the power
5 line. That's a very important factor.

6 So in summary, we think we found a good wind resource
7 on Black Nubble, it's topographically suitable, it's close to
8 power lines, there's existing access where you go up to the
9 mountain and partway up, that allows us to extend that road to
10 get to Black Nubble, and we're able -- it's private property --
11 we were able to negotiate a purchase of it, and we were able,
12 also, to get easements.

13 Meeting LURC's criteria, once again, it's near
14 existing development and the Navy base and other development.
15 It's right on the fringe. It's compatible with nearby uses.

16 I know a big concern of yours is the trail, and I
17 think it's important to note that the Western Mountains
18 Foundation, when they were talking to us about the
19 right-of-way, they didn't want to go around the mountain, they
20 wanted to go right up and over it though -- it would actually
21 be between the turbines. It's not that unusual.

22 Mars Hill is part of the International Appalachian
23 Trail, so those turbines are right in the International Trail.
24 And in California, the Pacific Crest Trail, I've hiked that
25 section with the Sierra Club. It goes right through the middle

1 of the turbines. Hiking and wind, I don't think, are
2 incompatible at all.

3 Finally, we figured there would be significantly less
4 impacts with a single-mountain project than the two-mountain
5 project, and our biologist will be explaining that more a
6 little later.

7 MR. GARWOOD: Good morning. I'm Steve Garwood,
8 independent consultant. I've been engaged by Edison Mission
9 Energy to assist on transmission access/intertransmission
10 matters.

11 I testified on behalf of the earlier Redington
12 project and I serve in the same capacity on the new proposed
13 Black Nubble project.

14 As I explained in my testimony -- and as I believe
15 you are all aware -- Central Maine Power Company had conducted
16 system impact study at the direction of the Independent System
17 Operator of New England. Without going into all the details of
18 that study, that study was to assess the impacts to the
19 reliability of the grid from the proposed 90-megawatt project.
20 They concluded that that project could safely reliably -- even
21 if connected to the grid with a few modest upgrades -- the ISO
22 New England has approved that study as being applicable to
23 Black Nubble.

24 One of the questions regarding transmission access I
25 understand that has come up by several commissioners and

1 perhaps others is whether there will be sufficient transmission
2 capacity to accommodate the full output of this proposed
3 project and do so in a way that doesn't adversely effect the
4 dispatchability of some of the existing generating resources in
5 the area, namely, the biomass plant, Boralex, and the Wyman
6 hydro and Harrison hydro stations.

7 Although the impact study wasn't done for the purpose
8 of assessing congestion, the study does contain information
9 that allows you to get some sense of whether congestion could
10 pose a problem.

11 I reviewed the study for that purpose and concluded
12 that there is sufficient transmission capacity to support a
13 full output of this project and not do so in an adverse way to
14 affect the dispatchability of those other existing resources.

15 I have a chart here that tries to demonstrate that.
16 In this area here you see the existing generation, plus the
17 proposed project, which gives you a maximum generation capacity
18 of 259 megawatts.

19 Transmission capacity, which is shown by the dark
20 green bar and the whiter shade bar in the middle varies
21 seasonally, so I'm showing figures for winter season conditions
22 and summer season conditions.

23 This darker shorter bar represents the net generation
24 in each of the two seasons that is available to be exported out
25 of what we call the Wyman hydro export area. And as you can

1 see, it is far less than the existing transmission capacity of
2 the system from 115 kV lines that radiate away from the Wyman
3 hydro area.

4 So in the winter season, with all three lines in
5 service, there's 587 megawatts of transmission capacity, only
6 needed to export 229 megawatts of net generation.

7 The middle bar represents what you have for capacity
8 if you were to lose one of the three lines, so sort of a worse
9 case condition. Even with one line out of service, you still
10 have 428 megawatts, which is far in excess of that needed to
11 export the generation from these facilities in the area. Those
12 conditions prevail in both winter and summer seasons.

13 Thank you.

14 THE CHAIR: Mr. Garwood, there was a difference
15 between the total capacity to generate and the amount that was
16 being sent out. What is the difference?

17 MR. GARWOOD: You have load, add losses that consume
18 some of the power in each of the areas, so for instance,
19 there's a small amount of load that is consumed from the
20 Bigelow substation for instance.

21 So even today, full output capability I believe of
22 the biomass plant is 47 megawatts, 2 megawatts of that is
23 actually consumed locally. So if you look at the studies that
24 are done by CMP, they show that you only have about 45
25 megawatts from that bioplant actually coming down the line from

1 Bigelow to the Wyman hydro station.

2 THE CHAIR: You're basically saying that they provide
3 the power for the local region, the people, like this facility
4 or the town of Eustis or Stratton and that sort of thing?

5 MR. GARWOOD: Exactly.

6 MR. HANISCH: 229 here is the total amount of power
7 that's being generated by Black Nubble, the biomass, the hydro,
8 and the two hydros.

9 The air fills up, you get 229 after you take off
10 what's being bled for the local area. The capacity of the
11 transmission lines have 570 megawatts, so there's plenty of
12 capacity.

13 You can get more than this 229 out. That's important
14 for my part of the presentation because I'm going to talk to
15 you about the air quality benefits.

16 If you couldn't get it out -- if this bar was bigger
17 than this bar, then you would be displacing electricity from
18 one of those other four facilities. Since this bar is lower
19 than this bar, it can all get out, so you're not displacing
20 electricity. That was a big concern at the last hearing.

21 What I'm here to talk to you about today and I'm very
22 excited about this -- first of all, I should tell you who I
23 am --

24 THE CHAIR: Please.

25 MR. HANISCH: I'm John Hanisch and I'm with ARCADIS,

1 and I'm also the project manager for this wind farm. I'm a
2 recognized national air quality expert.

3 I'm very excited, as I said. First of all, in
4 response to what we heard you say, we've reduced the footprint.
5 But at the same time, we have reduced the visibility, the
6 environmental impact, but we still have very strong
7 environmental and economic benefits.

8 We document in our revised application that we will
9 be displacing 30 fossil fuel fired power plants. And as
10 Commissioner Littell said, there is a clear air quality benefit
11 to displacing dirtier generation with clean Maine energy.

12 We'll also -- because of that, because we will be
13 displacing fossil fuel, we will be reducing -- and this is all
14 in the application and in our prefiled -- we'll be reducing
15 over 40,000 pounds of air pollution per day. That's equivalent
16 to the taking 12,000 cars off the road, and it's also
17 equivalent to burning over 26,000 gallons of oil per day.

18 One of our big concerns up here and across the world
19 is global warming. Our application provides information from
20 several studies that show global warming is changing Maine's
21 character. Many of those studies talk about the impacts it
22 will have 50 years from now, but some of those studies talk
23 about the impacts that are being observed today right here in
24 Maine. Right here in Sugarloaf the ski season is being
25 reduced.

1 As the Union of Concerned Scientists say in a 2007
2 report, which is part of our submittal, the song of the
3 Bicknell's thrush could eventually be muted across the entire
4 region as the suitable habitat gradually disappears because of
5 loss of trees and the right environment.

6 Our wind farm -- and every wind farm we build in
7 Maine -- will help fight against global warming.

8 As Commissioner Littell has stated, he believes
9 global warming is the largest threat facing our environment
10 today. The ecological and human health impacts are potentially
11 devastating to Maine's character and the quality of life. Wind
12 power will help us protect that habitat.

13 MR. MANN: In addition to those air quality benefits
14 that John just described, there are economic benefits. First,
15 by reducing Maine's dependence on fossil fuels, we help to
16 mitigate and minimize electric price volatility in price
17 increases here in Maine.

18 Second, there are good, well paying jobs available
19 for local people, and we're talking about approximately 80 jobs
20 during construction, and then five to ten long-term jobs during
21 operation, and we'll be giving priority for local hiring as I
22 described.

23 And the third important economic benefit is property
24 taxes. This project will be paying about a half a million
25 dollars a year in property taxes.

1 THE CHAIR: Excuse me just a minute, Randy. I don't
2 mind you switching back and forth, but I think when you do,
3 just give us your name again so that Lisa knows who's talking
4 just for the record, please. Say I'm Randy back again,
5 whatever.

6 MR. MANN: Sure. Randy Mann again. The next thing
7 that I want to touch on here is the economic viability of the
8 Black Nubble project.

9 Some of you may recall that last year when we talked
10 about the concept of a one-mountain-only wind project, I said
11 that I did not believe that the project would be economically
12 viable.

13 My view has changed on that, and I am now confident
14 that we can make this 54-megawatt one-mountain-only wind
15 project economically viable.

16 There are a couple of important reasons for that.
17 First of all, on the cost side we have seen some reductions
18 principally around the cost of financing. We now have a lower
19 cost of capital, and that allows us to finance the project a
20 bit more efficiently, and it makes it more economically viable.

21 Probably more significantly than that is our view
22 about the long-term revenues that this project will generate
23 over the life of the project.

24 There's really three components that cause us to be
25 very confident about the revenue situation: First, there's an

1 increasing public policy push for renewable energy, and Matt
2 talked today about the RGGI rule, he also talked about the
3 Maine RPS requirement, and those things -- along with other
4 similar policies -- are causing the value of renewable energy
5 credits to increase. That's an important component of the
6 revenue source of the wind farm, not just our wind but any wind
7 farm. That's continuing to increase.

8 Second is that a wind project, just like any other
9 power generator, gets paid for making capacity available. The
10 market price for that capacity component has gone up and we
11 expect will continue to go up in part because it's so difficult
12 to site projects here in New England and in the northeast.

13 The third component -- it's probably the most
14 important one -- is that, again, public policy is recognizing
15 the importance of restricting carbon emissions. What this does
16 is it makes it more expensive, more difficult to generate power
17 from fossil fuels because those are the sources that create
18 carbon emissions.

19 And so by restricting carbon emissions -- and we
20 expect those restrictions to continue to increase over the life
21 of this project -- it creates higher electricity prices that
22 can be realized by zero emissions facilities like the
23 Black Nubble project.

24 So for those reasons, we're confident that this
25 project will be economically viable.

1 MR. LEE: I'm Harley Lee, again. I'm going to talk
2 about the four areas of LURC standards where we believe we are
3 consistent with them: Air resource goals, potential equivalent
4 protection, undue adverse impact, and the principal values of
5 LURC.

6 First under air resource goals, as we've mentioned
7 before, we're going to pull 400,000 pounds of pollution per day
8 out of the air, which we think this is clearly consistent with
9 this goal.

10 Potential equivalent level of protection, I guess in
11 order to get a rezoning to DEP, my understanding is we need to
12 provide protection available under the existing P-MA standard.
13 Under that P-MA standard, timber harvesting is allowed in the
14 P-MA, Level 2 roads, mountain resorts -- like the one we're at
15 here and also Saddleback -- and utility facilities. We believe
16 that our project will have similar or lower impacts than those
17 already allowed activities.

18 This is obviously a picture of our host site here,
19 and I love this picture and I love Saddleback as well, and a
20 lot of people do. But there are pretty significant impacts
21 between the two mountains. It's 1800 acres of development, and
22 our project is a tiny fraction of that. So it's an interesting
23 perspective to keep. This is the second highest mountain in
24 Maine.

25 Saddleback, there's a great deal of existing

1 development and more coming, and once again, we're a tiny
2 fraction of that and we're located halfway between these two
3 mountains.

4 We also believe that we worked very hard to minimize
5 the impacts. We've reduced the number of turbines by using a
6 higher capacity turbine. We looked at some smaller machines,
7 but we would have required a third more turbines and produced a
8 third less energy. So we're using high capacity turbines,
9 which makes the most of a site. It gives us more footprint,
10 too.

11 We're using existing roads, and we worked very, very
12 hard to site the roads to minimize visibility, and we're using
13 special transport trucks, which allows us to have a narrower
14 road -- rear steering, and front steering, too, for that
15 matter -- in the higher elevations. We're very careful to
16 place those so that we minimize cuts-and-fills.

17 We've also minimized the clearing of each turbine
18 pad. You visited Mars Hill and saw some of the turbine pads
19 there. We're actually 1/8 the size of the turbine pads. Our
20 engineer will go into that in more detail.

21 One of the reasons we're able to do that is when we
22 assemble the turbines, instead of putting the whole rotor
23 together, which requires a football field size, we're taking
24 one blade at a time and lifting it up. That allows us to have
25 a much, much smaller footprint.

1 One of our drivers from the start is to minimize the
2 footprint, and that's one of the steps we've taken, and our
3 engineers will show you some graphics of that.

4 Turbine bases are varied. The power lines are
5 varied. We're using smaller transmission lines coming down the
6 mountain before we get to where the bigger line is, which
7 reduces the footprint, and we tried to put the power lines in
8 clearcuts as much as possible.

9 Finally, we've designed and redesigned and redesigned
10 over and over again the roads and transmission lines. We
11 started with about 20 acres of wetland impact and we've gotten
12 it all the way down to 3/100 of an acre. So we're pretty
13 proud of that.

14 On-site mitigation. Black Nubble, about 90 percent
15 will not be developed. As you know, a key feature of this
16 proposal before you is that our other mountain, Redington, will
17 be restricted from development on the entire 517 acres.

18 MR. MANN: Randy Mann again. We know that
19 commissioners have asked some questions and expressed some
20 concerns about decommissioning and I'd like to allay those
21 concerns today.

22 First of all, we think that this project will be
23 generating clean renewable energy on the Black Nubble site for
24 several decades; however, when it becomes time to decommission
25 the project, Edison will guarantee that Maine Mountain Power,

1 the project company, has the financial resources necessary to
2 decommission. In our application there's some detail about how
3 we'll do that decommissioning, but I would like to allay your
4 fears, this is important for us as well, and we'll guarantee
5 that the funds will be there to do that decommissioning.

6 MR. LEE: Harley, again. Finally, I just wanted to
7 point out consistency with LURC, we're also consistent, we
8 believe that the values of the jurisdiction. One of the nice
9 things about wind and wood working together is that the
10 property that is the least valuable to forestry companies is
11 most valuable to us.

12 If the trees are squiggly and bent over because of
13 the wind, they have a very low value for timber companies and a
14 very high value for the wind companies. I think there are nice
15 synergies there and it helps the forestry people because they
16 can get rid of low value land, and it helps us because we can
17 produce a lot of clean energy.

18 Diverse and recreational activities, I mentioned
19 before, the Western Mountains Foundation wanted one of their
20 trails right through the project. We've minimized the impact
21 on sensitive natural resources, we'll discuss later, and we've
22 located on the fringe to preserve the core of the jurisdiction.

23 MR. MANN: I want to talk for a minute about the
24 broad public support that our project has garnered.

25 First of all, in polling of Maine residents, we have

1 found that 65 percent of residents in Maine are in support of
2 our project, and this is 9:1 supporters outnumbering opponents.
3 As I mentioned before, we've also collected several thousand
4 signatures on petitions in support of the project.

5 This next slide is a little bit too small to see,
6 maybe, but what it's showing you is that this support is
7 diverse and consistent across all different types of people.

8 We've got local residents, skiers, snowmobilers,
9 hunters, hikers, et cetera, all showing similar numbers of
10 support in favor of the project. We're very pleased with that
11 broad show of support.

12 In terms of Maine's organizations, several of these
13 organizations are here today to testify in support of the
14 project. I'm not going to read them all, but I would like to
15 point out that the Franklin County commissioners have recently
16 endorsed this project, and we think that shows the support that
17 this project will have important environmental and economic
18 benefits for Franklin County.

19 MR. LEE: Harley again. Since we came before you
20 last, we've received permits for this project. I want to give
21 you an update on that. Maine DEP has issued both the NRPA, as
22 well as site walk permits. We received our permit from Army
23 Corps of Engineers, and right here in the Town of Carrabasset
24 Valley we received a permit for the portion of the power line
25 that goes through the project, and FAA permits for lighting.

1 Finally in closing, I would like to say we believe we
2 meet the LURC criteria. We talked about demonstrated need.
3 You heard a lot about that on August 1st. We put it at the
4 best reasonably available site as I've described. There are
5 very strong economic and environmental benefits, it's
6 consistent with LURC standards, and there's 9:1 public support
7 for the project.

8 MR. HANISCH: Now we'll be moving on to Panel 2.

9 MR. ANDERSON: Good morning, my name is Dwight
10 Anderson. I'm a professional civil engineer with
11 DeLuca-Hoffman, we're a Maine firm. I'm here today with Al
12 Frick and Tim Folster. Al is with Albert Frick Associates, and
13 Tim is with Sargent Corporation. We're here today to talk to
14 you about engineering, design, and the construction of the
15 Black Nubble wind farm project.

16 We have prepared a well-planned preliminary design
17 which incorporates input from numerous engineering,
18 construction, and natural resource experts, as well as
19 consultation of State agencies.

20 Roadways and turbine sites both have been designed to
21 fit harmoniously into the existing environment. We will be
22 preserving the natural equilibrium of vegetations, soils,
23 seeps, slopes, and soil hydrology of the project area. We'll
24 also preserve the natural character of the ridgeline.

25 DeLuca-Hoffman has been involved in this project for

1 the past 13 years. I have personally been up on site numerous
2 times walking alignments, hiking to the peak, looking for the
3 best solutions to getting to the top of the mountain for
4 erection of these turbines. We've consulted with State
5 agencies and have also consulted with mountain road experts
6 from Colorado.

7 We've avoided the steep terrain to the extent
8 practical and have minimized blasting and cutting to limit
9 project impacts. Our preliminary design is supported by
10 additional fieldwork that we performed last summer and fall.
11 We actually went up with Al, Woodlot, natural resource experts,
12 and actually looked at the site and scrutinized the design that
13 you saw last year and further refined it in the repacking that
14 is before you.

15 Once we finish the final design for the project and
16 largely up on site constructing, we do expect to encounter
17 variation in the conditions on-site. The toolbox approach to
18 our design will allow us to actually modify and use the correct
19 measure at these locations which is best fit for the
20 environment and will best address these measures as they are
21 encountered. This approach has become the industry standard
22 and is supported by the Maine State soil scientist.

23 This slide is an excerpt of the base map. What it
24 shows, the red line here leading down to the project site
25 starting up at Route 16. That red line is actually an existing

1 road, IP road, that leads all the way down to the project site
2 here. And the black lines in here are actually proposed roads,
3 so you can see the significant use of the existing roads that
4 we're proposing to limit the actual project impacts to get into
5 the site and build this project.

6 We've also, during our fieldwork last summer and
7 fall, identified some wetlands in that area of the access road.
8 I actually swept down around those wetlands to avoid them in
9 that area, as well as some steep slopes further up. We
10 actually moved that alignment, too, to improve our preliminary
11 design that's been submitted.

12 We followed the natural mountain topography and also
13 used a narrow road spec as Harley mentioned, which requires a
14 32-foot wide travel surface during construction, which we will
15 be reducing to 12 feet, the post construction condition, and
16 allowing that area to revegetate. We've also consulted with
17 State agencies during this process.

18 Again, we've limited the area of disturbance in
19 clearing to the greatest extent we could. We also have used a
20 variety of soil stabilization measures to protect the slopes
21 and soils from erosion and ensure safety of the project. We
22 have extensive storm water controls that will be in place.

23 The next slide that you see actually shows a detail
24 of the trapped rock sandwich. Actually a measure of it we'll
25 be using. You can see the seeps on this side.

1 When we encounter that soil hydrology in the seeps of
2 the mountain, we'll actually be implementing this trapped rock
3 sandwich or cross piping to convey flows from top side under
4 the roadway and back to the other side to preserve that soil
5 hydrology and that's an important aspect of the design that we
6 worked on, again, with a State soil scientist.

7 Our erosion control techniques will ensure that we
8 have no unnecessary impact of slopes or soils on Black Nubble,
9 and these techniques are actually best management practices
10 that we use often from the Maine Department of Environmental
11 Protection.

12 Indigenous erosion control mix will be used, and that
13 mix will actually promote the natural revegetation before the
14 project is constructed.

15 This slide shows a typical turbine clearing both
16 during and after construction. What's important here is you
17 can see the dashed lines on both sides of the road and that
18 represents the 32-foot wide surface during construction. We'll
19 actually allow that to revegetate and leave only a 12-foot wide
20 strip down the middle after construction.

21 That will actually be -- the area beyond that 12 feet
22 will be covered with that erosion control mix and allowed to
23 revegetate.

24 We also show this gray -- this is actually riprap
25 that's used on the side slopes beyond to help limit the

1 clearing. The crane pad and assembly area is proposed at 50 by
2 160 here, and that area will be gravelled during construction
3 and allowed to revegetate after construction.

4 An important note in contrast to the Mars Hill
5 project here, you can see the turbine center here and the
6 blades. What they have done to erect the turbines up at Mars
7 Hill is actually assembled these on the ground and actually
8 picked them in one pick, so that required a large circular
9 staging area for that, which is much larger than what we are
10 proposing here.

11 It's probably noted we will actually be staging
12 blades on the ground and erecting them one at a time, which
13 allows us to use this much smaller footprint. We have proposed
14 approximately a half an acre beyond the limits of the road for
15 these turbine sites. That ties back to photos you had seen on
16 turbine Site No. 9 up at Mars Hill.

17 Again, we've designed the roads to fit the natural
18 topography of the ridgeline and the mountainsides to the
19 greatest extent we could, and this project will actually clear
20 only about 1/10 -- the roads and turbines will clear only about
21 1/10 of what's proposed for rezoning.

22 Again, there's been a lot of drama about this turbine
23 Site No. 9 up at Mars Hill, the clearing associated with it.
24 You see photos in Jody Jones' testimony. I've gone up
25 personally and visited that site to review its impacts and have

1 looked at the grading associated with our sites.
 2 We're actually 1/8 or less of the earthwork moving
 3 required for our sites when compared to that turbine at Site 9,
 4 so it's a stark contrast and we're really not doing anything
 5 like what you see in those photos. I want to make that point.
 6 Having been there and seen it, it's not what we're doing.
 7 Again, this photo here is actually an aerial photo
 8 looking down on Black Nubble. Black Nubble in the center here.
 9 As you can see, Black Nubble is surrounded by logging roads,
 10 the Navy road, Dallas Road in here, other impacts, clearing,
 11 you know, clearcuts all around.
 12 So you can see this environment has been affected by
 13 humans. It's not a pristine area where it's all surrounded all
 14 the way around.
 15 As we move to the next slide, you can see what we've
 16 done. Here we have worked closely with Terry DeWan's office.
 17 We've actually prepared grading plans for the roads and the
 18 site, which actually show accurately what the clearing limits
 19 will look like along the ridgeline at the individual turbine
 20 sites.
 21 As you can see, we're really just fitting the roads
 22 in as we need to get up to the ridge. The impacts are similar
 23 to what you see on these other roads, and we're not removing
 24 the top of that mountain by any stretch, we're just placing
 25 what we need to in here. So you can see the existing roads

1 around, and again we've just shown what the project will look
 2 like once constructed here.
 3 In conclusion, our preliminary design is a result of
 4 a collaboration of efforts between engineers, natural resource
 5 consultants, and State agencies, as well as construction
 6 experts.
 7 This project will preserve the mountain, the soils,
 8 the soil hydrology, vegetation. We will not be blowing the top
 9 off this mountain. Again, the project is well planned, well
 10 designed, and we'll certainly assure that there is no
 11 unnecessary impact to the natural resources of that project
 12 area. Thank you.
 13 MR. FRICK: Good morning all. My name is Albert
 14 Frick. I'm a consulting soil scientist and licensed site
 15 evaluator. I've been practicing in Maine for nearly 30 years.
 16 I first started on this project in 1993 with Harley
 17 Lee, and worked with him through Endless Energy and now Maine
 18 Mountain Power.
 19 My last field visit to this project was in the fall
 20 of 2006, and at that time the total alignment of the
 21 Black Nubble road was cut out, the centerline, and stationings
 22 were set at every 50 feet. We walked the entire road alignment
 23 identifying sensitive soil areas, identifying seeps, drainages,
 24 underground and intermittent and perennial drainages.
 25 The three most important soil and site limitations

1 that are found on Black Nubble and which occur in the western
 2 mountains of Maine that we respected in the design details was
 3 the short growing season, the mountain drainage, and the steep
 4 slopes.
 5 For the short growing season we used physical
 6 materials such as geotextile fabrics and riprap, and these
 7 materials protect the soil immediately once they're in place.
 8 So that's full protection.
 9 To address the Maine hydrology with its surface
 10 drainage and perched groundwater conditions, we are relying on
 11 utilizing the rock sandwich that Dwight explained to us
 12 previously to allow the water to be transmitted underneath the
 13 roadway and keeping it in sheet flow.
 14 Coupled with that, we're using a very high frequency
 15 of cross drainage culverts that are placed in narrow spacing
 16 along the roadway to keep the uniform flow of hydrology.
 17 On the mitigation of the steep slopes, we've done a
 18 very careful selection of the road alignment to avoid these
 19 areas as much as possible.
 20 In those places where we could not avoid the steep
 21 slopes, we're using gradient, riprap, and geotextile fabrics.
 22 One important component that Dwight touched on is the
 23 toolbox approach. That information was put together by many
 24 professionals, DeLuca-Hoffman, civil engineers, experienced
 25 engineers with high mountain road construction, excavating

1 contractors, and we also sat in workshops with LURC staffers,
 2 DEP staffers, and the State soil scientist and listened to
 3 their concerns and ideas.
 4 So we've incorporated those ideas into the plan. The
 5 natural mountain hydrology will be adequately protected through
 6 appropriate and very proven techniques.
 7 The access roads, maintenance buildings, and turbine
 8 sites are designed and placed appropriately for the underlying
 9 soils and hydrology. The erosion and sediment controls will
 10 appropriately address the soil characteristics of the site, and
 11 revegetation techniques have been proven to be successful in
 12 similar settings.
 13 This preliminary plan is a very good plan and the
 14 final plan will be even better. When the final plan comes
 15 about, it will show which treatments will be applied at
 16 specific site locations.
 17 In addition, we'll have the toolbox, which will be
 18 used to address expected variations of soil characteristics
 19 encountered in the field. So this project will not harm the
 20 soil or mountain hydrology on Black Nubble.
 21 MR. FOLSTER: Good morning. My name is Tim Folster.
 22 I'm vice president of operations for Sargent Corporation.
 23 Black Nubble wind farm will use experienced Maine
 24 construction and engineering experts, including DeLuca-Hoffman,
 25 who has designed hundreds of civil projects in the state of

1 Maine and the Sargent Corporation, who I represent.
 2 We have completed thousands of infrastructure
 3 projects in Maine, including hundreds of miles of roadways in
 4 our 80 years. We are the only construction firm in the state
 5 that has already constructed the infrastructure of a large wind
 6 farm project, the Mars Hill wind farm, and we are Mainers, not
 7 from away.

8 Preliminary design is complete and we are at 75
 9 percent of the final design. The design has incorporated
 10 engineering techniques to limit the amount of clearing and
 11 required earth moving to construct the project. The final
 12 design will be completed before construction starts.

13 The toolbox approach allows us to address the
 14 expected variations encountered in the field on a project of
 15 this type. Sargent has built many projects using this
 16 approach.

17 The appropriate erosion and sedimentation control
 18 measures have been incorporated into the design and procedures
 19 are defined to handle the expected variations encountered.

20 Minimal blasting will be required. This reduction
 21 will be accomplished by the use of specialized earth moving.
 22 The blasting for Black Nubble wind farm will be much less than
 23 required for traditional construction projects of this size and
 24 magnitude.

25 We'll employ Maine Drilling & Blasting to conduct the

1 blasting that is required. Maine Drilling & Blasting is a
 2 Maine company with over 40 years of experience in drilling and
 3 blasting.

4 Black Nubble wind farm is designed to the fit roads
 5 and turbine pads into the mountain topography with the use of
 6 engineering and erection techniques.

7 In conclusion, Black Nubble wind farm is well planned
 8 and can be constructed as designed. Black Nubble wind farm
 9 will use Maine-based engineering and construction experts. The
 10 design of Black Nubble wind project fits within the natural
 11 topographical character of Black Nubble, and Sargent's
 12 extensive construction experience will ensure that there is no
 13 unintended impact to the natural character or resources of the
 14 project site.

15 MR. THALER: Mr. Chairman, that completes our first
 16 two panels. If you wanted to take a quick break now.

17 THE CHAIR: We'll take 5.

18 (There was a break in the hearing at 10:23 and the
 19 hearing resumed at 10:34 a.m.)

20 THE CHAIR: Who's going to start this one? Are we
 21 all set, folks? Go ahead, please, Mr. Thaler.

22 MR. THALER: Thank you, Mr. Chairman. This will be
 23 our Panels 3 and 4, which will be natural resource issues and
 24 scenic issues, and we'll start with Woodlot, Steve Pelletier
 25 and Brooke Barnes.

1 MR. PELLETIER: Good morning. I'm Steve Pelletier.
 2 I'm a wildlife biologist and forester with Woodlot
 3 Alternatives.

4 With me today is Brooke Barnes. Brooke is from
 5 Woodlot and has played an instrumental role in the design phase
 6 in helping to avoid and minimize a lot of the impacts.

7 You recall that in our testimony of 2006 was in
 8 support of developing the two-mountain Redington project. At
 9 that time we firmly believed the project as designed wouldn't
 10 pose an undue adverse impact to the local and regional natural
 11 resources. The larger benefits outweighed any potential harm
 12 that might be caused by the project.

13 With the elimination of wind development on
 14 Redington, ecologically it makes even more sense as any
 15 potential impact of resources substantially less than what may
 16 have occurred under that two-mountain plant.

17 My focus today is going to be on these bullets.
 18 Essentially, the existing local landscape is industrially
 19 fragmented. It is heavily influenced by roads for industrial
 20 harvest throughout the area.

21 The Black Nubble project itself has significantly
 22 less ecological impact than the former two-mountain project.
 23 Of our State-protected S-1 or S-2 naturally protected
 24 communities, only four listed species were observed in the
 25 rezoning area. Of those four, there's relatively low value

1 habitat available for those species.

2 Potential bird/bat mortality would be limited by a
 3 lot of the summit points and high elevation migration patterns
 4 we observed on-site and in other studies. And finally, all
 5 permanent and temporary wetland impacts are minimal.

6 In terms of the process itself, there was an early
 7 continuous coordination with State agencies, NGOs as to how
 8 this project should be evaluated. The initial study plans were
 9 reviewed and approved in advance by Maine DEP, IF & W, Natural
 10 Areas, and the US Fish & Wildlife Service. Plans were also
 11 reviewed by Maine Audubon without comment.

12 The former Redington project was reviewed and the
 13 permits have been spelled out by Harley's testimony earlier.

14 This is just a chart that shows the differences
 15 between the two projects. Just some of the high points, the
 16 total cleared areas above 2700 feet, 136 acres versus what's
 17 now 64 acres.

18 The total permanent cleared areas above 27-, 85
 19 versus 35 now on Black Nubble. Our total wetland impact for
 20 both projects at that time was less than half an acre, 44;
 21 it's now 3/100 of an acre. There is no bog lemming habitat on
 22 Black Nubble as there was on Redington. There is no high value
 23 Bicknell's thrush habitat as there is on Redington. Some of
 24 the comments about the krummholz, we don't have those kinds of
 25 features on Black Nubble. They're only marginally present on

1 Redington.

2 In terms of the local landscape, as you can clearly
3 see on some of the exhibits that you'll see around here today,
4 the surrounding landscape is heavily impacted by past and
5 ongoing industrial harvest.

6 Sixty-four percent of the rezoned area above 2700
7 feet has been clearcut in recent past. Some of these clearcuts
8 extend above 3200 feet. The surrounding landscape, in 64
9 percent of that rezoned area, is heavily eroded with haul and
10 skid road systems. Black Nubble is not part of an expansive
11 fragmented pristine forest as you've seen in intervenors'
12 comments.

13 This is an exhibit that was used in 2006 by AMC that
14 was part of their discussion at that time as to what
15 constitutes fragmentation. You'll recall at that time that the
16 discussions focused on Redington Mountain right here, and
17 issues for whether or not there was a break between the north
18 port break or the south part of Redington. There was quite a
19 bit of controversy and discussion about that.

20 This was the same exhibit they were using at that
21 time. Black Nubble was outside of that fragmented forest. The
22 only thing we've done here is just highlight what the green
23 area was and the yellow. Otherwise than that, it's the same
24 exhibit that was used to demonstrate fragmentation at that
25 time.

1 Regarding natural communities, there's no
2 State-protected S-1 and S-2 imperiled natural communities on
3 the project. There's one S-3 community. It's fir-heart-leaved
4 birch, it's relatively small compared to other sites that we
5 see in Maine, and it was characterized because of its size as
6 only good or fair by Natural Areas.

7 The undisturbed acreage includes areas that have been
8 influenced by spruce budworm resulting in scattered patches,
9 open areas. Not the classic fir waves like you see on Crocker
10 Mountain. There has been extensive avoidance/minimization
11 efforts. Right now we're at permanent impact of 35.1, or just
12 2/100 of the 1937 acres about 2700 feet.

13 Just a couple of quick photos. The site conditions
14 up here, again, not counting the krummholz conditions we have,
15 we have a number of different trees. They're thick because of
16 the growing conditions. Balsam fir, some roughly large
17 diameter trees.

18 Again, they're not stunted as can be alluded to in
19 some of the intervenors' comments.

20 We do have some of these open areas as I referred to,
21 spruce budworm. What I want to show on this slide is they are
22 open, naturally occurring, but it's balsam fir regeneration,
23 you can't stop it, it just thrives and grows in there and it's
24 well adapted to these kinds of conditions.

25 Regarding rare species, Woodlot did identify 18

1 species that would have the potential to occur within the
2 entire project. It's not saying there are 18 listed species on
3 the summit of Black Nubble. There were no rare plant species
4 observed. Again, balsam fir, fairly limited species diversity.

5 No rock vole, northern bog lemming habitat. Of the
6 four species that we observed within the rezoned area, three of
7 them were bats species and Bicknell's. I can talk in detail
8 about those a little bit later if you have more questions about
9 those.

10 Other species that we're seeing up here are going to
11 be found more than were observed, they're going to be found
12 more on the lower elevations, and/or more wide ranging like
13 lynx and golden eagles. They may fly through the area, they
14 may travel through there, but they're not going to be using
15 this as kind of a primary habitat.

16 With regards to bats, there's a low risk to the local
17 bat populations due to that high elevation terrain. The
18 frequent high wind conditions -- reason why we're there -- the
19 lack of any large diameter roost trees, caves, or rock, cliff
20 outcrops, the kinds of things you see where there's a lot of
21 bat issues in the Appalachian Mountains and in the mid coastal
22 US areas.

23 We have a lack of preferred foraging habitat. We
24 don't have any of these big large wetlands where you're going
25 to get a lot of insects coming from. And because a lot of the

1 bats that are at risk forage within the open canopy, within the
2 canopy, we've got really dense foraging condition and we don't
3 really have good foraging opportunities for bats.

4 Regarding Bicknell's thrush, the biggest concern
5 today right now is that loss in the Caribbean of their winter
6 habitat. The secondary threat has been documented -- and
7 Audubon points this out as well -- is decline due to these
8 fir/spruce forests due to global warming. Again, the Union of
9 Concerned Scientists in 2007, their report basically is saying
10 that our existing Bicknell's habitat in Maine faces complete
11 elimination because of this threat.

12 Regarding the project itself, we referenced in 2006
13 the Vermont Ski Resort Study, and these studies are continuing
14 on, and again in 2007 we're finding there's strong preferences
15 along the edges. There's not real mortality associated with
16 these and there's probably more Bicknell's in the disturbed
17 area.

18 They are a species that are regionally common here in
19 western Maine. Between the two project areas we looked at,
20 they were regularly observed on Redington, they were not
21 observed -- we spent a great deal of time on Black Nubble
22 without really seeing them. It doesn't say they're not there;
23 the habitat was strongly preferred on Redington.

24 The project will result in less than 2 percent of the
25 habitat disturbance. Again, 29 acres of that will be

1 revegetated. That's going to be viable habitat within a
2 ten-year period.

3 In terms of bird/bat migration, we can back into the
4 details of that as we need to, but our off-site work that we've
5 been doing, this time we conducted well over 70 studies
6 throughout the northeast, and the on-site radar
7 ceilometer/acoustic data basically demonstrates we have a low
8 avian/bat collision risk.

9 Again, all these studies, when we put them together,
10 we are finding a consistent, 100 percent agreement, with the
11 fact that most migration occurs at high elevation, 1000, 2000
12 above the turbine blades.

13 I want to illustrate that here. These are also on
14 the panels in the room. What this represents is there's the
15 ground here and that red line represents -- from the bottom of
16 the graph -- what the top of a turbine blade would be, 125
17 meters.

18 Over here on this scale here, this is in meters, and
19 you'll see that within -- generally what we're finding is
20 within 300 to 600 meters most migration occurs, again, between
21 1000 and 2000 feet. What this represents here, these are the
22 averages of all of these studies. These are the spring studies
23 here. This is an average, and again the average of those
24 ranges, but it's well above the 125 meter height.

25 We have the same thing again for fall migration.

1 Each one of these slides is doing the same thing. We're
2 demonstrating that these are five different landscape
3 conditions, forested landscapes, agricultural, great lakes.

4 These are five different landscape conditions that
5 we're doing these studies on.

6 Shifting gears to wetland, extensive alternatives
7 analysis, we are -- in our project design, we have .03, 3/100
8 of an acre of permanent wetland impact. As has been said
9 before, we have all the permits in hand already.

10 In summary, we don't have -- we will not be having
11 any undue adverse impacts to these protected natural
12 communities. We don't have S-1, S-2 communities.

13 We have an existing road system that we can be using,
14 well established, industrial forest conditions, only 35.1 acres
15 of impacts on undeveloped fir-heart-leaved communities. No
16 plants were observed in 3/100 of the wetland impact.

17 Of the four species that we found in the rezoning
18 area, relatively low value habitat for those. Again, our
19 bird/bat collision risk was limited by what we saw in avoidance
20 and in high-elevation migration.

21 Personally for me, I grew up in western Maine. These
22 mountains, I'm very much invested in what this habitat
23 represents. It's something I'm very concerned with. A lot of
24 the discussions we're having here today are about the value of
25 these habitats.

1 I am concerned with the large body of work that's
2 coming out that we're seeing threats of the global warming and
3 what it's doing that this is a good step at help avoiding these
4 kinds of impacts. I just really want to see my children get a
5 chance to see it. Thank you very much.

6 MR. DeWAN: Chairman Harvey, members of the
7 Commission, my name is Terry DeWan. With me is Amy Bell Segal.
8 We're both licensed landscape architects in the State of Maine,
9 and we'd like to talk about the visual impacts. We know that
10 was a significant concern, we heard that loud and clear the
11 last time we were before the board.

12 The question is -- there's no question, they will be
13 visible, that there will be an effect on the scenic resource.
14 The question that we're dealing with today is whether or not
15 there will be an undue adverse effect. We're going to go
16 through the next few minutes and talk about the size, the
17 viewing distance, and other factors to explore whether or not
18 there is this undue adverse effect.

19 We know that there are three Maine standards that we
20 have to deal with under LURC law that we've looked at under the
21 impact of surrounding areas, we looked at whether or not there
22 were blocked views from water bodies, travel ways, or public
23 property, and the effect on the scenic ridgeline.

24 The Commission was very informed last time. As a
25 result, our client, Maine Mountain Power, made a very

1 substantial change. The number of turbines have been reduced
2 from 30 to 18. The number of mountain sites, from 2 to 1. The
3 number of rezoned acres have been cut more than half.

4 Lighting is a significant change. We heard a lot of
5 intervenors expressing a lot of concerns about what it will do
6 to the night sky. The original application there would have
7 been 30 lights on 15 turbines. With the new FAA regulations
8 and reduced number of turbines, it will allow for seven lights
9 on seven turbines.

10 The closest view from the Appalachian Trail is a
11 filter view on the south of Crocker, a little over a mile. The
12 original application was about a mile away. The new
13 application, in our application now, we're at 3.2 miles.

14 The original application, there was an open view from
15 Sugarloaf Cirque at 2.3 miles; now the closest open view is at
16 Saddleback Junior at 4 miles.

17 So the question is really not how large they are. We
18 know they are large elements in the landscape. The question
19 from our perspective is how large will they appear at various
20 viewpoints. And then, how do they relate to surrounding
21 landscape, and how much of the view that you're going to be
22 seeing from these open landscapes will contain them.

23 Now, we prepared a handout. I think that you all
24 have this chart in front of you. This goes to the question of
25 relative height. If you recall, last time.

1 THE CHAIR: Excuse me, did everybody that wants one
2 of these get one?

3 MR. DeWAN: We do have extra copies of them which I
4 believe have been turned in. There's more over there.

5 MR. THALER: I think all intervenors got them.

6 THE CHAIR: Okay, thank you.

7 MR. DeWAN: We developed this concept of relative
8 height to try to get a handle on how big an element that's
9 400 -- over 400 feet tall appear from various viewpoints.

10 Now, this is not meant to be looked at close up.

11 This is supposed to be looked at at arm's length. At least my
12 arm's length is 24 inches away.

13 If you hold it out here, if you're -- you'll see
14 there's three different turbines. The one on the left is
15 Saddleback Junior, and this little diagram is .46, a little bit
16 less than half an inch in height.

17 This is what -- you're standing on Saddleback Junior
18 holding this card out at arm's length, that's the size of the
19 turbine that you would see. The middle one is Saddleback
20 Mountain, it's about a third of an inch high, again, holding it
21 at this distance. Saddleback Junior -- we'll see some
22 simulations later on -- you're at 5.7.

23 If you're up in the Bigelows, you're about 2/10 of a
24 inch away at a distance of 9 to 11 miles.

25 We used this card in a few other locations, but keep

1 this in mind it's a way of judging the relative size and
2 therefore whether or not this is considered to be an undue
3 adverse effect.

4 The view distance related to relative height and
5 visual acuity, the field of view, and atmospheric conditions.

6 Now, this is a photograph taken from Saddleback
7 Mountain. This is at a distance of 5.7 miles, and this is,
8 again, going back to the card here, this is the middle diagram
9 you see. Don't hold it up to the illustration because you're
10 too far away from it. But if you're standing on Saddleback
11 Mountain, the turbines that you see in the photograph would
12 appear to be about the size as the turbines that you see on the
13 card here.

14 Now, you've all been to Mars Hill -- I think most of
15 you have been to Mars Hill. The view from Saddleback Mountain
16 that we just saw is, to this particular view, at 5 miles at
17 Mars Hill.

18 As you can see, you can barely make them out, they
19 are vertical elements on the horizon, it's very difficult to
20 look at the blades at this point. I think this is a good
21 illustration of the concept of relative size.

22 You heard Dr. Jim Palmer last time talk about the
23 whole concept of visual acuity, and visual acuity has to do
24 with the ability of the eye to make out certain objects. I'd
25 like to read a quote from his prefiled testimony.

1 The turbines will no longer be visible beyond 8.5
2 miles. The size of the elements suggest that they are probably
3 going to be visible as recognizable objects for a distance of 4
4 to 7.5 miles. After that distance, they'll become a blob much
5 like the small letters you cannot identify on the bottom of
6 Snellen eye chart.

7 The second point we'd like to talk about is this
8 concept of field of view. When you're on a trail, such as the
9 Appalachian Trail, and you have a 360-degree panorama like you
10 see right here, how much of your view is going to be exposed to
11 the turbines? Is it going to be a giant sweep, or is it going
12 to be a fairly narrow point?

13 Well, we've measured from each of these sensitive
14 viewpoints just exactly what the field of view is. From
15 The Horn, for example, we know that it's an 18-degree field of
16 view, or roughly 5 percent of the entire 360.

17 Now, what does that really mean? Well, on The Horn,
18 if you were hold up your hands out like that, again that's 24
19 inches, this 18-degree field of view, the tip of your pinky to
20 the tip of my thumb is about 7.5 inches. That is equivalent to
21 an 18-degree field of view. Again, if you're standing up
22 there, you'll see turbines from here over to here. It's not
23 the full 360, it's not even a 90-degree view.

24 This diagram shows the field of view measurements of
25 Saddleback Mountain, The Horns, Saddleback Junior. It's part

1 of our prefiled testimony. We've included information on all
2 these various viewpoints and numerical values.

3 If you go to the next slide, you know that, for
4 example, on Saddleback Junior we have a 22-degree field of
5 view. The original application, that was probably more like a
6 45-degree field of view. So there has been a considerable
7 change in the amount of the view that will be occupied by the
8 turbines by going from one mountain to two.

9 Atmospheric conditions, of course, it's a reality.
10 Some days are spectacular like this, other days they're hazy.
11 Sometimes you can see for long distances. The average
12 visibility is about 6.5 miles or so during most of the summer
13 months.

14 Let's talk about the general impacts on this 15-mile
15 study area. We know from our evaluation that the wind turbines
16 will not be visible from 95 percent of the study area. The
17 majority of the views are in the background and at distances
18 beyond that 8.5 miles that Dr. Palmer talked about.

19 All of the open views of the wind farms are 4 miles
20 or greater, and the planning design, as we've heard already,
21 has minimized the visual impacts to the maximum extent
22 practicable.

23 From the Appalachian Trail, the wind farm will not be
24 visible from more than 92 percent of the trail, and virtually
25 all the views, some of the background, at distances of over 4

1 miles.

2 We have prepared a study map. Again, all these
3 diagrams are on the side board over here. This shows that the
4 majority of the views -- here's a 4-mile range, so the distance
5 between mid ground and background. We also looked at 10 miles
6 out here and 15 miles.

7 As you can see, the majority of the viewpoints are in
8 the background. There are two scenic byways that run through
9 the area, the State Scenic Byway and the National Scenic Byway.
10 There are a couple of viewpoints along these points, one about
11 8 miles and another one at 10 miles up through here.

12 If you look at this 8.5-mile ring that Dr. Palmer
13 talks about, you can see that the majority of the viewpoints on
14 the lakes are outside of that distance. There are a couple of
15 viewpoints, one along Route 16 within 4.5 miles, so for the
16 most part we feel that we have minimized the views from
17 existing roadways and shorelines.

18 The closest public viewpoint on a public road is on
19 Route 16. At this point we're 4.5 miles away and the relative
20 height is less than half of an inch. This is the way it looks
21 today.

22 With the wind farm in place, you will see a few of
23 the turbines on top of Black Nubble. The Black Nubble project
24 area actually extends a little off the photograph we provided
25 to you. You can start to see some of them peeking above the

1 treeline.

2 We think this is a good slide to illustrate one of
3 the criteria that the natural ridgeline be preserved. The
4 ridgeline itself, the form of the ridgeline, will not be
5 altered. I'm going to use that phrase, we're not blowing the
6 top off the mountain. You'll see new elements coming out of
7 it. You will not see defined notches caused by tree cutting or
8 road construction in the profile of the mountain.

9 This is perhaps a more typical view of what you see
10 along Route 16 where there are views available beyond the road.
11 For the most part when you travel this road and most of the
12 other roads in the area, you're driving through fairly dense
13 forestland, and I think this would probably be a good
14 indication that indicates the dynamic nature of the working
15 forest. You occasionally do find patches of land that have
16 been cut, you are able to get more distant views.

17 When you're on the Route 16 byway between Oquossoc
18 and Rangeley, a distance of 10 miles, you do get a view. As
19 you can see on the left over here, there are three places along
20 this roadway you do get views between 9 and 12 seconds. For
21 the most part, though, you're looking straight ahead. You're
22 looking at Saddleback Mountain, and the view will be off to the
23 left.

24 A private viewpoint will be found on Eustis Ridge at
25 a distance of 11 miles; again you can see Black Nubble off to

1 the right here. At the time from this particular viewpoint you
2 can also see the Boralex plant on the left right here with a
3 stack, which is a little bit taller at 295 feet than our
4 turbine bases, which are 263 feet.

5 There is also a flashing white light there that calls
6 attention to it. We don't have any lights during the daytime
7 of course.

8 You also see transmission lines in the area. From
9 this particular viewpoint, though, you also get more of a sweep
10 of the panoramic nature of the landscape with the Bigelow Range
11 off to the left.

12 The Appalachian Trail. We'll spend some time talking
13 about the effects on the AT. We know that whether you consider
14 the difference between mid ground and background can be 4 or 5
15 miles as these circles indicate, the fact of the matter is that
16 in using the chart here, that when you're at the viewpoints
17 along here, the turbines will be visible but they'll be seen as
18 very small objects on the landscape.

19 The Appalachian Trail is one of many scenic resources
20 in the area. As scenic resources, we also included the lakes,
21 we looked at the rivers, we looked at the scenic byways. Of
22 the 34.2 miles within the study area, there's about 8 percent
23 that will have a view of the wind power project.

24 We know that as a result of LURC's zoning
25 application -- zoning designation, there's a 500-foot wide P-RR

1 subdistrict that protects the Appalachian Trail right now. For
2 people who have hiked on the Appalachian Trail, from many of
3 the points where you do get the wider views, there are also
4 views of ski areas, golf courses, road, seasonal homes, and so
5 forth. Harley has already used the diagram right here, but the
6 Appalachian Trail is right here. This greenish area through
7 here is the immediate foreground within half a mile of the
8 trail. You can see a portion of Saddleback ski area is within
9 that foreground, as well as a portion of Sugarloaf is within
10 that foreground area.

11 The green dotted line here is the 4-mile distance
12 that represents the distance between the mid ground and the
13 background. Again, as you can see, there is a lot going on
14 within that area in terms of cultural modifications.

15 This is an aerial view taken from Google Earth. This
16 is not a view that you would see from the Appalachian Trail;
17 this is a bird's-eye view. It indicates the sort of activity
18 that's partially visible from some portions of the AT. This is
19 the Navy facility, the Dallas Road going down, there's a
20 helicopter landing pad right here, and a lot of other cultural
21 modifications that go along with that.

22 The original proposal that we presented last year was
23 this slide right here. Again, the Redington project was over
24 here, this is the Black Nubble project. The distance from the
25 turbines to the observers has not changed. At this particular

1 viewpoint, we're about the same distance from Redington as we
2 are right here. It has changed, though, by reducing from two
3 mountains to one the angle of view. As you can see from the
4 chart here, on the old application there are 34 degrees, or 9
5 percent of the view; with the new application by dropping
6 Redington, we're down to a 15-degree angle of view or about 4
7 percent of the view.

8 When you're up on any part of Saddleback Mountain, of
9 course, you're not just looking straight ahead. As the diagram
10 on the side of the room over here indicate, you are aware of
11 the grand sweep of the panorama.

12 It's important in looking at these panoramic views --
13 and I'm sure that all of you will have a chance to look at them
14 later on -- to stand 2 feet away from the board. That's
15 important because that replicates what the eye actually sees.
16 Don't look real close and don't look way back. To get an
17 accurate view, if you remember how we had a site visit a couple
18 of months ago, we held a diagram up when we were out there on
19 Baskahegan Lake. Think of yourself as being at that location
20 holding the diagram out 2 feet away. That will show you what
21 the impacts will be from that particular viewpoint.

22 That last view -- go back one -- this last view here
23 is looking generally in a northeasterly direction. If you go
24 to this view right here from about the same location of
25 Saddleback Mountain, we're looking southwesterly. At this

1 point you can start to see some of the facilities of Saddleback
2 Mountain ski area, one of the ski lifts right here. You can
3 see Rangeley Lake off on the right there.

4 Looking a little bit to the right from that view, you
5 can see the base lodge down here and some of the ski runs, some
6 of the condominium development, parking areas, and so forth.
7 That's at a distance of 1.5 miles. The Town of Rangeley is
8 back here at about 6 or 7 miles. The Rangeley Airport is over
9 here.

10 Of course, this Commission has approved just recently
11 a rezoning of D-PD zone for Saddleback Mountain, and this is a
12 portion of the area that has been rezoned, so in the future
13 there will be additional things happening within this.

14 Once we leave Saddleback Mountain, we travel north
15 and come to Saddleback Junior. This is a view. At this point
16 we'll go back to the handout here, the far left diagram you
17 have in front of you is the turbines that you see right there.
18 At this point you see most of the 18 turbines at a distance of
19 4 miles. It will appear to be a little bit less than half an
20 inch in height. Again, the panoramic view that you're exposed
21 to at this point is a rather sweeping one as you can see from
22 the illustration right here.

23 There is a -- the closest view to the Appalachian
24 Trail once you get off of Saddleback Ridge and go down in a
25 northerly direction, there are some views at Poplar Ridge.

1 This is a distance of 3.2 miles. This is the way it looks
2 right now; this is what it would look like when the turbines
3 might be in place.

4 This is a better sense of what the view actually
5 looked like, there's a lot of trees in the foreground. You're
6 up in Mount Abram. In the new proposal you're at a distance of
7 about 6.5 miles; the old proposal, you were a lot closer to the
8 nearest views. On Redington they were about 4.1 miles away.
9 Again, the relative height here is a little bit less than a
10 third of an inch.

11 Saddleback, you're able to see four turbines up on
12 top of the mountain right here.

13 In some of the prefiled testimony we saw from the
14 intervenors, they had visualizations of the view from North
15 Crocker. There is no view from the top of North Crocker
16 towards the wind power project. This is the very tip of
17 Redington.

18 When you get to the top of the west peak on the
19 Bigelow Range, you're at a distance of between 9 and 11 miles
20 away. As you can see there are turbines slightly visible off
21 to the right here at a distance of about 10 miles away. The
22 panorama is really the consideration here. When you're looking
23 throughout the entire sweep, you do see where we're sitting
24 right today, Saddleback Mountain above us, the golf course, and
25 so forth.

1 I'd like to close with a little discussion about
2 lighting because that has been brought up as a concern. As I
3 pointed out, of the 18 turbines, seven of them will be lit
4 under nacelle. They are pulsing, they're not strobe lights.
5 They gradually go on and gradually go off. At 5 to 10 miles
6 away, they'll appear as very small, almost starlike dots.

7 The intensity drops below the horizon. The lenses
8 are designed so to minimize the impacts on residential areas.

9 Some of the intervenors have talked about two very
10 specific places: One at Horns Pond, one of the shelters there
11 at 9.2 miles from the other end of Spaulding.

12 If you go back to the previous view, again, this is
13 not from The Horns, but this is a view from the Bigelow
14 Ridgeline. The turbines are over there, and we're looking at
15 about a 2-percent field of view at this point. There may be as
16 many as seven very small dots, certainly not as brilliant as
17 the laser pointer right here. At that point you're also seeing
18 the likes of Sugarloaf Mountain.

19 The other point that was pointed out was Spaulding
20 Mountain. This is a wooded hilltop that people go up to and
21 look over the trees to see the sunset. This is a simulation
22 that we developed that shows what the seven turbines would look
23 like at sunset.

24 If you look very closely, you can see there are four
25 of the turbines that have very small lights on them. At a

1 distance of 5 miles it will be appear to be visible, but we
2 don't think in the context of the sunset is going to cause any
3 undue effect.

4 In conclusion, there are a lot of factors we talked
5 about right here. We looked at the roads and road cuts, we
6 looked at the transmission lines. Dwight Anderson and Tim
7 Folster talked about the care that they've exhibited in design
8 and will be doing in construction. Those will not have the
9 effect of some the impacts that have been talked about for
10 other projects.

11 They will appear to be very small objects in a very
12 large landscape. They will occupy a relatively small field of
13 view, and the contrast, we feel, is very much diminished by the
14 distance. Therefore, our professional opinions, due to all
15 these factors, the turbines will not have an undue adverse
16 effect on the existing uses of scenic character of the area.

17 Thank you.

18 MR. HANISCH: I want to thank you for your time and
19 your patience. This is concluding our testimony. I hope to do
20 a little summary to wrap it all back up. I didn't take out any
21 time for Bart's questions and so we've run out of time.

22 You have a tough job. You have to balance the need
23 for wind and where the resources, as the CLUP asks you to, with
24 the impacts, the potential impacts of the project.

25 I hope we provided you with a little bit of comfort

1 that we've designed this project to minimize and mitigate those
2 impacts and we will still have a lot of benefits.

3 Thank you very much.

4 MR. THALER: Bart, how would you like to -- we next
5 have Commission questioning of the applicant. Do you want us
6 to bring up two panels at a time?

7 THE CHAIR: Where is the rest of your --

8 MR. THALER: They're all here. We can bring
9 everybody up if you prefer for the Commission.

10 THE CHAIR: Well, I assume that some of those people
11 are going to get asked question.

12 MR. THALER: While we're doing this, why don't we
13 have all our panels come back.

14 If I could just, for the record, we'll move in as an
15 exhibit -- are we supposed to be keeping track by number as
16 Maine Mountain Power exhibits for hearing?

17 MS. SPENCER-FAMOUS: I've got the things as Exhibit
18 22, anything that you submitted at the hearing. I think the
19 PowerPoint is going to be 22-A.

20 MR. THALER: Yes, we have the PowerPoints. We're
21 going to give them to everybody.

22 MS. SPENCER-FAMOUS: Anything associated with that
23 and then anything from there will be 22-B and -C. I'm keeping
24 track of them.

25 MR. THALER: So we'll call 22-A the PowerPoint. Do

1 you want to include this tag as 22-A as well.

2 MS. SPENCER-FAMOUS: Yes, I would.

3 MR. THALER: So just for the record we'll move into
4 evidence the PowerPoints and the tag, the Terry DeWan visual,
5 as 22-A. I think just for the record, I think we can all
6 agree, Terry just had a slip of the tongue at the end when he
7 said where we're sitting today is Saddleback. I think we can
8 all agree it's Sugarloaf.

9 THE CHAIR: I would hope that would be the case.

10 All right, questions from the Commission.

11 Mr. Laverty.

12 MR. LAVERTY: Thank you Mr. Chair. I have questions
13 of several people who spoke today beginning with Mr. Hanisch.

14 Mr. Hanisch, I don't know how to broach this. I'm
15 essentially on the public record as stating with regard to
16 public benefits in terms of air quality that I am willing to
17 accept, I think, the characterization of the Maine Public
18 Utilities Commission, the Governor's office, Office of Energy,
19 various legislative acts, which establish wind power as
20 renewable energy source which is in the best interest to the
21 people of the State of Maine to have developed.

22 I would hope that we wouldn't get into a specific
23 discussion of this area but nonetheless you broached it. I
24 need to ask you some questions about this.

25 You said in terms of the application, statements that

1 you made, in terms of a slide you presented that this project
2 would avoid 400,000 pounds of air pollution daily in the state
3 of Maine.

4 During the Greenville Air Quality Forum, Commissioner
5 Littell presented a discussion of Regional Greenhouse Gas
6 Initiative, under which Maine complies, and both in terms of
7 his testimony and again in terms of this visual presentation,
8 you made it very clear that RGGI does not give greenhouse gas
9 reduction credits for wind power projects -- he said explicitly
10 on his slide -- because it cannot be demonstrated
11 scientifically that you can relate any particular reduction of
12 greenhouse gasses to a specific production of energy from a
13 wind power project.

14 Your statement says that 400,000 pounds of air
15 pollutants per day will result from the operation of this
16 project. I would just like to know how you reconcile your
17 statement with the statement of Commissioner Littell and the
18 State requirements of RGGI.

19 MR. HANISCH: I can try to do that for you. I've
20 been working in air pollution for 33 years. My whole life I've
21 been devoted to try and reduce air pollution, mainly for the
22 EPA, US-EPA, worked on reducing ozone. RGGI is a relatively
23 new program designed to reduce global warming.

24 You're right, you don't get any credits to use for
25 wind power under the RGGI program. It's designed for power

1 plants, and it's designed to help ratchet down the amount of
2 emissions of CO₂ coming from power plants.

3 This isn't a one-solution problem. This is huge
4 problem. This is a problem throughout the world to reduce
5 global warming. We're not going to solve it here with this
6 project, and we're not going to solve it if we build every
7 project that's been proposed for Maine. But all of us have to
8 do something to reduce emissions.

9 Just like with the ozone problem, there are people
10 reducing their emissions for ozone, which is preserved in
11 Maine's environment.

12 MR. LAVERTY: With all due respect, I appreciate that
13 and I would agree with that, but that wasn't my question.

14 You said specifically 400,000 pounds.

15 MR. HANISCH: Right. I understand. And what should
16 happen in this case is when we're running, the marginal unit in
17 Maine, which the New England ISO has established as a gas-fired
18 unit with a certain amount of emissions, the amount of
19 emissions from that marginal unit in Maine, that fossil-fuel
20 fired unit, will go down because we will displace the energy
21 that they would have produced.

22 So if we're on, they're going to reduce. They're not
23 going to go from 100 percent down to zero. They may be going
24 from 80 percent down to 75 percent. There's going to be
25 reduction in the amount of energy they have to generate, so

1 there's going to be a reduction in the emissions.

2 MR. LAVERTY: 400,000 pounds a day?

3 MR. HANISCH: A day. And the way I got that number
4 was by going to the ISO New England and using their
5 calculation, their number of what those emissions are, per
6 megawatt hour and just doing a very simple mathematical
7 calculation.

8 MR. LAVERTY: So you didn't do a direct, evaluate a
9 direct causal relationship between production of a kilowatt
10 hour generated by this plant?

11 MR. HANISCH: No, I didn't. ISO New England did
12 that, and it's not just a simple evaluation, it's a grid-wide
13 evaluation.

14 MR. LAVERTY: Inducted, it's not inductive.

15 MR. HANISCH: Yes.

16 MR. MOST: My name is Matt Most. I would just like
17 to elaborate on that comment.

18 Commissioner Littell in his statements was
19 specifically addressing the issue of whether offset credits
20 would be allowable in RGGI and allocated to wind resources such
21 as the one we propose building.

22 His point was that since you can't locate exactly
23 where emission reduction occurs, you can't allocate the
24 allowance to a particular participant in the marketplace or a
25 nonparticipant, such as a wind resource; what he also said was

1 that irrefutably wind resources reduce emissions elsewhere in
2 the system, as John as pointed out, and as a result, RGGI has
3 taken the expected impact of the renewable portfolio standards
4 and actually reduced the cap, per such. So the expectation is
5 that wind generation throughout the RGGI regional will have an
6 impact on emission.

7 Since you can't contribute it scientifically, since
8 you can't follow the physics of where the electrons flow, you
9 can't attribute it directly to a wind station; but that does
10 not -- his testimony, I think, was clear that wind generation
11 does irrefutably reduce emissions, but you can't attribute it
12 to a specific location.

13 MR. LAVERTY: Right. So you can't contribute 400,000
14 pounds of reductions to this specific site.

15 MR. MOST: Well, I think actually you can because --
16 you contribute it to -- the power generator will have a
17 displacement effect, as John pointed out, and it will have that
18 displacement effect around the system. It's a simple function
19 of megawatts reduced.

20 MR. LAVERTY: I won't pursue that, but I think this
21 is the reason that I think we are not an energy board, we are a
22 Land Use Regulation Commission and natural resource protection
23 Commission.

24 So to engage in this discussion, I just wish quite
25 frankly that some of those statements -- and I guess I'm

1 speaking -- maybe I'm speaking to the choir in terms of the
2 applicant here, but I think -- I don't think it is fruitful for
3 us to engage in this type of discussion because it is
4 complicated policy issue, and I just would hope that those
5 types of statements would be somehow framed so as to not
6 represent in terms of having greater weight in deliberations in
7 perhaps our uneducated eye might accord them, if you follow
8 what I'm saying.

9 MR. HANISCH: I certainly agree and I hope you will
10 rely on the Maine regulatory experts that told you that there's
11 a reduction. If you look at my prefiled testimony, I
12 constantly refer to that.

13 You do have to weigh the benefits against the
14 impacts. Clearly in my mind -- and I think in many of our
15 minds -- the air pollution and global warming benefits are the
16 biggest benefits along with the taxes and jobs.

17 MR. LAVERTY: If the PUC says that, which they have
18 and will apparently elaborate on further, I think that's
19 sufficient for our purposes.

20 MR. HANISCH: That does it for me, too.

21 MR. LAVERTY: Thank you. Mr. Mann, I had a question
22 about the financial viability. As you rightly indicate, in
23 January the applicant made the statement -- a one-mountain,
24 single-mountain project was not financially viable, and you
25 presented a list of considerations, or a list of factors, that

1 have changed that analysis, if you recall, they had to do -- I
2 couldn't get them all down.

3 MR. MANN: Yes, I recall.

4 MR. LAVERTY: Energy credits and those types of
5 things.

6 MR. MANN: There were four items.

7 MR. LAVERTY: Could you tell me specifically what has
8 changed in the last eight months with regard to those criteria?

9 MR. MANN: Well, first of all, it may be a
10 technicality, I think it's a little more than eight months

11 because really we made this statement more like a year or so
12 ago, so it was last summer.

13 I listed four things that have changed and that were
14 more significant. The first one was on the cost side, and we
15 talked about a reduction in our cost of capital, which allows
16 us to finance the project more cleanly, more efficiently, and
17 therefore, reduce the revenue requirement over the life of the
18 project that we would need to recover the cost of capital.

19 That basically is something that Edison Mission has
20 been able to do because of improvement in our financial
21 strength, and we refinanced our debt recently at a much lower
22 rate, so that's really the derivation of that impact.

23 The other three elements that I mentioned had to do
24 with the revenue side, and again I'm thinking not just the
25 revenues of the first week of operating the project, but over

1 the life of the project because that's really what determines
2 financial viability. We're looking at a long-term investment
3 and expecting to get returns over a long term.

4 There were three elements that I mentioned. The
5 first one that I mentioned was renewable energy credits. Over
6 the last year and in the foreseeable future, we have seen many,
7 many states -- and even the federal government -- now looking
8 at or passing or enhancing their renewable energy portfolio
9 standards. Much like Matt described, the State of Maine has a
10 10-percent renewable portfolio standard. This project would
11 help to achieve that standard.

12 Really, the reason that I mention it is because those
13 standards have been increasing over time, and we're also at the
14 same time -- so what we're seeing is an increase in demand for
15 wind power.

16 At the same time, we're not seeing an increase in
17 supply for wind power sufficient to soak up that demand,
18 particularly in the northeast where it's very difficult, as you
19 know, to develop and site a project.

20 So yes, we're seeing projects being proposed, but
21 we're not seeing those projects over the life of this project
22 soaking up that demand for wind energy credits increases our
23 revenues.

24 The second one I mentioned was capacity markets.
25 What I said was, I think this can have a smaller effect, but

1 basically any power generating source connected to the grid in
2 New England gets a capacity revenue effectively for providing
3 the whole capacity.

4 For a wind project it's small because a wind project
5 is intermittent. So it's not a huge effect but the value of
6 those capacity payments has increased and we expect it to
7 continue to increase.

8 The third one that I mentioned -- and I think this is
9 probably the most significant one -- bears a little bit on a
10 conversation we just had was that we're seeing carbon emission
11 restrictions increase, and a year or so ago it was much harder
12 to visualize what those restrictions would look like than it is
13 today.

14 I probably should ask Matt to talk about this. I
15 think the basic point is that we expect those carbon emission
16 restrictions to increase over time over the life of this
17 project and that will cause fossil fuel generation to be more
18 expensive, and that drives up the market price for power. So
19 if you're a non fossil fuel generator that doesn't have
20 emissions, you benefit from that increase in electricity
21 prices.

22 Matt, do you want to add to that?

23 MR. MOST: Just on Randy's last point, the impact of
24 CO₂ regulations on the power business is perhaps one of the
25 biggest impacts we've seen since the power markets were

1 deregulated, that being the biggest in the last couple of
2 decades.

3 What we've seen over the last year is very
4 interesting. The debate in Washington has narrowed
5 dramatically from where it was a year ago. We've seen large
6 companies, large emitting companies, agree to support emissions
7 regulation around carbon. We've seen the right and the left,
8 the conservative and the liberal side, get much closer than
9 they were a year ago, and the number of bills and the
10 stringency of the bills that are being introduced to Congress
11 are much, much more significant than they were before.

12 So companies like ours are looking down the road and
13 seeing what's going to happen, that when you generate power,
14 the price of power is really the function of the cost of your
15 fuel that's used to make the power. And then really the other
16 largest impact is the price of these emission allowance credits
17 that we talked about, and in some cases those emission
18 allowance credits can be more expensive than the fuel, and
19 under a lot of the scenarios that we're looking for under
20 carbon regulation, we're expecting those carbon credits to be
21 extremely expensive.

22 In a region such as this where the power price is set
23 by fossil fuel, that price is going to have a significant
24 impact from these carbon credits, and we want to be positioned
25 to take advantage of that, and there's a significant revenue

1 stream down the road that we could not bank on last year.

2 MR. LAVERTY: You're talking specifically natural
3 gas?

4 MR. MOST: In this area natural gas.

5 MR. LAVERTY: Thank you. Mr. Anderson, I had a
6 couple of engineering questions. The statement not wanting to
7 blow the top of the mountain off -- I think we have a sense of
8 where that might come from -- in terms of actual cut-and-fill,
9 do you have an estimate of the cubic yards of cut-and-fill to
10 take place on the top of this mountain?

11 MR. ANDERSON: Well, we haven't looked at just the
12 top. We looked at the project starting down on the access road
13 leading up to the top of the mountain. It's on the order of
14 250,000 cubic yards of cuts and then fills.

15 MR. LAVERTY: My assumption is that -- I'm asking
16 this directly to validate this assumption I guess -- there's
17 been a concerted attempt to minimize the number of
18 cuts-and-fills that are necessary for this project.

19 Again, in terms of the silhouette of the mountaintop.

20 MR. ANDERSON: Absolutely, yes. We really tried to
21 take the -- you know, we studied the topography extensively.
22 There's actually been computer modelling to look at the slopes
23 and use that. I presented some colored graphics last year to
24 show that. We actually have used that and put the vertical and
25 horizontal curves to really best follow the topography to

1 minimize to the absolute maximum that we could.

2 MR. LAVERTY: Have there been changes in the road
3 design in this application from the previous application?

4 MR. ANDERSON: Yes. We encountered some wetlands at
5 the beginning of the Upper Black Nubble access road, and that
6 resulted in a shift. I actually went out and walked that with
7 Woodlot. We studied a few different routes to try to put that
8 up through and we shifted about 500 feet there.

9 Likewise, up on top of Black Nubble we had an area
10 where we could shift about 75 feet and pull into some area with
11 less topographic relief. We did that as well.

12 So from 2006 until now, I think we certainly improved
13 it significantly.

14 MR. LAVERTY: Regarding travel ways, the road width,
15 construction versus post-construction, you talked about 32 feet
16 for construction and then revegetation to a 12-foot roadway.

17 MR. ANDERSON: That's correct.

18 MR. LAVERTY: I don't know if this should be directed
19 to you, but one of the things I am just learning, as everyone
20 is learning with wind power, is that maintenance demands may be
21 greater than initially expected in terms of replacing towers or
22 replacing portions of towers.

23 Does anybody have any view of the extent, the time
24 frame in which we'll be dealing with a 12-foot roadway. Are we
25 going to have a semi-permanent 32-foot roadway? Does anybody

1 have a sense of that?

2 MR. LEE: The crane that initially assembles the wind
3 turbine is sized to the largest and highest load, and that's
4 the nacelle itself, the big box on the top of the tower, and
5 that weighs roughly 70 tons and has to get 260 feet in the air.
6 That's a fairly large tip, and that drives the crane.

7 Once a wind turbine is operating, you're doing normal
8 maintenance on it, you usually don't have to remove the
9 nacelle. If there's a blade that needs to be removed, you can
10 do that with a much smaller crane and you can get by on the
11 smaller roads.

12 So it would be extremely unusual to need that large
13 crane during the operation of the machines.

14 MR. LAVERTY: And obviously the reason for
15 maintaining it, even though part of it is going to be
16 vegetated, but the wide expanse of roadways, should there be a
17 need in the future for replacement of an entire unit -- I'm
18 just trying to get a sense of the extent to which we're going
19 to be seeing 12-foot gravel ways.

20 MR. LEE: Another important point I should make now
21 is that the crane comes up in pieces. You bring it up on
22 multiple tractor trailers, and then it's a fairly laborious
23 process to assemble it on the top of the mountain. Once it's
24 assembled, then it drives between the sites. That's why you
25 need that 32-foot road.

1 If you were doing maintenance, even if you need a big
2 crane at a single site, you could then bring it up and assemble
3 it on that site and then disassemble it, so you wouldn't need
4 the 32-foot roads between the towers as you do during
5 construction.

6 MR. LAVERTY: Thank you. I've got a question on
7 soils. I don't know whether it would be Mr. Anderson or
8 Mr. Frick.

9 Again, my reading of the application and comments
10 from reviewing agencies is David Rocque, the State soil
11 scientist, had said that on the mountain slopes, the soils were
12 unsuitable for road construction.

13 Then he goes on to say, however, given the nature of
14 the project, which is resource dependent, it's going to be on
15 the mountaintop, he isn't against the project and feels that
16 mitigation could be undertaken to address those soil types but
17 there would be extraordinary efforts of mitigation and erosion
18 control.

19 In your view, has the design incorporated
20 extraordinary mitigation and erosion control given the soil
21 types on these slopes?

22 MR. FRICK: Yes, it has; but to go back to the
23 earlier part, when Dave referred to the suitability that the
24 Natural Resource Council -- SCS, Soil Conservation Service,
25 which is the Natural Resource Conservation Service, they used

1 to use a soil suitable rating of severe, moderate.

2 They have distanced themselves from that rating and
3 went to a soil potential rating basically saying low, moderate,
4 or high, which gets to Dave's explanation, that yes, the soils
5 are steep and therefore suitability for building roads because
6 they're very steep.

7 You can develop roads on that site but it's going to
8 be more expensive, that's true. You have to address the
9 steepness and in this case the hydrology. There's a big
10 drainage shed with a perched water table and that all has to be
11 respected.

12 What the design went into to respect those elements
13 is a rock sandwich layer. It's expensive to build because
14 you're basically putting a layer of stone in the subsoil, as
15 Dwight had diagramed to show that, to allow that water to
16 transport through the roadbed to the other side and keeping the
17 hydrology in place. That will take care of that situation.

18 MR. LAVERTY: Have you been in communication with
19 Mr. Rocque in the reasonable past?

20 MR. FRICK: Yes, I have.

21 MR. LAVERTY: Is it your view that he now finds this
22 design acceptable?

23 MR. FRICK: I would say that I respect that maybe he
24 could -- I believe he's going to be here tomorrow. It's my
25 understanding -- I don't want to speak for Mr. Rocque -- it's

1 my understanding that he does feel this design is acceptable.
2 As a matter of fact, many of these elements that are inherent
3 in our design are used similarly in other western Maine
4 mountains. The Kibby Mountain design has many of the same
5 elements that were proposed.

6 MR. LAVERTY: Are these the same mitigation and
7 erosion control measures that were proposed in the original
8 application?

9 MR. FRICK: Yes, essentially they were. I don't
10 think they were understood or -- they're the same elements,
11 yes.

12 MR. LAVERTY: Thank you. Mr. Folster.
13 I understand that Sargent was also the primary civil
14 engineering contractor in the Mars Hill wind power project?

15 MR. FOLSTER: That is correct.

16 MR. LAVERTY: Did you have any -- did Sargent have
17 any input into the design of that project, particularly in
18 terms of the road construction and the cut-and-fill and pad
19 design?

20 MR. FOLSTER: Yes, we did. We did most of the
21 design. That was given to us for building the roads and the
22 pads.

23 MR. LAVERTY: This project is being proposed in terms
24 of the design that's being embraced here and presented. Is it
25 substantially different in your view from the Mars Hill

1 project?

2 MR. FOLSTER: The criteria from which the design is
3 based is much different than Mars Hill. We were not under the
4 constraints of the width of road, the turbine pad design. It
5 was different in Mars Hill than it is here.

6 MR. LAVERTY: Having to do with the construction
7 characteristics of the project; correct?

8 MR. FOLSTER: Yes.

9 MR. LAVERTY: The cut-and-fill as proposed here, in
10 relation to the cut-and-fill that was actually undertaken in
11 Mars Hill, would you characterize it as substantially less than
12 the Mars Hill project.

13 MR. FOLSTER: Mars Hill was about 25 percent greater
14 than what this project is.

15 MR. LAVERTY: Was that because of the size, the
16 number of towers involved, or the construction requirements of
17 the road to the towers, the tower pads?

18 MR. FOLSTER: Both. The turbine pads here require
19 less earth moving. There's more roads here than there were in
20 Mars Hill in order to service the turbines.

21 MR. LAVERTY: You stated that you feel that this
22 project is well planned and would be constructed as designed.

23 MR. FOLSTER: That is correct.

24 MR. LAVERTY: Do you believe that the Mars Hill
25 project was well planned and constructed as designed?

1 MR. FOLSTER: Under the criteria that was given for
2 the design at Mars Hill, yes. The criteria here is much
3 different.

4 MR. LAVERTY: Fair enough. Thank you.

5 Just a quick question for Mr. Pelletier. Steve, this
6 is just a clarification. Somewhere I read in some of the
7 material that the analysis, particularly of bats, that was
8 presented by you omitted a bat of special concern -- omitted
9 from the list or omitted from your analysis.

10 The information that you presented, does it now
11 incorporate the bat of concern that was raised in that
12 correspondence?

13 MR. PELLETIER: Yes, it does. That stems back to
14 originally a lot of work has been done on different species and
15 the small-footed bat was the species that is relatively unknown
16 in Maine, and it was not part of range list -- when we do our
17 initial analysis -- was not part of any one of those lists.

18 Later on in talking with -- that's all the basic
19 homework when you're doing on all these different species that
20 we're looking at. Are they here, how far do they extend.

21 IF & W last year basically pointed out a couple of
22 sites where small-footed bats had been. It was consequently
23 included with our list. Of the bat species, the bat work that
24 we did on the mountain, it was -- it's part of our list but the
25 species that we picked up, we picked up three species: Little

1 bat, big brown, and quarry bats, and not small-footed.
 2 We wouldn't really have expected the small-footed.
 3 They have a different type of habitat that they prefer, like
 4 more rocky outcrops.
 5 MR. LAVERTY: If I recall, wasn't there some
 6 statement to the effect that they have a nesting area or a
 7 breeding area that's within close proximity?
 8 MR. PELLETIER: It's likely that there would be
 9 small-footed bats regionally, but, again, the type of habitat
 10 that we have on Black Nubble -- and we haven't picked them up
 11 in the two species study that I did out there.
 12 MR. LAVERTY: You did look for them and you didn't
 13 find them?
 14 MR. PELLETIER: That's correct. Three species. One
 15 of them we found was a very common species, and that was almost
 16 98 percent of our recalls that we got.
 17 MR. LAVERTY: Thank you. Thank you for indulging. I
 18 have no more questions.
 19 THE CHAIR: Gwen, go ahead.
 20 MS. HILTON: Ed asked my question, but I do have sort
 21 of a follow up for either I guess Mr. Frick or Mr. Anderson.
 22 What time of year did you do the road construction
 23 work at Mars Hill?
 24 MR. FOLSTER: Tim Folster, Sargent Corporation. We
 25 started in March of 2006, we finished in November of 2006.

1 MS. HILTON: What I've read in the application is
 2 there's a plan or there's a possibility that you will want to
 3 do the road construction and construction for the tower pads in
 4 the wintertime; is that true?
 5 MR. FOLSTER: That was with the initial application.
 6 At this point construction sequence has not been decided.
 7 Winter construction will probably not be required.
 8 MR. HANISCH: I think that if you give us approval --
 9 and I certainly hope you do -- it really depends on when -- we
 10 were constrained last time by the tax credits, and we really
 11 needed, because we didn't know if they were going to be
 12 reapproved by Congress, we felt that we needed to get the
 13 project done in a very short window.
 14 We don't have that constraint this time. The only
 15 work that we're envisioning having to do based on what we see,
 16 the sequence now, would be cutting trees in the winter, which
 17 is probably better for the environment to get those down in the
 18 wintertime and then go back up during the dry season and finish
 19 construction.
 20 It really depends on when we get approval. We don't
 21 have any intent to do winter construction at this point.
 22 MS. HILTON: Okay. But it is in your application.
 23 There's a whole --
 24 MR. HANISCH: We discuss the potential for winter
 25 construction and what we would do if we had to do it, but

1 sitting here now, I don't think we'll need to do that.
 2 MS. HILTON: I think that takes cake of that issue
 3 then.
 4 My other question -- my only other question is for
 5 Mr. Lee. My question is if we were -- if we approved this
 6 project, do you think that there are other locations in this
 7 general area or general region that would be attractive for
 8 wind power development such that we might see some applications
 9 in the future?
 10 There's a West Kennebeco site that was shown on the
 11 map. It was hard to tell how far away that is. What are your
 12 thoughts on that?
 13 MR. LEE: We did find some good winds at West
 14 Kennebeco. Unfortunately, that site is owned by Seven Islands
 15 Land Company and has been put into conservation.
 16 It's hard to speculate, there's so many factors. But
 17 I think there may be -- obviously Kibby is coming up next, so
 18 there are other sites in the area. We looked at a lot and this
 19 is what we felt was best for all those criteria.
 20 MS. HILTON: What I'm getting at, I guess, is if we
 21 set the precedent for approval of a site, this site, will it
 22 signal the go-ahead for other sites within this area of high
 23 mountains and unfragmented habitat?
 24 I guess that's my question. Are there other possible
 25 sites?

1 MR. LEE: I guess what you're getting to, you're
 2 setting a precedent, and from our perspective we have done a
 3 phenomenal amount of work, both in site selection, as well as
 4 design, to try to produce a really, really good project.
 5 Frankly, I think if you do approve this, you're setting a very,
 6 very high bar frankly.
 7 I think there may be other sites, but I think the
 8 work we've done and the project we've produced is just the sort
 9 of project, in my opinion, should be approved.
 10 MR. HANISCH: Commissioner, if I could add to that.
 11 If you, during one of the breaks, go over to the board that we
 12 have up there, the next to the last one, it shows the map of
 13 Maine. It shows you, as Harley talked about, where the
 14 transmission lines are.
 15 You have to be pretty near one of those transmission
 16 lines because the cost of getting your power to that
 17 transmission line is huge.
 18 So a lot of the inner workings of your jurisdiction
 19 would be very hard. Even though they've got good wind, it
 20 would be very, very expensive to generate -- to put a wind
 21 farm. So I think that's going to be the big hurdle for anybody
 22 else coming in.
 23 MS. KURTZ: I have a few questions as well, and Ed
 24 and Gwen asked some of them so hopefully it won't take so much
 25 time.

1 One of the questions I had for Harley, you talked
2 about -- it was in the testimony on meeting LURC standards, one
3 of which is to provide at least as much protection as the
4 current subdistrict or the current district zoning provides,
5 you didn't actually address that.

6 You just said that there are other types of
7 activities that create more impact. You said forestry growth,
8 the ski mountains. You didn't actually demonstrate or say how
9 this project could provide a greater level of protection than
10 the current one does, you just compared it to other types of
11 activities.

12 Can you respond to that?

13 MR. LEE: I guess I'm a little confused by the
14 question. I was trying to address footprint and road
15 construction and ski area construction, things like that.

16 MS. KURTZ: I think, if I look at the criteria, it
17 says that the new district designation is more appropriate for
18 protection and management of existing uses and resources within
19 the affected area.

20 You raised that and said that this project would meet
21 that condition, but you didn't demonstrate how it would, you
22 just sort of compared it to other uses that are perhaps more
23 detrimental. You didn't demonstrate how this would be more
24 protective, you just said it was perhaps less detrimental.

25 I think you have to show -- I think that there has to

1 be a demonstration that you'll be protecting a resource. The
2 new district designation is more appropriate for the protection
3 and management of existing uses within the affected area.

4 You didn't show, in my mind, how you would be
5 providing that, you just said it's not going to be as bad as
6 the ski industry and it's not going to be as bad as forestry
7 and it's not going to be as bad as road building.

8 I don't see -- I haven't been able to follow your
9 argument that it would be more protected.

10 Does that make sense? The look on your face says no.

11 MR. LEE: I guess the way I see it is these other
12 uses that are allowed have certain impacts and that will be at
13 or below those levels of the activities that are allowed.

14 For example, we have several thousand acres, and
15 we're using a fairly small portion of it. So just right off
16 the bat, we've got development of something like 5 percent of
17 the total area. That's a pretty good start to begin with.

18 Then I guess I was comparing it with some of these other
19 activities that we take for granted, including this mountain
20 behind us.

21 Yes, comparing it to those and saying there will be
22 less impacts.

23 MS. KURTZ: I understand that and I appreciate all
24 the efforts that you've gone to to minimize the impacts
25 compared to the original application.

1 I'm still not clear as to how this provides the
2 protection -- unless I'm reading this wrong -- it has to be
3 more appropriate for the protection of resources within the
4 affected area, and I don't think your testimony demonstrates
5 that.

6 MR. LEE: Maybe the best way here is after the
7 hearing we can address that more in our follow-up comments.

8 MR. HANISCH: I think -- just as an add-on -- I think
9 that the CLUP says that you have to balance the potential
10 impacts of the bad against the good.

11 If you're saying your hurdle for that, commissioner,
12 is the only way you can do that is not have any impacts, then
13 you couldn't do anything anywhere.

14 It seems to me that we are going to have impacts, we
15 told you we're going to have impacts, but we think we've
16 minimized those impacts, and we think on balance the good
17 that's generated from this project, just like there's good from
18 foresting, harvesting the wood, and harvesting the snow for
19 skiing and for biomass plant, we think that the good that comes
20 out of that. We are hoping that you believe that the good that
21 comes out of that balances against the impacts that we have.

22 MS. KURTZ: I understand what you're saying and I
23 guess I just thought it was -- it was sort of quickly addressed
24 and I just wanted to make a note -- you know, that I had made
25 note of that and wanted to try to understand what we're

1 required to look at here.

2 Another question and I have to be honest with you, I
3 haven't kept track of peoples' names. Whoever the person that
4 was providing testimony about the jobs this project will
5 provide. I guess that's Randy.

6 MR. MANN: Yes.

7 MS. KURTZ: Last summer there was a discussion about
8 hiring local -- the number of permanent operation jobs, and it
9 was brought out in the testimony that actually the operation
10 jobs would be held by some of the folks from the turbine
11 manufacturers and not local people at all.

12 I just wondered if that has changed.

13 MR. MANN: I think your recollection is partially
14 correct, so let me clarify it a little bit.

15 The normal way that a wind project is operated is a
16 combination of the project company owner, which would be Edison
17 Mission to Endless Energy, in cooperation with turbine vendor
18 because during the first five-year period, we'll have a turbine
19 maintenance and warranty contract with that vendor.

20 So during that five-year period there will be
21 employees of the project company as well as employees of Vestas
22 on site.

23 After the five-year period, those employees will very
24 likely be all employees of the project company because the
25 warranty period expires, and so the normal way to transition

1 those jobs to the project company.
2 Now, to answer your specific question of will there
3 be local jobs, we have talked about this with Vestas, and their
4 expectation -- and this is how they normally do it -- is to
5 attempt to hire those people locally.

6 So there may be a project manager or two, you know,
7 that would have seasoned experience on other wind projects, but
8 the rest of the staff we would certainly be looking to hire
9 those people locally. As I said before, that's a best business
10 practice for us because quite frankly it's easier for us to
11 hire people locally, train them, and employ them here than to
12 have to ship them in from elsewhere with relocation obligations
13 and things like that.

14 It's just a normal business plan.

15 MS. KURTZ: What kind of education and training would
16 it entail to bring someone up to speed to assume one of those?

17 MR. MANN: This is something that the industry deals
18 with a lot. What we have typically found is that in places --
19 in rural places there's usually a pocket of people with the
20 mechanical skills to work on and maintain turbines.

21 Now, obviously they need to go through the training
22 process, they need to learn the ropes of that business, and all
23 of the turbine manufacturers have sort of schools, if you will,
24 set up to do that. You may take a couple-week program to learn
25 the equipment, but then you will get certified and you'll be

1 able to do it.

2 Really, the core skill is kind of a mechanical
3 skill -- people that can work on cars, people that can work on
4 tractors, people that can work on Snow Cats. Those are the
5 type of people that usually have the aptitude and interest to
6 do this. We've found that most of our projects are in rural
7 areas and we find people locally to do those jobs.

8 MS. KURTZ: Thank you. I understand, obviously
9 living in western Maine, that there's a tremendous need for
10 jobs, so I appreciate the construction jobs involved.

11 I'm wondering about the other economic impacts. This
12 area also has fortunate or unfortunate high real estate values
13 and second homes.

14 I wonder if you've done any economic impact studies
15 on real estate values and also recreational consumer impacts,
16 this being sort of an outdoor, tourism, and recreation area.
17 Have you been able to either do an impact study or compare this
18 type of project to a similar -- a location that has a similar
19 economic base, similar real estate, and that kind of thing,
20 sort of comparing apples to apples.

21 MR. LEE: We haven't done a specific study, but I
22 collect those to the extent they're available. I think
23 probably the most relevant one was done on property values
24 studies a few years ago and it looked at wind farms across the
25 country, including the Searsburg one in Vermont, which probably

1 has a similar demographic and economic base.

2 I think the conclusion is that there really hasn't
3 been any negative effects on real estate values, and they have
4 become pretty significant tourist draws. There are some wind
5 farms where they charge \$20 a visit and get tens of thousands
6 of visitors.

7 I think it's unlikely to have any negative impact.
8 You know, having spent a lot of time in these woods skiing and
9 biking and hiking, I think we're going to get a lot of visitors
10 stop by. Working on the Met towers, we've had people stop by
11 sometimes, hikers. In the wintertime we've had snowmobilers
12 showing up just because they saw a trail and they followed it.
13 I don't think there will be much of a negative impact.

14 I mentioned before the Western Mountains Foundation
15 sort of insisted on putting their trail up through the middle
16 of our turbines, too, and I think that's sort of an endorsement
17 of compatibility between trails and recreation use and our
18 project.

19 MS. KURTZ: I had a question on transmission
20 capacity.

21 MR. GARWOOD: Steve Garwood.

22 MS. KURTZ: Yes. You indicated that -- you showed us
23 the bar graphs of the capacity and the net capacity in summer
24 and winter. You based that on an assessment, I think, of a
25 study that has not been completed yet?

1 MR. GARWOOD: No, it's not a completed study.

2 MS. KURTZ: Do you know when that study will be
3 completed?

4 MR. GARWOOD: It has been completed.

5 MS. KURTZ: It has been completed?

6 MR. GARWOOD: It was completed May of '06 I believe.
7 I can tell you. May 30th, 2006 and it was done for the
8 90-megawatt Redington project and it was approved as being
9 applicable for this specific 54-megawatt project.

10 MS. KURTZ: So it was completed or not?

11 MR. GARWOOD: It was completed on May 30th, 2006.

12 MS. KURTZ: I guess what I had written down is that
13 it had not been completed but you felt nonetheless that
14 congestion would not be an issue.

15 MR. GARWOOD: No, it has been completed, and the
16 information contained in that study shows that the transmission
17 capacity in aggregate of the three 115-kV lines that exist
18 today and emanate from the Wyman hydro substation, which is
19 where all the generation ends up from this proposed project,
20 from the Boralex project, and from the Wyman hydro, and the
21 Harris hydro stations, except that which is consumed locally,
22 all of the generation from those projects must get out over
23 those three 115-kV transmission lines.

24 My bar graph showed that there is more than ample
25 transmission capacity with all three lines in service and even

1 if you have one particular line drop out of service from say a
2 lightning strike or some other event, which would be a
3 short-term event by the way.

4 In any event, that was the intent of the slide. To
5 me it's not equivocal. There is sufficient capacity to get
6 power out of that area for the projects that are there and this
7 proposed project.

8 MS. KURTZ: I just have one last question. It's been
9 mentioned that the Redington Mountain -- or the acres on
10 Redington -- there's been an agreement that if this project is
11 approved that no wind power development will occur on
12 Redington.

13 What other plans might you have, though, for that
14 investment?

15 MR. LEE: We don't have any other plans. I don't
16 think we're doing any logging up there because of the low value
17 of the timber, and we'll hopefully make as much of our return
18 on Black Nubble as we can.

19 MS. KURTZ: Thank you.

20 THE CHAIR: Steve.

21 MR. SCHAEFER: Yes. My first comment is more of a
22 statement about rating these projects and not just yours but
23 all of them.

24 For instance, yours is a 54-megawatt project, but in
25 reality it's an 18-megawatt because of the 30-percent capacity.

1 That would make our job a lot easier -- and not just you, but
2 everybody -- should just be realistic about the performance,
3 the average performance.

4 I think it's easier to consider transmission
5 capabilities. It's like the food label. It would tell you
6 exactly without giving away the details of your research
7 that this is truly a 30-percent project as most wind projects.
8 That's just a comment.

9 About the road, Mr. Anderson, one of the new roads is
10 the Upper Black Nubble access road and under ridgeline it says,
11 possible connection of Upper and Lower Black Nubble. If that
12 could be connected, would that eliminate the need of the Upper
13 Black Nubble road, which is totally new I noticed.

14 MR. ANDERSON: It would, yes, it definitely would.
15 If we connected the Upper Black Nubble to the lower, that area
16 that you're looking at, that would eliminate the need for the
17 Upper Black Nubble access road.

18 I've walked down through there. It's a challenging
19 terrain but it's something that we plan to further evaluate for
20 the final design. That's why we've shown it on that plan.

21 MR. SCHAEFER: That would eliminate an engineering
22 headache, it looks like, if you didn't have to build that
23 Upper, but there's tradeoffs on the ridgeline, too, I guess.

24 MR. ANDERSON: Yes, there's certainly tradeoffs. It
25 eliminates a much longer but more easily constructed road and

1 provides a shorter section of very expensive, more challenging
2 construction. So there's a tradeoff yet to be determined.

3 Right now, as proposed, we do plan to do the longer.

4 MR. SCHAEFER: That's all.

5 THE CHAIR: Thank you, Steve I think -- I agree with
6 what Ed said earlier about our trying to stay focused on what
7 our real role is, but a lot of the testimony is focused on some
8 of these economic issues, they're very interesting and
9 educational. You have to indulge us a little bit to try to do
10 some interesting things.

11 In reading the economic analysis of Mr. Most --
12 Mr. Most and Mr. Mann -- presented, Mr. Most presented, it
13 seems to me in reading this that you might want to comment,
14 you're counting -- the economics of this whole project tell me
15 a lot on the increasing costs of electricity. They're driven
16 by carbon emissions, charges, or whatever you want to call
17 them, and you're also assuming in the -- in the other side
18 you're assuming that there's no increased demand for
19 electricity in the mission statement that you make, because
20 you've introduced into the testimony all of the stuff that was
21 presented to us in Greenville about the State's position, but
22 if you look at some of those charts, it clearly suggests that
23 natural gas is going to become even a greater percentage of our
24 generation.

25 These are some of the things that make us wonder

1 about all of these -- I can intuitively understand clearly how
2 we're going to have less emissions if we have wind power. Any
3 percentage of wind power will prevent some natural gas that's
4 being used, but the reality, the global picture of it --
5 probably not a good word -- but the bigger picture is increase
6 of demand for electricity offsets a whole lot of what you're
7 talking about.

8 That doesn't mean that wind power is bad, it just
9 means that's the real world we live in.

10 Do you want to comment on any of that just to help us
11 understand this whole thing?

12 MR. MOST: Sure. This is Matt Most again. You're
13 absolutely right. What we refer to as is a business-as-usual
14 case. If we do nothing, our expectation is that natural gas
15 consumption to make electricity will continue to grow
16 substantially, and that's if we continue on a path that we're
17 on today, and then we'll have all of the impacts associated
18 with that.

19 If we build wind generation as the State of Maine has
20 prescribed -- and as many states have prescribed -- what you
21 end up doing is reducing that increase that you would have had
22 otherwise.

23 So you may still see an increase in natural gas
24 consumption to make power, but it would be less than it would
25 have been otherwise. As we build this wind fleet, it's cutting

1 in dramatically into that expansion of fossil fuel consumption
2 as what you would have had otherwise.

3 The 10-percent impact that the State of Maine has
4 prescribed is a rather substantial impact. Other parts of the
5 country have done similar things.

6 So you're absolutely right. You're not going to
7 eliminate natural gas as a major fuel for driving the
8 electricity in this region or in the country. What you're
9 trying to do is mitigate the growth of CO₂ emissions, level
10 them out, and then start to decrease them.

11 One of the major initiatives in trying to decrease
12 those emissions is a reduction in energy consumptions. You
13 pointed out, a lot of those charts and a lot of what the State
14 agencies are trying to do is to reduce energy consumption
15 overall.

16 Certainly, if that energy reduction overall is really
17 substantial, it could have an offsetting impact on the price of
18 power. The less demand for power, the more expensive power.

19 So we're trying to weigh those and we're trying to
20 understand what the impact is. Our view of the future right
21 now is that CO₂ pricing will increase the price of electricity,
22 which may decrease the demand for electricity somewhat, but it
23 will still decrease the price which is an important factor in
24 our economics.

25 Also, that increase in demand -- if there is an

1 increase in demand for natural gas, that has a very interesting
2 effect on the volatility and the price of electricity also.

3 So these competing effects that CO₂ reduction in
4 other parts of the country where the electricity is not as
5 clean as it is here, they're going to see higher natural gas
6 prices in other parts of the country where coal is primarily
7 prevalent.

8 As a result, that's going to cause increasing demands
9 for natural gas, which may also have an impact on power
10 pricing.

11 So there's a lot of moving parts to this, but we
12 think that wind power is a winner under all of these scenarios.

13 THE CHAIR: I think you addressed it in the written
14 part of your testimony if you didn't say it and others have
15 said it in prefiled, but there's been inferences made that
16 somehow the construction of wind farms is going to decrease the
17 cost of electricity, and all the testimony I've heard today
18 kind of says that isn't going to happen because we're going to
19 pay for all these carbon credits.

20 I guess you or Mr. Mann referred to all of the
21 increased value of these renewable energy credits, I assume
22 that we are all going to pay for those. Somebody's got to pay
23 for them and it's going to be the customer in the end, right,
24 and we're also paying for all these production tax credits and
25 so on and so forth that make all this stuff work.

1 I don't know as that makes wind power bad, it just
2 seems that -- I'm a little concerned about how we're selling
3 it, if we're selling it on the basis that somehow it's going to
4 reduce our costs of electricity, because clearly your testimony
5 says it isn't going to happen, at least to me.

6 MR. MOST: I think the important factors that wind
7 power will reduce what you otherwise would have had. If you
8 didn't have wind power produce a zero emissions component to
9 your overall energy mix, you replace that component that does
10 have emissions, and that component would have a higher cost.

11 So the more wind power that can be generated, the
12 more you can mitigate this effect.

13 But clearly you're absolutely right. All of the
14 energy policy in this country that's being debated right now
15 has a cost associated. There's no free lunch.

16 In order to retool our electricity industry to
17 produce a less carbon intensive product for consumption by
18 Americans, that's expensive. It requires the retirement of
19 already paid for power plants and replacing them with new ones,
20 that has costs associated with it, and it also forces the use
21 of more expensive fuels. Coal is a very inexpensive fuel,
22 natural gas is a more expensive fuel. So those switches all
23 have costs associated with them.

24 You're absolutely right. The national interests in
25 developing a renewable fleet all have costs and they hit the

1 taxpayer either through a reduction in tax revenue through a
2 reduction in tax credit, or they hit the consumers through
3 added charges.

4 Wind power is an answer to those problems, it's not a
5 cause of those problems.

6 THE CHAIR: Thank you. I guess the argument is that
7 the cost is increasing at a lower rate than it otherwise would
8 increase. That's your argument, not that we're going to see a
9 decrease in electric rates. I don't expect that to happen.

10 MR. MOST: You may have a lower electricity bill due
11 to lower consumption, so you may be consuming less power, so
12 your bill -- and I think a lot of folks are hoping their bill
13 will be less or it would be similar -- but the per unit of
14 electricity may be more expensive.

15 THE CHAIR: Thank you. Mr. Garwood, just following
16 up on Rebecca's question. I think I heard you say that there
17 was no capacity concern between the Wyman and where the rest of
18 the world is located, but the real issue here to me is Bigelow
19 to Wyman.

20 Now, will you clarify, please, the capacity on that
21 specific piece?

22 MR. GARWOOD: Yes. Today that line is rated at about
23 57 megawatts. Today you only have the Boralex plant, which I
24 think has a peak capability of 47 megawatts, with only about 45
25 of it transmits down that line because the rest of it is

1 consumed locally through a distribution circuit out of the
2 Bigelow substation.
3 As part of this project, the developers have
4 volunteered to upgrade that line. Utilities and ISOs under
5 FERC rules are not allowed to force a developer to increase the
6 capacity of a transmission line solely to ensure that all the
7 generation that may interconnect with that line can be
8 dispatched.

9 Under a competitive market, FERC's rules recognize
10 that there should be competition for transmission capacity and
11 the variability to get onto the grid should be based on your
12 bid into the electricity markets, so that if your bids are low
13 enough, then you can get onto the transmission system.

14 So the voluntary upgrade that developers of this
15 project have proposed raised that capacity of that line from
16 57 megawatts to 135 megawatts. At the time, that would have
17 accommodated both full output, the 90-megawatt project they
18 previously proposed, and all of the Boralex biomass facility.

19 Today they have come here with the same upgrade
20 planned but the project is 36 megawatts less in size.

21 THE CHAIR: Thank you. I guess that makes sense to
22 me. Because Steve questioned about the capacity. I guess he's
23 right about the 30 percent --

24 MR. GARWOOD: Maybe I can help there.

25 THE CHAIR: -- on average, but the thing is that the

1 plant will operate at capacity at any instant point in time,
2 right?

3 MR. GARWOOD: Yes.

4 THE CHAIR: It would generate 54 megawatts, so the
5 line has to be sized for the instantaneous production rates?

6 MR. GARWOOD: Correct. When utilities do the kinds
7 of studies -- an impact study, per se -- they do those under
8 peak conditions, they do those under light-load conditions,
9 they do that under various levels of dispatch of the existing
10 generation and the proposed, so in this study and the
11 90-megawatt Redington system impact study, they ran some 50
12 different cases when they modelled the system both showing the
13 Redington project at full output at 90 megawatts and then
14 showing it at lower levels as well. Similarly they showed the
15 Boralex plant on at full or down to some of the levels.

16 The transmission planners responsible for those
17 studies, they need to do their best to make sure that the lines
18 can -- and the system can -- operate reliably under what
19 they'll call reasonably stressed conditions and assuming full
20 output of your proposed project, and they don't bother to take
21 into account what you've raised such as intermittent units,
22 such as a wind farm, will not be operating at full capacity in
23 all hours.

24 The same is true with the hydro. You've got to have
25 sufficient water coming down the river, you've got to have the

1 right wind conditions, and the biomass plant has to be
2 operating at full output for you to have a scenario that was
3 actually represented by my bar chart where all the generation
4 in the area has all the right conditions to operate at full
5 capacity.

6 THE CHAIR: I think obviously the reason I think
7 we're all asking these kinds of questions is to achieve the
8 full benefits of all of this, that we have to be operating at
9 full capacity, we have to be able to operate at full capacity
10 when we can; right? Otherwise, this isn't --

11 MR. GARWOOD: That's correct.

12 THE CHAIR: -- all these renewables -- I think this
13 all arose because the whole line is based on renewable energy,
14 which everybody wants to see get pumped into the system; right?

15 MR. GARWOOD: Correct. And I believe the figures
16 that like for emission reductions that John mentioned were
17 based actually on a megawatt hour production expected to be
18 representative on an annual basis of this particular project.

19 So it doesn't assume that the project is running at
20 full capacity all hours of the year.

21 MR. LAVERTY: Could I ask a follow-up question?

22 THE CHAIR: Sure, go ahead.

23 MR. LAVERTY: If the project -- if the financial
24 viability of one mountain versus two mountains -- and this is a
25 sensitive issue -- why would the applicant still include in

1 this proposal an upgrade to the 135-megawatt as opposed to now
2 that the 90-megawatt is no longer on the table. Why wouldn't
3 that upgrade be reduced to reduce costs of the upgrade and
4 increase the financial viability of the one-mountain project?

5 MR. GARWOOD: I'll answer part of that. Randy may
6 want to speak to another part of it.

7 I indicated, the ISO New England authorized and
8 validated the original system impact study done for the
9 90-megawatt project to be viable and applicable to the Black
10 Nubble 54-megawatt project.

11 However, in order for this project to maintain its
12 position in the queue list of all other requested projects, it
13 had to stay with the results of that study, because modifying
14 that study and any assumptions that went into it would require
15 restudy, significant restudy, and when you do a restudy of that
16 nature, you essentially hold up other projects that are in the
17 queue afterwards, and under the FERC regulations, it's the
18 ISO's responsibility to look after the interests of those
19 developers who are further in the pipeline to make sure there
20 aren't such delays occurring, and if such delays are occurring
21 by action taken of the developer, they're booted out of the
22 queue and put last in line.

23 That was in part the reason for staying with the
24 results of that existing study, which included voluntarily
25 upgrading the line between Bigelow and Wyman.

1 MR. LAVERTY: Thank you, I understand it.
 2 THE CHAIR: Steve, I have a couple of questions. You
 3 mentioned the bat situation and the foraging areas, there
 4 weren't a lot of foraging areas on top of the mountain because
 5 of the forest cover involved up there.

6 My question was, do we create opportunities for
 7 foraging areas by making openings? Do the openings make good
 8 places for bats?

9 MR. PELLETIER: It's a possibility. We're doing
 10 studies, sometimes that's one of the places we'll look for.
 11 We'll go down by near wetlands or in openings along roadways,
 12 and those are areas that you'll find foraging.

13 The summit and most of the ridgeline of Black Nubble,
 14 though, is a very dense canopy and it's a function of a number
 15 of different things.

16 Typically being windy, the insects, things that
 17 they're foraging on, it's just not a great place for them to be
 18 occurring. They'll find more, better available feed on lower
 19 ridges, down in the lower elevations down in the valleys.

20 Again, the foraging would be -- a lot of it would be
 21 within the canopy itself because it's so dense. So yes, there
 22 could be some movements in those corridors and would actually
 23 be preferred, but it's still, I think, the overall preference
 24 to be foraging would be eliminated because of the lack of prey
 25 and because of the dense cover.

1 THE CHAIR: The chart you presented on the height of
 2 the migration study, was that a local study or was that -- it
 3 kind of gave the appearance that it might be a national study.
 4 Is that what it was? The data, it's not based just on
 5 Black Nubble; right?

6 MR. PELLETIER: No, that was based on all available
 7 public studies that have been put out right now, and that's on
 8 a national basis.

9 THE CHAIR: Mr. DeWan, how many places on the --
 10 based on your studies -- how many places are we going to see
 11 all 18 turbines? Are most of the views kind of several here,
 12 several there? I saw one that had quite a few on it from the
 13 Appalachian Trail, I think, I quickly counted quite a few.

14 Did you collect any of that information?

15 MR. DeWAN: We did computer modelling I think all of
 16 the sites along the AT and a lot of other sites. We can tell
 17 you precisely how many would be seen.

18 I think the general answer is that from most of the
 19 sites that we've talked about -- Saddleback Junior, The Horn,
 20 and Saddleback -- you're going to be seeing 16 or 17 of the 18
 21 turbines. Because of the topography, there's some on the back
 22 side of the mountain. Some of them you may only see the top of
 23 the blades, a partial view of them.

24 THE CHAIR: I had a comment about forest cover type
 25 changing over time, which may impact views, but I don't know

1 how to even phrase that as a question. It just struck me
 2 that -- I know that trees die and come and go and they may be
 3 cut. I don't know how any of us control that.

4 MR. DeWAN: That may be a question to address the
 5 views along some of the roads like Route 16.

6 THE CHAIR: That's where I saw the thing that could
 7 change. A landowner could decide that tree for a Christmas
 8 tree, and you've changed the whole viewshed.

9 MR. DeWAN: With that one particular tree.

10 THE CHAIR: Right. Anybody else have any questions?
 11 Marcia?

12 MS. SPENCER-FAMOUS: No, thank you.

13 THE CHAIR: I think since the Commission took
 14 probably more time than we were supposed to, which is, I guess,
 15 somewhat our privilege, that we'll take a lunch break and we'll
 16 come back and we'll start with the opposing intervenor
 17 cross-examination.

18 I think we've been at this long enough. We're going
 19 to try do this in a half an hour. So with your cooperation, we
 20 can start sometime between 10 minutes of 1 and 1 o'clock.
 21 Thank you.

22 (There was a luncheon break in the hearing at
 23 12:21 p.m. and the hearing resumed at 1:05 p.m.)

24 THE CHAIR: Please proceed.

25 MR. PLOUFFE: Thank you. I'm Bill Plouffe, and I'm

1 the attorney for the group that's been designated in the
 2 materials as the opposing intervenors, and that's the Maine
 3 Appalachian Trail Club, the Appalachian Trail Conservancy, the
 4 Appalachian Mountain Club, and the Maine Audubon Society.

5 I think I have a little over an hour. I think that
 6 gives us enough time so that we don't have to hurry through
 7 this. I have more time this year than I had last year.

8 Terry DeWan, I'm going to start with you, because I
 9 think that visual issues are very important obviously in this
 10 case.

EXAMINATION OF TERRY DeWAN

11 BY MR. PLOUFFE:

12 Q. Terry, we were here in August of 2006. Am I correct that
 13 in the amended application that the 18 tower locations on
 14 Black Nubble have not changed since then?

15 A. I believe that's correct. I would have to ask the
 16 engineering consultants. There may have been some minor
 17 shifts.

18 Q. Have you been asked since 2006 about moving the location
 19 of any of the towers?

20 A. No, we haven't.

21 Q. Have any of the poll locations changed since August?

22 A. I don't think they have.

23 Q. I mean by that the power line locations.

24 We heard Dwight Anderson this morning that there's

- 1 been some relocation of one of the roads; is that right?
- 2 A. Yes, you heard Dwight talk about some places -- relocation
- 3 of the wetlands impacts -- to avoid having an impact.
- 4 Q. Does that relocation change your analysis at all?
- 5 A. Relocation, probably not; there were some places where we
- 6 recommended putting some additional curbs in the road, but
- 7 for the most part I don't think it does.
- 8 Q. So we're dealing essentially the same project as to
- 9 Black Nubble as we were in 2006?
- 10 A. The same physical project.
- 11 Q. Correct. You would agree with that?
- 12 A. Yes.
- 13 Q. I don't see --
- 14 A. Could I amend that though to say that the lighting, which
- 15 has been talked about by many of the intervenors, was of
- 16 concern. That has changed, as we've all talked about.
- 17 Q. We'll get to the lighting.
- 18 Now, I heard from Dwight Anderson this morning that
- 19 he had calculated an approximation of the amount of
- 20 cut-and-fill that will be needed for the roads on this
- 21 project.
- 22 I don't see -- but maybe I'm missing it -- the
- 23 cut-and-fill locations at all in any of your simulations.
- 24 A. When we did the simulations -- the simulations, we've done
- 25 two: One is the photographic simulation, the other is the

- 1 before or after, the aerial photograph, looking straight
- 2 down.
- 3 On that one we worked very closely with Dwight to
- 4 identify what the extent of the limited grading would be.
- 5 Likewise, we also -- when Amy Segal did the photo
- 6 simulations took into account what we knew in working with
- 7 DeLuca-Hoffman where the cuts-and-fills might be.
- 8 If you look carefully, you will see some places where
- 9 there are roads that may be visible.
- 10 Q. I'm not talking about the roads, I'm talking about the
- 11 cut-and-fill, upslope, downslope materials deposited, that
- 12 changed the landscape.
- 13 A. The lines that we're showing are the results of those
- 14 cuts-and-fills.
- 15 Q. The cut-and-fill itself doesn't show up there, does it?
- 16 You haven't created any new simulations since last August?
- 17 A. All the simulations that show are new as a result of this
- 18 project.
- 19 Q. Last August, as I recall, you were not fully aware in any
- 20 event of the status of Mount Abraham as being a public
- 21 reserve?
- 22 A. We are certainly aware of that right now.
- 23 Q. You, I think, were not fully aware of the status of the
- 24 Appalachian Trail as a unit of the National Park System?
- 25 A. That is not true. We were fully aware of the fact that it

- 1 was a unit of the National Park Service and we said that
- 2 in our testimony.
- 3 Q. Did you re hike the Appalachian Trail since August of 2006?
- 4 A. I have not.
- 5 Q. Did anybody in your office?
- 6 A. Not that I'm aware of.
- 7 Q. If you would go to Page 41 of your prefiled testimony and
- 8 under the Poplar Ridge on the AT, the copy I have says,
- 9 the turbines on Redington and Black Nubble will be
- 10 intermittently visible.
- 11 Are there any turbines on Redington on this project?
- 12 A. You can look at things a dozen times, you'll always miss
- 13 something. That's one thing that was missed.
- 14 Q. Is it fair to say, Terry, that this report is basically an
- 15 edited version of the work that you had done and submitted
- 16 in terms of the larger project?
- 17 A. I think that's a fair characterization. We looked at all
- 18 the details.
- 19 Q. Okay. All right. I hope commissioners can see this. I
- 20 talked to Marcia about where to put these.
- 21 Your current testimony regarding Black Nubble-only
- 22 project, your prefiled, the two places that you addressed
- 23 the issue, you say, reducing the size and scope of the
- 24 project has greatly minimized the visual impacts by
- 25 significantly increasing the distance of the project from

- 1 close to scenic and recreational resources.
- 2 And you also say under protection of Redington Pond
- 3 Range, these restrictions, that is, the protection of
- 4 Redington Pond Range, would significantly decrease the
- 5 scenic impact of the project, provide long-term protection
- 6 of the last undeveloped and unprotected 4,000-foot peak in
- 7 Maine. That's sworn testimony this year.
- 8 In your rebuttal comments submitted under oath last
- 9 year when you were speaking to the Black Nubble-only
- 10 proposal that NRCM put on the table, you said to the
- 11 Commission in testimony that the Black Nubble-only
- 12 alternative would greatly reduce visual impacts or this
- 13 scenario would eliminate the views of turbines from the
- 14 Sugarloaf Cirque. This viewpoint represents change of
- 15 just a few minutes' actual time at the height that we
- 16 would have contact with the project. In all the other
- 17 locations where the hiker can view the turbines, they will
- 18 still be visible.
- 19 Then you went on in another section of your rebuttal
- 20 comments and said that consequently eliminating the
- 21 Redington turbines would not substantially reduce visual
- 22 impact from most trail locations. It is not reasonable to
- 23 require the applicant to reduce the project size so
- 24 significantly just to achieve these very minor reductions
- 25 in the project visibility.

1 How do you square those two sworn statements?

2 A. Let's get to the middle of the second section there where

3 we talk about use of the majority of the trail.

4 As we talked about, the majority of the people who

5 are hiking the trail are going to be in the woods without

6 a view outward, at least outward to the project, for 95 or

7 more percent of the time.

8 With this particular application, there are a few

9 places where, for example, on the Cirque, they are not

10 going to see it at all. As we said earlier there's about

11 800 feet where you don't see it at all.

12 There's a place on top of Spaulding which is not on

13 the trail, it's a partially wooded hillside off of it,

14 where now you can see seven turbines and before you would

15 have seen more of them.

16 So there are some changes.

17 Q. But not enough to make a significant difference according

18 to your rebuttal testimony last year?

19 A. Significant is a very qualitative word. To some people,

20 to see a single turbine I think may be considered to be an

21 undue adverse effect. I think that's what this is all

22 about.

23 By reducing the number from 30 down to the number we

24 have right now at 18, to some people that still may not be

25 a significant change.

1 Q. Your rebuttal comments last year were in defence of the

2 larger project in the face of claims made by Natural

3 Resources Council that reducing the size would

4 significantly reduce scenic impacts, and you said, no, it

5 won't.

6 A. From some viewpoints. As I said before in my

7 presentation, for example, Saddleback, you're looking at

8 the turbines at about the same distance.

9 For some people who are out there, it's almost a

10 black-and-white question. You see turbines or you don't

11 see turbines. To people who don't want to see turbines at

12 all, whether or not we have 80 turbines or 18 turbines,

13 perhaps that's not a difference.

14 Q. You said last year the only place that the turbines would

15 be eliminated from view is at Sugarloaf Cirque.

16 You didn't say some people, it's not black and white.

17 You didn't say anything. You said it wouldn't make any

18 significant difference.

19 It's the same project, you haven't rehiked the trail,

20 you now know about Abraham.

21 Why the different position today?

22 A. As I said, we're always looking at it. I think the way we

23 looked at it the last time might have been a qualitative

24 way of looking at it.

25 Now we're looking at it from a quantitative

1 standpoint looking at the distances, the viewing angles,

2 the percentage of views that you're going to see it from.

3 I think it's the same project -- it's a reduced

4 project, but there have been some changes.

5 The lighting, for example, I think that's a change

6 that has come about over the last year.

7 Q. We'll get to the lighting.

8 Okay. Your testimony of 2006 regarding viewpoints on

9 the Appalachian Trail, our fieldwork has determined that

10 there will be only four open areas within the section. In

11 addition, there would be two open views from side

12 trails -- Sugarloaf and Mount Abraham.

13 You said there will also be intermittent filtered

14 views from several locations -- North Crocker, below

15 Sugarloaf Mounting, Spaulding Mountain, Loon Mountain, and

16 Poplar Ridge. However, most of these offer brief glimpses

17 of the wind farm, will be seen by the average hiker for

18 only a few seconds at a time, if they're noticed at all.

19 In our professional judgment they would not be considered

20 major viewpoints.

21 Focus on Poplar Ridge. I was just there two weeks

22 ago. I didn't take these photos. These are from Dave

23 Fields' testimony.

24 That's Poplar Ridge. Is that a filtered and

25 intermittent view? This is from the tread way of the

1 Appalachian Trail. This is from 25 feet off the tread

2 way. That's Black Nubble, as you know.

3 A. Right. By the tread way you mean the centerline of the

4 trail?

5 Q. Right, where you hike.

6 A. I guess I would consider it to be a filtered view because

7 the entire project extends from that image of Black Nubble

8 to the left perhaps another distance equal to the width of

9 the mountain, and it is partially broken up by trees.

10 Q. This tree?

11 A. No, I'm talking about the view from the top on the AT.

12 Q. Okay.

13 A. Ironically, the photograph is almost exactly the same

14 views that you have there.

15 Q. Well, I'm not sure about that. Let's look at your photo

16 P-51 and P-52 attached to your testimony. I don't know if

17 commissioners have that or not.

18 Do you have that, Terry?

19 A. I do, yes.

20 THE CHAIR: What's the number, please?

21 MR. PLOUFFE: P-51, P-52, Page 6-C-10. It looks like

22 this.

23 BY MR. DIDISHEIM:

24 Q. Terry, the top photo of P-51 says, filtered view of

25 Black Nubble, left, and southwestern ridge of Redington

- 1 Pond Range, right, from the Appalachian Trail and the
2 eastern edge of Poplar Ridge, August 2004.
- 3 Do you see that?
- 4 A. Yes, and we're missing a line on that top photograph.
5 You'll notice that later.
- 6 Q. What's the line?
- 7 A. Excuse me?
- 8 Q. What's that? What line?
- 9 A. Actually the line should extend over to include all of
10 Black Nubble on the right side of the tree.
- 11 Q. According to that that you have identified as Black Nubble
12 is not Black Nubble at all, is it?
- 13 A. Where it's pointed to right now, that's really an
14 extension of the Black Nubble project area.
- 15 Q. That's not the mountain Black Nubble?
- 16 A. No, it is not.
- 17 Q. In the bottom photo it says, view of the Redington Pond
18 Range from the same location on the eastern edge of Poplar
19 Ridge.
- 20 That's not the Redington Pond Range, that's
21 Black Nubble, isn't it?
- 22 A. That's probably correct. Again, we did change that when
23 we prepared these boards that are on display over there.
- 24 Q. You didn't tell anyone else that you changed that?
- 25 A. We just discovered this in reading the intervenor

- 1 testimony.
- 2 Q. Ahh. So are you telling me that the views on -51 and -52
3 are the same as these Dave Field viewpoints? Or don't you
4 know? You haven't been to these places personally, have
5 you?
- 6 A. I have not been to this particular place.
- 7 Q. Who took these photos?
- 8 A. Tom Farmer, I believe, from my office, I believe he did.
- 9 Q. Is he here?
- 10 A. He's not here.
- 11 Q. How much of this have you actually done, the trail?
- 12 A. In percentage --
- 13 Q. The portion between Route 4 in Rangeley and Route 27
14 Carrabassett Valley.
- 15 A. I've probably done a third perhaps.
- 16 Q. But you haven't been to the Poplar Ridge area?
- 17 A. No, I have not.
- 18 Q. How long ago was it that you were there?
- 19 A. The year before last, I went up to the Crocker.
- 20 Q. You did the Crockers?
- 21 A. Yes.
- 22 Q. What else have you done?
- 23 A. Went up to -- last year right before the hearings we went
24 up to Saddleback with Dr. Palmer.
- 25 Q. So for some of these other views, your staff brings the

- 1 photographs into your office and you make some
2 professional judgments from looking at the photographs,
3 not from being there?
- 4 A. Yes.
- 5 Q. What makes a filtered view? Is this bottom photo of Dave
6 Field a filtered view because of the tree in it?
- 7 A. I think that particular one, again, that's off the
8 Appalachian Trail technically.
- 9 Q. It's within the boundaries of the Appalachian Trail
10 right-of-way?
- 11 A. When we talked about an open view, we were talking about a
12 360-degree view. I think it's arguable whether or not
13 that's a filtered view or not. I certainly would say that
14 the top view is filtered because of the relative shortness
15 of the opening.
- 16 Q. So an open view is 360 degrees?
- 17 A. When we're talking about panoramic views as we've
18 described here.
- 19 Q. I have to be in an alpine area and look around like this
20 in order for it to be an open view under your definition?
21 It's important because of your distinctions that you
22 draw.
- 23 A. We were describing as this being the higher elevation
24 views from Saddleback. We're calling those the open
25 views.

- 1 Q. So they're really 360s?
- 2 A. Yes.
- 3 Q. So there really could have been many views like this on
4 all of these sections when you say they're just filtered
5 intermittently?
- 6 A. When we sent our people up to look at the areas, we
7 recorded the views with GPS equipment, and we located
8 where they all are. Those are on our maps over there.
- 9 Q. If you could look to photo -- on 6-P-42 on 6-C-9.
10 Have you found it?
- 11 A. Yes.
- 12 Q. It says that if you're looking northeast from Mount
13 Abraham, large clearcuts are characteristic parts of this
14 view. The peak to the left of center is Owls Head. Photo
15 taken 1998, nine years ago.
- 16 Do you think the clearcut shown in that photograph
17 looks like that today?
- 18 A. Probably not. It has had nine years of regeneration.
- 19 Q. Why is this photograph put in this report, submitted to
20 this Commission in 2007 as representative of what this
21 area looks like?
- 22 A. It's representative of the types of activity that occurred
23 in this area in the past.
- 24 Q. It's not representative of what it looks like today.
25 Why didn't you go out and take new photos?

1 A. We did supply some additional photographs in the form of
2 Google Earth images, which we've included as part of our
3 application that shows heavy patterns, different types of
4 cutting that are going on today that weren't done back ten
5 years ago.

6 Q. Is there a discussion in your visual impact assessment as
7 to the particular visual resources of this area or of the
8 sensitivity of those resources?

9 I see a discussion of still lagoons and golf courses.
10 What about some of the other visual resources in this
11 area?

12 A. We do talk about the areas that -- we've used the term
13 scenic resource, which of course is a DEP term from the
14 315 regulations.

15 We have talked about impacts on places like the
16 scenic roads, the Appalachian Trail, the lakes and the
17 ponds.

18 Q. Now, you can't see the Sugarloaf ski development at all
19 from the portion of the trail between Route 4 and
20 Route 27, can you? You have to go over to the Bigelow
21 Range and look at that; correct?

22 A. I know there's one point near Crocker you can go off on a
23 side trail and see the Sugarloaf ski area.

24 For the most part you have to be up on the Bigelow
25 Range and look down.

1 Q. Is it not important for visual impact assessments to take
2 into account the viewing expectation of the person who's
3 viewing?

4 A. Absolutely.

5 Q. Where is the discussion in your visual impact assessment
6 of the values of the Appalachian Trail?

7 A. We devoted quite a bit of dialogue in our report about the
8 views from the Appalachian Trail because it is a unit of
9 the National Park Service.

10 Q. What about the attitude of the viewer?

11 A. We do talk about viewer expectation along with a
12 discussion of viewers from the other scenic viewpoints.

13 Q. What do you think the expectation of the Appalachian Trail
14 hiker is as he looks over or she looks over these
15 mountains of western Maine?

16 A. I think it will probably be different in different parts
17 of the Appalachian Trail.

18 Q. Essentially between Route 4 and Route 27. You heard some
19 of the testimony last August. I'm not hitting you with --
20 this is not cold. I'm not hitting you cold with this.

21 A. The expectation for people would be, in some places,
22 hiking along a trail when you're in the woods. Other
23 places would be an expectation of seeing a wide open
24 panoramas, other places will be an expectation of being in
25 an area where you're in contact with a certain amount of

1 cultural development.

2 I think the expectation will change as you go from
3 viewpoint to viewpoint.

4 Q. On that stretch of about 26 miles from Route 4 to
5 Route 27? Haven't you heard testimony that this is some
6 of the most spectacular sections of the 2000-mile trail?

7 A. We have heard that.

8 Q. You disagree with that?

9 A. I don't disagree that it's some of the most beautiful
10 scenery in the state of Maine up there. We all appreciate
11 that.

12 We also know that from those vantage points you're
13 able to look down and see one of the largest developing
14 ski areas in terms of Saddleback Mountain, looking over
15 the Town of Rangeley.

16 Q. You already told me you can't see Saddleback from the
17 section I'm talking about, except for that one ski trail,
18 you're right, the Buck Slide area.

19 What else? You see a little bit of the Saddleback
20 development from the shoulder of The Horn? That's it,
21 right?

22 A. And you look down and you see the Town of Rangeley, you
23 can see the airport, you can see some of the roads. From that
24 part you can see part of the Navy facility.

25 Q. Have you been on Saddleback Junior?

1 A. I have not been on Saddleback Junior.

2 Q. So you don't whether you can really see the Navy facility
3 there, then?

4 A. We've never said that you can. It's my understanding, the
5 only thing that you can see from there is at the very top
6 of Sugarloaf where you can see some transmission towers.

7 Q. This is what you were told by your staff, not your
8 personal experience?

9 A. I've read that in some of the prefiled testimony from
10 intervenors and in talking with people that have been
11 there.

12 Q. The lighting that you mentioned, there would be eight
13 towers lighted; is that right?

14 A. Seven towers.

15 Q. Seven towers?

16 A. Yes.

17 Q. I think the last time we met -- at least I was not
18 entirely sure what the lighting was going to be, but now
19 we know there are going to be seven towers -- and the
20 lights are Redington or white?

21 A. They're red pulsing lights.

22 Q. They would be turned on when?

23 A. They would come on at dusk, when exactly, I don't know.

24 Q. And go off at sunrise?

25 A. Yes.

- 1 Q. I didn't fully understand your submissions about the
2 visibility of these from below.
3 Could you explain that just briefly to me?
4 A. If you go to photogrammetric charts from the lighting
5 manufacturers, they're designed so an airplane pilot sees
6 the lights at its greatest intensity, flying horizontally
7 or up above.
8 But they have baffles in them so that when you're
9 down below, when you look at them, they look a lot less
10 intense.
11 Q. So that would be pretty close to the base of the tower
12 where you couldn't see them from below. But if you're at
13 a distance, wouldn't the angle of sight allow you to see
14 them?
15 A. It depends on what angle you're at.
16 Q. If I'm in the mountains, the next ridge over, could I seem
17 them?
18 A. If you're at the same elevation, they'll probably be as
19 intense as they're going to appear at whatever distance
20 you're at.
21 Q. Have you done a visual impact assessment of this project
22 lighted?
23 A. I guess it depends on what you mean by visual impact
24 assessment, the lighting.
25 We have not done any simulation of the view from

- 1 The Horn. We have looked at the lighting from, as you
2 saw, that one viewpoint on Spaulding.
3 Q. That's it?
4 A. No, we have talked with the manufacturers. We know how
5 the lighting is designed. We've talked with other
6 landscape architects who have been involved in wind power.
7 We have a rather extensive collection of lighting
8 photographs, if you're interested in seeing them, showing
9 what the lights would look like at the various viewpoints.
10 Q. You didn't submit those in the evidence, though?
11 A. We did not, and we may want to. I know that when we
12 looked at lights at distances of 9 to 10 miles, they're
13 extremely small.
14 Q. We're not talking about 9 or 10 miles here, though, are
15 we?
16 A. We are if you're talking about The Horn campground on the
17 Bigelow, which is one of the points we talked about this
18 morning.
19 Q. What about some of the closer parts of the Appalachian
20 Trail?
21 A. They obviously will become more intense the closer you get
22 to them.
23 Q. Now, in reading through your prefiled testimony and
24 sitting here this morning listening to your testimony, I
25 think in reading the prefiled I think I kind of pretty

- 1 much hit this correctly, and this is important.
2 As I read your visual impact assessment, VIA, there
3 are a number of factors that you look at in assessing the
4 impact of the development on the viewshed.
5 My reading of this breaks down to the number of
6 Appalachian Trail miles with views of the Black Nubble
7 windmills, the length of time that the Appalachian Trail
8 hiker is exposed to the views of the Black Nubble
9 windmills, the percentage of field of view occupied by the
10 windmills, and the percentage of days of clear weather
11 you're talking about climate conditions or something like
12 that.
13 Now, with respect to the percentage of the miles with
14 views of the Black Nubble windmills, are you saying that
15 in the denominator -- let's take the section from Route 4
16 to Route 27 -- in the denominator of the fraction, we put
17 the total number of miles -- 26 let's say -- and in the
18 numerator we put the number of miles in the AT within that
19 section from which you can see the windmills.
20 That fraction represents in some way, meaningful way,
21 the impact of the development on the viewing experience of
22 hiking that section of the trail?
23 A. That's one way at getting at -- an arithmetic way of
24 looking at it.
25 Q. Well, your analysis seems to be quite arithmetically

- 1 driven. I think I have that right then.
2 The length of time that the AT hiker is exposed to
3 the views -- and you alluded to that in your earlier
4 testimony. In some places you talk about the hiker who
5 walks one mile an hour, and you said that on that view
6 maybe they wouldn't even see it.
7 So I'm walking along at one mile an hour, there's a
8 view, there it is, and I keep walking?
9 Is that how people behave? Don't people hike to a
10 view?
11 A. Absolutely.
12 Q. Don't they sit down and admire the view?
13 A. And I think that's what we found when they get to the top
14 of some of the notable viewpoints at the tops of the
15 mountains we've talked about.
16 Q. Wouldn't I stop like I did two weeks ago and look at that
17 view? Isn't that beautiful to you?
18 A. No one's disputing that. It's a view of the Black Nubble
19 Mountain.
20 Q. The third thing you talked about, the percentage of field
21 of view and you had charts this morning, and it talks
22 about the percentage of field of view that's occupied by
23 the windmills, and that is somehow a measure of the impact
24 of the development on the viewer's experience.
25 Now, you've been to Cape Elizabeth, Fort Williams

- 1 Park I'm sure, have you?
- 2 A. I have.
- 3 Q. You get out of your car as you bring some of the many
- 4 people who come to visit you in the summertime, I'm sure,
- 5 from other states, and they get out of their car there,
- 6 what do they all look at when they get out of the car?
- 7 A. It depends on where they're parked.
- 8 Q. You know what I'm talking about. What do they look at?
- 9 A. They could be looking at the ruins of the old mansion,
- 10 they could be looking at --
- 11 Q. They get out of their car and they look at the lighthouse,
- 12 which is emblematic of the state of Maine, don't they?
- 13 Isn't the view -- isn't the human eye drawn towards
- 14 certain things? It's not really -- it's not really about
- 15 the whole panorama, it's what you're doing to the
- 16 important things in the panorama.
- 17 Have you been to Yosemite National Park?
- 18 A. I have not had the privilege yet.
- 19 Q. It is a privilege. There's a place called Glacier View.
- 20 I was there a number of years ago, I think. It doesn't
- 21 make any difference really where this is, but there are
- 22 two things in this photograph that I would suggest to you
- 23 that draw people to this point, among others. A few
- 24 important things, Half Dome Mountain, which is emblematic
- 25 of Yosemite National Park. You view waterfalls. I think

- 1 those are the two things in this view scape.
- 2 So if I put windmills on the top of Half Dome, is the
- 3 measure of the impact of my doing to the viewer the
- 4 percentage of the field of view, which here is probably 20
- 5 percent, not even, that the windmills take up?
- 6 A. That would certainly be part of the consideration.
- 7 Q. And as I recall for this view, to get to the view you park
- 8 your car, you walk through the woods about a half a mile
- 9 and then there's a ledge, it's probably a hundred yards
- 10 long, and then you walk back to your car.
- 11 People don't come along and say, gee, there's Half
- 12 Dome and keep going. They stop, they admire it, they have
- 13 lunch there.
- 14 So from a visual impact assessment, how can you say
- 15 that occupying that percentage of the field of view or a
- 16 person hiking one mile an hour, how long it takes them to
- 17 get by that, has anything to do with the visual impact?
- 18 A. When we looked at the percentage of view, we wanted to
- 19 clarify for the Commission just what it is that you're
- 20 looking at.
- 21 Is this going to be something which is going to
- 22 occupy 90 percent of the view, 180-percent view? I think
- 23 that this is a way of getting a handle on just what it
- 24 means to be out there and how much it will be visible.
- 25 Q. Finally, Terry, the last thing that I had in your

- 1 important factors, I call it the clear weather factor.
- 2 Are you suggesting that because Down East Maine's
- 3 rocky coast is in the fog, most of August it seems to me,
- 4 but for many, many months out of the year a lot of the
- 5 time, that we should have a State policy that takes that
- 6 into account when assessing development along the rocky
- 7 Maine coast of Maine?
- 8 A. No; one of the things I was getting at when I talked about
- 9 the effects of the weather condition is this concept of
- 10 atmospheric perspective.
- 11 As you'll see in our illustration -- even in Erik
- 12 Crews' illustration -- under certain weather conditions --
- 13 most weather conditions -- there's a certain amount of
- 14 haze in the air, and those will decrease the contrast of
- 15 any object in the landscape.
- 16 That's why as you get farther into the landscape,
- 17 what is now up close, a very bright white object will
- 18 appear to be increasingly grayed-on objects, the farther
- 19 back from the landscape you see it.
- 20 Q. A clear day makes it all the more beautiful, doesn't it,
- 21 in the mountains?
- 22 A. You'll still get a certain amount of grayed effect.
- 23 Q. A number of your photos, quite frankly, seem to depict a
- 24 hazy gray day when you can't see the white turbines.
- 25 Why is that? Did your staff always go out there on

- 1 hazy days?
- 2 A. I know that we said in our -- a lot of those photograph
- 3 were taken by other people that spent several days, if not
- 4 weeks, waiting for the perfect day.
- 5 Sometimes it didn't happen, sometimes it did happen.
- 6 Q. I notice that a lot of these photos don't have focal
- 7 lengths on them. Do you know what they are?
- 8 A. We included that on the board up there. They were all
- 9 done for 50-millimeter foot lengths. In fact, that was a
- 10 comment that Erik Crews and Jean Vissering had talked
- 11 about. In fact when we did our prefiled testimony, we
- 12 made sure that they were almost a one-to-one relationship
- 13 between their photographs and ours.
- 14 Q. Does that apply to all the photos in your prefiled?
- 15 A. Yes.
- 16 Q. Every one of them is 50 millimeters?
- 17 A. I couldn't swear that every one of them is.
- 18 MR. PLOUFFE: Thanks, Terry. I've got a question for
- 19 Steve Pelletier.
- 20 THE CHAIR: Before we go on, Mr. Plouffe, can we just
- 21 get -- you indicated -- did we get an answer to these pictures
- 22 of whether they were or were not of what they say they are? I
- 23 guess it would be nice if somebody would clarify that. If
- 24 they're not, then maybe they need to be corrected.
- 25 MR. DeWAN: We will correct them.

1 THE CHAIR: That's P-52 and P-51. I was left being
2 confused by exactly what the answer was there, and actually
3 what the question was, even.

4 If those aren't exactly what they're supposed to be,
5 then we better get them corrected.

6 MR. DeWAN: These are the photographs we used this
7 morning when we showed the illustration, what the impact would
8 be from that particular viewpoint. We did very clearly
9 identify that as Black Nubble. We will submit them properly
10 labelled.

11 THE CHAIR: Thank you.

12 MS. KURTZ: Can you tell us what those are?

13 MR. DeWAN: Black Nubble.

14 MS. KURTZ: Both of them?

15 MR. DeWAN: Yes.

16 EXAMINATION OF STEVE PELLETIER

17 BY MR. PLOUFFE:

18 Q. Steve, in your prefiled testimony you said that you had
19 been working at the Black Nubble site since 1993, that's
20 14 years.

21 Isn't that an unusual amount of time to be doing
22 studies at a site?

23 A. Those studies were initiated in '93; in '94, '95 we did
24 quite a bit. We restarted again, do some work on
25 transmission lines, in 2000; focused again more in 2004,

1 -5, and -6.

2 Q. And you're still using some of the data you gathered in
3 '93?

4 A. Some of the data, yes, correct.

5 Q. Your company, Woodlot Alternatives, has done wildlife
6 surveys for more than 60 wind projects extending from
7 northern Maine to West Virginia; is that right?

8 A. That's right.

9 Q. Have you done any wind plants at elevations over 3500
10 feet?

11 A. Not over 3500 feet.

12 Q. Of the 60 projects you've worked on, in how many cases did
13 you the developer determine that the project would have
14 unacceptable negative impacts on local wildlife?

15 A. I would say that there are a number of projects that we've
16 looked at over time that you never see, that no one ever
17 hears, because we identify upfront a series of issues
18 within those.

19 Actually it's about 72 studies right now. That's the
20 nature of the work is to try to determine whether or not
21 there are issues.

22 Q. So you have found some, issues?

23 A. We had identified projects that have clearly right upfront
24 said, you've got problems here, and those projects have
25 gone to certain lengths, and a number of projects have

1 decided they weren't going to go forward.

2 Q. Any of those issues have to do with birds and bats?

3 A. None to date.

4 Q. Throughout your prefiled testimony you cite a 2007 paper
5 by Frumhoff for propositions regarding the particular
6 effects of global warming; correct?

7 A. That's correct.

8 Q. And the Frumhoff paper was sponsored by the Union of
9 Concerned Scientists; correct?

10 A. Yes.

11 Q. Who is the Union of Concerned Scientists?

12 A. It's a group of scientists -- they're professionally
13 recognized. They're not just nationally based, but
14 they're folks who have spent a great deal of time studying
15 these issues.

16 They weigh in on a lot of different types of
17 projects. Wind power is one of the more recent things
18 they've weighed in on.

19 Q. I saw attached to someone else's testimony here a summary
20 of your report, and I didn't see that it was focused on
21 wind power, it was focused on the particular effects of
22 global warming; correct?

23 A. That's correct.

24 Q. Tell me a little bit about the report. How was it set up?

25 A. It talks about the different regions of the US. It

1 specifically talks about Maine. It talks about a lot of
2 habitat influences.

3 One of the issues that they refer to in there is the
4 effects of global warming on habitat in the independent
5 species.

6 Q. Doesn't the report put forth two scenarios: One, if we
7 continue to increase carbon outputs in this world, and the
8 other if we get some control over that and then predict
9 the results of climate change under those two scenarios?

10 A. Hopefully we will take the second.

11 Q. The report is not about wind power?

12 A. No, but it reflects the fact that our habitats, the ones
13 particular we're talking about, some of the more sensitive
14 ones in places such as these higher elevations, they're at
15 risk because of global warming, and these species that we
16 seem to be focusing on quite a bit here are right in those
17 tracks.

18 There's other places too, tundra areas, low coastal
19 areas.

20 Q. The report doesn't talk about the western Maine mountains,
21 it talks about this area of the country generally, right?

22 A. Well, if you look at the report, there are areas they're
23 talking about Maine, they're talking about the spruce/fir
24 forests and the effects on that.

25 Q. Generally?

- 1 A. Generally, but also focused on the fact that you lose that
2 habitat and you lose those species that are dependent on
3 it.
4 To me that's a very straight-line analysis of what
5 that report is about.
6 Q. The report also says that it's not good news for this
7 place, I guess, Maine would be one of the only places with
8 a good ski industry?
9 A. But it also says it would be a limited number of days for
10 that ski industry.
11 Q. So this report by the Union of Concerned Scientists, would
12 you disagree with me that they can be fairly regarded as
13 an advocacy group?
14 A. I would say that what they're doing is they asked a
15 question and what's the effect on that.
16 It's a group of scientists that basically evaluate an
17 issue and report on it.
18 Q. They certainly advocate advocating against nuclear power,
19 aren't they?
20 Have you heard of Helen Caldicott?
21 A. I've heard of Helen Caldicott, yes.
22 Q. Again, you cite that report many times. You cite the
23 National Academy of Sciences report that also came out in
24 2007 once. That's specific to the study of wind power.
25 You cite it for a proposition having to do with bird

- 1 mortality. That's it. Why didn't you cite that report
2 more often?
3 A. We could site the GAO report, we could cite that. Every
4 one of those studies point -- and I'd be happy to talk
5 about any of the results -- the fact that it's mentioned
6 or not mentioned, let's talk about the different factors
7 in those studies.
8 Each one of them talks about the threat on habitat,
9 and those reports that you're referring to right there
10 start talking about some of the bird and bat issues. I'd
11 be happy to talk about those.
12 Q. You only cite it once in your analysis?
13 A. Well, whether --
14 Q. Right?
15 A. If that's relevant, yes.
16 Q. You don't think that the National Academy of Sciences is
17 something -- especially a report specific to wind power,
18 isn't something that this Commission perhaps deserves to
19 hear more about from you?
20 A. I am not ignoring that. The fact that it's referenced in
21 there, we are not ignoring that document.
22 I am concerned about global warming, very much.
23 Q. I think we all are in this room.
24 As I understand your prefiled testimony, I can boil
25 this down based on the Frumhoff report in other work that

- 1 you cite.
2 The subalpine habitat is going to be seriously
3 degraded or killed off by global warming?
4 A. Eliminated.
5 Q. Eliminated is what you're saying based on that. I assume
6 you're obviously picking the Frumhoff scenario where if we
7 don't get a handle on carbon discharge, which will
8 continue to increase global warming?
9 A. I don't have great faith that our society has a way of
10 turning that around in a short enough period of time to
11 make any difference.
12 Q. Again, it doesn't speak about wind power. So we could
13 take this \$115 million that Edison wants to spend on this
14 wind farm and put it into mass transportation and cut back
15 carbon discharges; right?
16 A. I'm not sure where you're going with this conversation.
17 Q. Am I right? Isn't it a question of where we put the
18 money, from the Frumhoff perspective, the Union of
19 Concerned Scientists report, isn't it a question of where
20 we put the money?
21 MR. THALER: I'm only going to object because I don't
22 think it's proper within the scope of LURC talking about
23 alternative use of money.
24 The applicant has chosen to try to apply that money
25 here. Hypothesizing is speculation about all the other

- 1 possible uses for that money.
2 MR. PLOUFFE: Why don't we just move on.
3 THE CHAIR: I think that would probably be a good
4 idea, although it's an interesting question, I have to confess.
5 BY MR. DIDISHEIM:
6 Q. So as I read your report, essentially you're saying that
7 we need to destroy the habitat that's there now in part in
8 order to save the species later on?
9 A. You made a big jump there that this project would destroy
10 that habitat.
11 This project basically uses about 64 acres of habitat
12 that's greatly been influenced already by timber
13 harvesting, at least -- several hundred acres, was it
14 300 -- 300-and-some acres that would not be touched.
15 Essentially what we're doing here for this habitat,
16 it's not hampering the habitat, it's something that's
17 truly unique, it's not the S-1, S-2 communities that we're
18 particularly concerned about. It's an S-3 community that
19 has a lot of forest issues with it already.
20 I believe it's a good tradeoff.
21 Q. I'm glad you brought up the 300 acres of the subalpine
22 habitat, the fir-heart-leaved birch. That's been
23 designated by the Natural Areas Program, I think, since
24 the last hearings we had here?
25 A. I believe you're correct.

- 1 Q. I don't remember seeing reference to how special that area
2 was in your earlier?
- 3 A. I believe we always called it an S-3 community, yet there
4 were patches of S-3 in the other one.
- 5 Q. That's in the summit area; right?
- 6 A. That's correct.
- 7 Q. A lot of old growth --
- 8 A. Mostly on the summits, a little bit down.
- 9 Q. And a lot of old growth?
- 10 A. If you call, you know, 100 years old growth, then I guess
11 you could -- it's not the typical old growth.
12 Just to address --
- 13 Q. I'll take 100-year-old trees as old growth.
- 14 A. I don't.
- 15 Q. In regard to the Bicknell's thrush, you submitted a report
16 which is basically the same that you submitted last time.
17 You said 2002 there were unconfirmed sighting of two.
18 Assume that Bicknell's thrushes in 2003 there were a
19 couple of thrushes sighted, but you weren't sure they were
20 there.
21 Dr. Jeff Wells, who is the consultant in this case
22 for NRCM, went out there this year and came back and
23 predicted there were probably 40-plus males living up
24 there.
25 Did you just miss it since you've been there in --

- 1 since 1993 have you been able to confirm that there were
2 Bicknell's thrush. He goes up one summer and confirms
3 that they are there?
- 4 A. We spent a great deal of time on both mountains. We
5 conducted breeding bird surveys on both mountains. On
6 Redington --
- 7 Q. I'm talking about Black Nubble.
- 8 A. I understand. We did not pick up. They're relatively --
9 particularly during breeding season is the time that you
10 would actually be seeing a lot of them.
- 11 Q. Which is when?
- 12 A. Starting May into June. Most birds show up around middle
13 of May.
- 14 Q. You didn't find them during the breeding season?
- 15 A. Not on Black Nubble for the surveys that were done.
- 16 Q. Do you disagree with Dr. Wells?
- 17 A. Not at all.
- 18 Q. Okay. This morning you put a graphic up there on the
19 height of migrating birds. That was an average height
20 elevation that they migrate at?
- 21 A. That was the -- that focal point on that range was an
22 average of all of those studies, both spring studies and
23 full studies, then the average of the range.
- 24 Q. For the purposes of this proceeding, isn't the relevant
25 question how many of them migrate at an elevation that

- 1 would be within the rotor sweep of the wind turbines?
- 2 A. That's a great question, yes. In the work that's been
3 done to date shows that that's about 10 percent of the
4 population that's flying through there.
- 5 You can't say that there's no risk; but compared to
6 the full season on a nightly average, it's a -- it's about
7 10 percent.
- 8 Nights that you may find lower flights because of
9 wind conditions, generally you find that there's a lot
10 lower numbers. So the risk is lower because of that.
- 11 MR. PLOUFFE: Thank you. I have some questions now
12 for Mr. Lee.
- 13 EXAMINATION OF HARLEY LEE
- 14 BY MR. PLOUFFE:
- 15 Q. Mr. Lee, when did you purchase Black Nubble?
- 16 A. I don't remember. I think it may have been 2001.
- 17 Q. Did you have an option on it before that?
- 18 A. We did.
- 19 Q. When did you enter into the option agreement?
- 20 A. I don't remember. I think we purchased Redington in '98
21 and had an option of Black Nubble at that time.
- 22 Q. When did you first become aware of the opposition of the
23 National Park Service to your wind power project?
- 24 A. I don't remember.
- 25 Q. Before '98?

- 1 A. I don't remember.
- 2 Q. It's a pretty significant issue, isn't it?
- 3 A. Opposition of the Park Service?
- 4 Q. Yes.
- 5 A. Well, were you talking about me getting a conversation or
6 a letter from Pam Underhill?
- 7 Q. Yes.
- 8 A. I don't remember that day.
- 9 Q. But you don't remember if it was before or after you
10 bought Redington?
- 11 A. I don't know.
- 12 Q. How long have you been studying this area for a wind farm
13 project?
- 14 A. By "this" do you mean Maine and western Maine?
- 15 Q. Western Maine.
- 16 A. I think we put our first wind measurement tower actually
17 on this mountain, Sugarloaf, maybe December of '89 or '90,
18 something like that.
- 19 Q. In your alternatives analysis you say that you looked
20 throughout Maine and other places in New England.
21 How many places on the coast did you look?
- 22 A. Oh, I think it may have been nine sites on the coast of
23 New England.
- 24 Q. How about the coast of Maine?
- 25 A. It's in that chart there. We looked at Stonington, we had

1 two sites in Stonington, actually. And Orland, Maine. We
 2 had some non Maine coastal sites as well.
 3 Q. Were these done before your purchasing Redington?
 4 A. I think the Orland machine we installed around the year
 5 2000, so it would have been after purchasing Redington.
 6 Q. So some of these alternative sites you looked at, you
 7 looked after you had already bought Redington and probably
 8 had an option of Black Nubble?
 9 A. Yes, I think we measured some of those coastal sites
 10 later. Yes.
 11 Q. Would you agree with me that technology has changed in the
 12 wind industry in terms of turbines and so forth in the
 13 past ten years?
 14 A. Technology has changed, yes.
 15 Q. How do you explain how you missed Mars Hill and Stetson
 16 Mountain and Kibby and some of the other projects that are
 17 now in the pipeline coming before LURC if you did an
 18 exhaustive analysis?
 19 A. Well, I didn't say we did an exhaustive analysis; I said
 20 we analyzed many sites. It doesn't mean we analyzed every
 21 site.
 22 Q. Well, you analyzed many, many sites -- or many sites --
 23 how did you miss those?
 24 A. Well, we didn't miss Kibby, for example. We actually had
 25 an option on that site that we developed after Kenetech

1 went bankrupt. So we did look at that site.
 2 Mars Hill, I was actually aware of the fellow who
 3 first did wind measurements up there.
 4 Q. But you decided not to pursue that?
 5 A. That's correct.
 6 Q. Why?
 7 A. I didn't think it would be an economical site.
 8 Q. And it now is, I assume, because technology has changed?
 9 A. You have to be careful with this technology. The costs
 10 have come down quite rapidly, 3 to 5 percent a year for
 11 many, many years; but unfortunately starting like three or
 12 four years ago, costs actually started going the opposite
 13 direction. They've been up for several years.
 14 A lot of people think that, oh, technology is going
 15 to be wonderful, we'll be able to put things anywhere, but
 16 actually the reverse is happening. In the last several
 17 years we've had increasing prices, fewer sites are
 18 economical rather than more sites, which is not widely
 19 known.
 20 Q. I'm assuming that the developers, TransCanada and
 21 Evergreen Wind Power, they know what they're doing and
 22 these are economically viable sites that they're pursuing
 23 and you didn't identify them?
 24 A. Well, as I said, we actually did look at the boundary
 25 mountains and identified Mars Hill, but I didn't think it

1 was economical.
 2 Q. If this project is approved, this will be the first wind
 3 farm you've ever built?
 4 A. That's correct.
 5 Q. You, in your testimony, talked about this area around
 6 Black Nubble, and my impression was that you were trying
 7 to convey the image that this is a fairly developed area,
 8 say, between two ski areas and you specifically mention
 9 the Navy facilities, the SERE -- S-E-R-E --
 10 A. Right.
 11 Q. -- as evidence of development in the area so your wind
 12 farm is not going to be a massive change of character for
 13 the area?
 14 Do you know what SERE stands for?
 15 A. I think it's Survival Escape Rescue and --
 16 Q. I think it's Survival Evasion Resistance and Escape. My
 17 understanding is the Navy uses the facility to train
 18 pilots, seals, and others who might go down in remote
 19 areas and teach them to escape capture and if they're
 20 captured what to do.
 21 I'm wondering why if this is such a developed area,
 22 the United States Navy would use this 12,000-acre site for
 23 a SERE facility.
 24 Do you have an answer for that?
 25 A. I really don't know why they chose that site originally.

1 I think they like the remoteness and they liked to be left
 2 alone. They like to shoot off their machine guns and fly
 3 their helicopters and fighter jets around.
 4 Q. You also talked about the area, its not remoteness or lack
 5 of -- let me rephrase that.
 6 Are you aware that the US Department of Fish &
 7 Wildlife analyzed the SERE facility for its wildlife
 8 values in the event that the Navy left there?
 9 A. I think I saw something.
 10 Q. It's in the Appalachian Mountain Club's, their letter of
 11 analysis in the Appalachian Mountain Club's prefiled
 12 testimony?
 13 A. I think I saw something to that effect.
 14 Q. And that they characterize this as a pristine area,
 15 largely undisturbed and pristine, 12,000 acres?
 16 A. I think I saw that, yes.
 17 MR. PLOUFFE: Thank you. Now I have a few questions
 18 for Mr. Mann.
 19 How much time do I have left Mr. Chairman?
 20 THE CHAIR: 10 minutes.
 21 EXAMINATION OF RANDY MANN
 22 BY MR. PLOUFFE:
 23 Q. I think I heard your testimony this morning regarding air
 24 pollution referring to this project helping to curtail
 25 acid rain; is that right? You mentioned that a couple of

- 1 times.
- 2 A. I said that the project would displace fossil fuel
- 3 generation which creates air emissions, and those air
- 4 emissions have impacts.
- 5 Q. You specifically referred to acid rain, I know that you
- 6 did.
- 7 A. Okay.
- 8 Q. Not all fossil fuel emissions create acid rain, do they?
- 9 A. No.
- 10 Q. It's really only so-called NOX and SOX, SO₂ and nitrogen
- 11 oxide?
- 12 A. I don't want to cut off your question, but I think you're
- 13 going to quickly get out of my area of expertise. I'm a
- 14 wind developer, not a air emissions expert.
- 15 Q. You would not disagree with me, then, I guess, if I were
- 16 to tell you that if you cut back on natural gas
- 17 generation, natural gas fired electricity generation,
- 18 you're not going to affect NOX and SOX in any appreciable
- 19 way?
- 20 A. Again, I'm really not an air emission expert.
- 21 Q. Did someone write that testimony for you?
- 22 A. I think it was based on the testimony that came from
- 23 Mr. Hanisch.
- 24 Q. I assume you're not aware of the National Academy of
- 25 Science's study that was appended to Jody Jones' testimony

- 1 in which they say essentially that wind power should not
- 2 be expected to decrease NOX and SO₂ emissions?
- 3 A. No, I'm not.
- 4 Q. So you don't know really whether your claims about acid
- 5 rain are true or not true?
- 6 A. I know that we have estimated the emissions that we
- 7 believe this project will reduce, and we know that that
- 8 will improve the air quality in Maine.
- 9 Q. Edison International, as you have said in your testimony,
- 10 is a major developer of electricity plants around the
- 11 country, an owner of electricity plants around the
- 12 country. Many, many of those are coal fired; is that
- 13 right?
- 14 A. Edison International is a large generator of electricity,
- 15 that's correct, and we own a wide variety of power
- 16 projects.
- 17 Q. Many of which are coal fired?
- 18 A. Some of which are coal, yes.
- 19 Q. In Illinois there are several of them, for example?
- 20 A. That's correct.
- 21 Q. And coal-fired plants do produce SOX and NOX and mercury;
- 22 correct?
- 23 A. That's my understanding in some cases, yes.
- 24 Q. You're building a new coal plant in Virginia or West
- 25 Virginia?

- 1 A. No, we're not.
- 2 Q. I thought that was under development?
- 3 A. We're actually developing wind power projects in
- 4 West Virginia. We currently own a small coal project in
- 5 West Virginia that burns waste coal.
- 6 Q. Okay.
- 7 A. No, we're not developing new coal projects in West
- 8 Virginia or Virginia.
- 9 Q. Okay. When you were coming into negotiations with
- 10 Mr. Lee, when was that in terms of becoming a partner in
- 11 this project?
- 12 A. That was probably three years ago, 2005.
- 13 Q. Did you do any independent analysis of the natural
- 14 resource of visual impacts of this project before you
- 15 entered into an agreement with Mr. Lee, or did you rely on
- 16 the work he had done?
- 17 A. We did not do an independent analysis; we did look at the
- 18 work that he had done and we certainly understood the
- 19 location of the project.
- 20 Q. Do you have any other wind power projects around the
- 21 country which are close to a National Park?
- 22 A. I'm pausing to think because we have quite a number of
- 23 wind projects. Not, I think, that close to a National
- 24 Park.
- 25 Q. What do you mean by that close? As close as you are here?

- 1 A. I don't believe that we have other wind projects that are
- 2 close to a National Park.
- 3 Q. Do you have any wind projects that are at elevations over
- 4 3500 feet?
- 5 A. We're currently building some wind projects on ridgelines
- 6 in Pennsylvania. Those are probably in the 3000-plus-foot
- 7 range.
- 8 Q. Those must be the highest mountains in Pennsylvania?
- 9 A. They're ridgelines in Pennsylvania. I'm not sure what the
- 10 highest peak in the is.
- 11 Q. You don't know, really, how high those are?
- 12 A. I know they're in the high 2s and low 3s.
- 13 MR. PLOUFFE: Thank you, Mr. Chairman, I think my
- 14 time is just about up.
- 15 THE CHAIR: Thank you. I believe that Mr. Trafton is
- 16 next. I trust that the witnesses he asked are here.
- 17 MR. THALER: That would be Panel 1.
- 18 THE CHAIR: Would those folks come right up.
- 19 MR. TRAFTON: Thank you Mr. Chairman. My name is
- 20 Dain Trafton. I'm from Phillips. I'm a retired professor of
- 21 literature, not of engineering or anything like that, and I am
- 22 here today representing Friends of Western Mountains.
- 23 I'd like to start by questioning Mr. Mann.
- 24 EXAMINATION OF RANDY MANN
- 25 BY MR. TRAFTON:

1 Q. Mr. Mann --

2 MR. TRAFTON: I might say, Mr. Chairman, that I am

3 going to talk about generation issues and some technical issues

4 and also about business, but I hope to bring a new perspective

5 to the discussions that have already occurred.

6 THE CHAIR: That's fine, I guess, since we brought

7 the subject up, but you've got 30 minutes, that's all.

8 MR. TRAFTON: I know. I'll try to use it wisely.

9 BY MR. TRAFTON:

10 Q. Mr. Mann, would you agree that this hearing is not about

11 wind power generally but specifically about your project

12 and the site that you've chosen for it and whether that

13 project and site, put together, are consistent with LURC

14 rules and standards?

15 Would you agree with that statement?

16 A. We're asking for approval for a particular project,

17 absolutely.

18 Q. Right. Thank you. Does your application contain

19 something which you call an economic impact statement?

20 Can you hear me?

21 A. I can hear you. I'm trying to understand the question.

22 What do you mean by economic impact statement?

23 Q. There's a heading in your application, economic impact

24 study. It is there. If you've forgotten it, I can tell

25 you the answer to my question is yes.

1 Can you tell me what that economic impact statement

2 is about?

3 A. You're going to have to refresh my memory.

4 Q. All right. It's about a wind project in Sherman County,

5 Iowa. Now, I hope you -- have you read that?

6 A. I have.

7 Q. All right. Would you say that Sherman County, Iowa, where

8 this economic impact study was conducted, which you've

9 submitted, is a place much like Franklin County, Maine? I

10 said Iowa, I meant Oregon.

11 A. I think they're both rural areas but obviously there are

12 quite some differences between those areas.

13 Q. Would one of the big differences be that Franklin County,

14 Maine depends heavily on tourism and real estate

15 development related to tourism? Would you admit that?

16 A. I think that this area clearly has some tourism, yes.

17 Q. You know what an economic impact study is supposed to

18 provide to people who have to make a judgment about a

19 project.

20 Why did you not do an economic impact study of the

21 area in which your project is going to be located?

22 A. We felt that the information that was provided was

23 sufficient to make an evaluation.

24 This area does depend on tourism, but it's our view

25 that these wind turbines will not have any adverse impact

1 in a material way because in part of all of the discussion

2 that you heard this morning about the visual impact of

3 these turbines.

4 Q. Now, your testimony -- I'm not sure the impact study --

5 but your testimony brings out all the alleged benefits of

6 the project.

7 But isn't it true that to properly understand what

8 the economic effects of a project are, one ought to make

9 an extended effort to try to understand the potential

10 negative effects?

11 Is there anything in your testimony which actually

12 goes into these potential effects, or do you just simply

13 say they're going to happen?

14 A. We looked at -- we showed graphs this morning that showed

15 that hikers and recreational users and skiers favor the

16 project about as much as the average resident of Maine.

17 So I think that it indicates that some of those

18 hikers will be interested to see the turbines, others

19 won't, but it there's no reason to expect it to be

20 significant.

21 Q. We'll come back to those hikers later.

22 Why have you not allowed commissioners and the public

23 to see the wind data on which all your energy output

24 estimates, your avoided emissions benefits, and many other

25 alleged benefits are based?

1 You've said that they're proprietary, that is, the

2 wind data is proprietary, but you own the site. What

3 possible harm could result from revealing this wind data?

4 A. It's just not something that we would normally do, and I

5 also don't think it's necessary at all to make an

6 assessment of this project.

7 I find it hard to believe that you would believe that

8 I'm here for the second year in a row if I don't have a

9 high degree of confidence that that mountain has a good

10 wind resource.

11 We have shown you how we came up with those

12 estimates. We've talked about the data that we've

13 collected.

14 Q. I have no doubt that the wind data justifies your

15 expectation that you'll make a lot of money; but I think

16 the wind data -- and I'll try to show as I go on -- is

17 very relevant to understanding the matters of avoided

18 emissions.

19 A. You can't make money from this project without it

20 generating electricity, and we can't generate electricity

21 without wind.

22 Q. Your prefiled testimony states that the power from

23 Black Nubble will be sold into the grid.

24 Does this mean you failed to negotiate the ten-year

25 fixed-price long-term contract with Constellation New

- 1 Energy that your application actually mentions?
 2 A. We have a ten-year contract with Constellation New Energy.
 3 Q. I see. So you will be selling all of your power to
 4 Constellation New Energy?
 5 A. That's the current expectation, yes.
 6 Q. Is it an expectation or is it a contract?
 7 A. It's a contract.
 8 Q. What's the price for the power?
 9 A. That's really not your business.
 10 MR. TRAFTON: Okay. I'd like to question Mr. Most
 11 now.

EXAMINATION MATT MOST

- 13 BY MR. TRAFTON:
 14 Q. Mr. Most, you quote the DEP Commissioner Littell who says
 15 that speaking generally that wind power can force older,
 16 dirtier plants to emit less.
 17 I have no doubt that under certain circumstances this
 18 can be true of wind power, but I have not yet seen the
 19 evidence that has proved that it's true of this particular
 20 plant.
 21 Can you tell me how many times and for how long
 22 during any recent year the projected output from your
 23 plant would in fact have caused any particular dirty plant
 24 to reduce its emissions and by how many tons?
 25 A. What you're suggesting is a level of granularity necessary

- 1 in understanding impacts.
 2 As the panel stated on August 1st, there's a very
 3 clear connection between displacement of higher cost
 4 power -- in this case fossil fuel -- by lower cost,
 5 variable cost power, such as wind power.
 6 Wind power has a zero variable cost because when the
 7 wind blows, the turbines turn. The fact of the matter is
 8 that you've invested your capital upfront and any time
 9 that that wind power is operating, it will be displacing
 10 something that is more expensive.
 11 Now, as the testimony has shown, there is no
 12 transmission congestion that would limit the flow of that
 13 power where it's sited.
 14 So it's very simple to see that any time it is
 15 running, you will have a displacement of higher emitting
 16 power. Now, to actually try to pinpoint the location of
 17 any particular electron to where it is being displaced
 18 from another is really not a necessary exercise and is an
 19 unnecessary level of criticism.
 20 Q. I think it is necessary because your estimates are based
 21 on average marginal emissions rates in New England, and we
 22 need to know -- this is an important matter, this is a
 23 beautiful place that you're asking the state of Maine,
 24 people who live here particularly -- you're asking them to
 25 give it up, and you're telling us in a very general way

- 1 normally this would be the average result of the operation
 2 of a wind plant.
 3 We do need to know that this wind plant is able to
 4 actually cause a reduction in a particular dirty plant and
 5 how much.
 6 It's not enough to say that it will cause a reduction
 7 in emissions somewhere. Some of those emissions may well
 8 be in clean plants, they might even be in other renewable
 9 plants.
 10 A. There's no way that you can have a displacement of another
 11 clean plant, a plant with zero emissions. You're going to
 12 have displacement of a plant that makes emissions.
 13 As you stated in your prefiled that the governor, the
 14 Maine PUC, and the Office of Energy Independence and
 15 others all spoke to this issue that wind power helps to
 16 save regional greenhouse gas reduction goals and is needed
 17 for the power to meet the climate change rules also.
 18 So the fact that you have an emission reduction at
 19 the marginal unit, as you've pointed out, the marginal
 20 unit in New England is a relatively constant factor.
 21 Of all places it's relatively simpler here than other
 22 places to determine just what that emissions impact is.
 23 The fact of the matter is that you're looking at a
 24 variance of very small, very tight tolerance between what
 25 type of emission reduction that will be and that the use

- 1 of the marginal rate as a proxy is a very consistent way
 2 to make that calculation.
 3 Q. Nonetheless, you have not provided the kind of systems
 4 modelling that was called for by Tom Hewson a year ago,
 5 which would actually make possible for the commissioners
 6 to make the judgment about this. But you claim that
 7 emissions will be reduced.
 8 Do you think that the emissions that are reduced will
 9 be displaced or avoided? That is, will the emissions that
 10 are displaced in some particular plant nearby end up being
 11 emitted somewhere else? Or will they be actually avoided?
 12 I'd like a simple answer to that. Avoided or
 13 displaced?
 14 A. A complicated question but a simple answer. The fact of
 15 the matter is that an avoided emission due to the
 16 displacement of power generation is what you would expect
 17 to have here.
 18 It's very similar, as I pointed out in my prefiled,
 19 replacing a less efficient technology with the analogy of
 20 automobiles, replacing a traditional car with a hybrid
 21 car.
 22 There's no reason to think that if you replace a
 23 certain portion of the power generation stack with a clean
 24 unit, like a wind unit, to think that all of a sudden
 25 today I avoided emissions and then tomorrow I'm going to

1 have more emissions because all of a sudden my wind unit
2 is no longer going to be operating and no longer going to
3 be providing that benefit.

4 I believe an avoided emission is a replacement and
5 it's an emission that's not happening.

6 Q. Isn't it true that under the rules of RGGI, which will
7 begin applying in 2009, that emitting plants will have
8 emissions allowances -- which they will either be given by
9 the State of Maine or they will have to buy -- and if
10 these plants are forced to reduce emissions by say
11 Black Nubble wind plant, will they not have emissions
12 allowances left over, and is there not a market for these
13 allowances which they'll be able to sell to other emitters
14 elsewhere?

15 Is that not an accurate description?

16 A. The way cap and trade works, which is again a very
17 complicated subject that we can get into, the ability to
18 bank an allowance for use by another party or for use of
19 futures periods is one of the key factors of making cap
20 and trade effective regarding environmental policy.

21 That's exactly the reason why the SO₂ program, which
22 is done to reduce acid rain, and the NOX program designed
23 to reduce smog is so incredibly effective because we do
24 create this incentive to reduce emissions and then have
25 that emission allowance be perhaps banked for a future

1 use.

2 Now, in this case, what you're suggesting is that a
3 dirty unit that is not economic, which is the reason it's
4 not running, will have an allowance that it will not
5 consume. That allowance will be stored.

6 Now, the suggestion that that allowance will then go
7 to another dirty unit that would have run otherwise, would
8 have allowed it to run, doesn't make sense because the
9 fact that that unit didn't run is because it wasn't
10 economic.

11 The unit that is economic is going to run anyway. So
12 what you simply have is that allowance added to the bank,
13 and what happens when allowances are added to the bank is
14 over time your cap is reduced and that allowance is
15 retired.

16 Q. I thought you told me not long ago that the units that are
17 going to be forced to cut back are going to be the
18 gas-fired units, and these are not among our more dirty
19 units, nor are they on the whole our less efficient units.

20 They're expensive but they're not dirty.

21 A. As you point out, it's their expensive nature that makes
22 it exactly, not their dirty nature.

23 MR. TRAFTON: Mr. Garwood, a question for you or a
24 couple of questions.
25

EXAMINATION OF STEVE GARWOOD

1 BY MR. TRAFTON:

2 Q. Do you claim that the operation of the proposed Black
3 Nubble plant will reduce the cost of electricity to Maine
4 consumers?
5

6 A. What I believe it will do is lower the Maine clearing zone
7 price, which will translate to lower cost electricity than
8 would otherwise occur if you don't have such projects like
9 Black Nubble being dispatched.

10 Q. Bearing in mind that the output of this wind plant will be
11 small at best, 54 megawatts in ideal circumstances, that
12 it will depend entirely on whether the wind blows at the
13 right speed, and it will be generated in the sub area of
14 the grid that is full of other renewable plants, bearing
15 all this in mind, will you please tell us how often a bid
16 of zero from Black Nubble wind plant can be expected to
17 actually reduce the bid stack, that is, knock off the top
18 bid of a gas or oil plant? How often would that be likely
19 to happen?

20 A. I couldn't give you the answer as to how often, but it
21 will occur whenever the demand and supply is such that
22 assuming the full output of this wind project, 54
23 megawatts, would be enough to satisfy the demand whereby
24 that 54-megawatt offset will allow for not dispatching
25 another unit that was on the margin which for the most

1 purposes in New England would be a gas unit in Maine.

2 Q. What my specific question is, how often --

3 A. No one knows. No one knows how often this particular wind
4 project will actually displace and how many megawatt hours
5 of it will be displaced from this project.

6 Q. I know you don't know and I don't know, but this is --
7 you're making this claim and it is being made as a -- one
8 of the important benefits of your project.

9 If we had those wind data, we could ask somebody like
10 Tom Hewson to do the analysis. In fact, his opinion --
11 what it's worth, he's not here -- is it would be very
12 infrequent that there would be any --

13 MR. THALER: I have to object to him trying to
14 testify for somebody who's not here under oath. Move to strike
15 that.

16 MR. TRAFTON: Let me move on now to Mr. Hanisch.

EXAMINATION OF JOHN HANISCH

17 BY MR. TRAFTON:

18 Q. Mr. Hanisch, in 2006 the National Electric Congestion
19 Study identified congestion at the Maine/New Hampshire
20 line as one of the 40 worse points of congestion in the
21 United States. You're nodding, so you're aware of this
22 study?

23 A. Yes, I am.

24 Q. Well, let me go on, I haven't asked you the question yet.
25

1 A. Too bad, that would have been an easy one.
 2 Q. Congestion at the border of New Hampshire could effect
 3 Black Nubble's ability to effect emissions at, for
 4 example, the Bow, New Hampshire plant, could it not? The
 5 Bow, New Hampshire plant has been mentioned as one of
 6 those dirty coal plants we'd like to shut down.

7 Is it not true that congestion -- perhaps not in the
 8 Wyman hydro export area -- but perhaps congestion beyond
 9 that point could curtail the benefits, the emission
 10 benefits, that you claim?

11 A. That's an interesting question. I'm certainly not a
 12 transmission expert. You'd have to ask a transmission
 13 expert.

14 Q. You guys all talk about the same thing.

15 A. I'm familiar with this issue. My testimony in my prefiled
 16 last year and the application last year talked about the
 17 fact that Maine isn't always a net exporter of
 18 electricity.

19 There are times, and history has shown, when Maine is
 20 an importer of electricity. During the times when we
 21 would be importing electricity, if we had wind here in
 22 Maine, we wouldn't have to import as much assuming the
 23 wind was blowing at the same time that we were importing
 24 electricity.

25 Now, if I had used both as the source of that 400,000

1 tons -- or pounds -- per day of emissions, if I used both
 2 as the criteria for how much reductions there would be,
 3 you would be right. I would have way overestimated the
 4 amount of reductions that would occur.

5 But there are two studies by ISO New England on what
 6 would be reduced when new power comes on-line. One of
 7 those is for all of New England, which says the gas-fired
 8 unit in New England, that will be reduced. So if I was
 9 going to do all of New England, I would have used that
 10 gas-fired.

11 But the other study said, what if you bring on more
 12 power in Maine, and that was a detailed study. It was
 13 probably more detailed than your expert testimony, your
 14 expert last year did.

15 They go through their entire system. They weighed
 16 all of the issues, and they said, when you bring in
 17 additional power, this is the amount of pollution, this is
 18 the emissions that you are avoiding.

19 So I have used a very conservative number in
 20 estimating those reductions, and quite frankly, the PUC,
 21 the OASIS, and the DEP all believe that bringing in wind
 22 power will reduce emissions.

23 Q. Is there any place in the testimony of any of those State
 24 agencies or representatives thereof that actually endorses
 25 the Black Nubble wind project? I want a yes or no answer.

1 A. I don't think so. How's that? Is that close enough?

2 MR. TRAFTON: Close. One last question. This one to
 3 Mr. Lee.

4 EXAMINATION OF HARLEY LEE

5 BY MR. TRAFTON:

6 Q. Harley, you make a great deal of support for your project
 7 from hikers. But is it true that at the annual meeting of
 8 the Maine Appalachian Trail Club in March of 2006 in
 9 Farmington you made a pitch to the assembled members --
 10 and there were at least 200 people there -- of asking the
 11 club to support your project?

12 A. I think that's correct, yes.

13 Q. After you had made your pitch, a motion was made to
 14 reaffirm the club's opposition to your project; do you
 15 remember that?

16 A. I do.

17 Q. The vote that was taken was unanimous except for one
 18 negative vote, which was yours.

19 A. I would like to respond to that briefly, I'm a hiker.
 20 When I was first measuring the wind up here on Sugarloaf
 21 many years ago, we didn't have the cell loggers that we
 22 had, so I had to backpack up there every month and swap
 23 chips.

24 I kept on going up the mountain and then I saw
 25 Redington and Black Nubble over in the distance -- it's

1 really an amazing site, not many mountains are shaped that
 2 way -- then after doing that for several months, I
 3 thought, I should find out more about that. I bet it's
 4 close to the trail.

5 So what I do is every time I would be up there and
 6 see hikers, I'd say, well, what do you think about wind
 7 power? It's pretty cool. What about on this mountain and
 8 Sugarloaf, and usually got a positive response. I was,
 9 well, what about over on that mountain?

10 And that's how this whole project began wasn't
 11 necessarily scientific but it was talking to hikers out on
 12 the trail about what they thought about the project.

13 MR. TRAFTON: There are an awful lot of hikers who
 14 don't agree with those hikers.

15 THE CHAIR: Thank you. I guess the question, this
 16 ISO study referred to, is that in the record?

17 MS. SPENCER-FAMOUS: The impact study?

18 THE CHAIR: No, the emission rate study that he
 19 referred to.

20 MR. HANISCH: It's called the marginal emission
 21 study. I know that the Maine study is on record or at least
 22 relevant portions of that study are on the record. I think the
 23 entire New England study is on record.

24 THE CHAIR: I'm speaking of this record for this
 25 hearing. It's here somewhere.

1 MR. HANISCH: I know the Maine one is because I
2 referenced it. The Maine one is one of my references in my
3 report.

4 THE CHAIR: Thank you. Well, we have a supporting
5 intervenor. Who's going to do that, Dave?

6 MR. WILBY: Thank you Mr. Chairman. Dave Wilby with
7 the Independent Energy Producers of Maine, 20 seconds,
8 Mr. Chairman, on behalf of the consolidated supporting
9 intervenors.

10 In the interest of time we have spoken with a couple
11 of the organizations -- Natural Resources Council and CLF --
12 which will follow with cross, and we've sort of consolidated
13 any questions we may have, so I'm just going to leave the
14 microphone here and we'll maybe come back later.

15 Thank you Mr. Chairman.

16 THE CHAIR: So you have no questions -- so we're
17 going to have one person kind of ask questions?

18 MR. WILBY: Well, I can't speak for the other
19 organizations as to what their plans are, but they had reserved
20 time previously with you, and we're going to yield back all of
21 our time and they can --

22 THE CHAIR: Okay, that's fine. In that case, the
23 next one was the NRCM. Do they have any questions?

24 MR. DIDISHEIM: We have a few.

25 THE CHAIR: Theoretically you have 40 minutes.

1 MR. DIDISHEIM: I think I'll start with questions for
2 Steve Pelletier.

3 My name is Pete Didisheim. I'm the advocacy director
4 for the Natural Resources Council of Maine.

5 EXAMINATION OF STEVE PELLETIER

6 BY MR. DIDISHEIM:

7 Q. Steve, I want to focus on your comment about the
8 ecological distances between the original project and the
9 Black Nubble project.

10 I'm particularly going to focus on getting a fuller
11 understanding for the record of some details in your
12 presentation.

13 It's clear that there's no northern bog lemming
14 habitat that's been documented on Black Nubble but there
15 is on Redington; correct?

16 A. That's correct.

17 Q. And there's no high value habitat for Bicknell's thrush on
18 Black Nubble but there is on Redington; correct?

19 A. We commonly ran into Bicknell's on Redington. We did not
20 see them -- we were surprised we did not see them on Black
21 Nubble.

22 Q. And you testified that there was no high elevation
23 wetlands, sort of sphagnum wetlands up on Redington?

24 There's none of that that you've identified on
25 Black Nubble; correct?

1 A. That's correct.

2 Q. And there's none of the krummholz stand conditions that
3 you see up on Redington, you don't see that down on Black
4 Nubble; is that correct?

5 A. Even on Redington it's only in small scattered places.

6 Q. And you clarified with a map that was Page 5 on your
7 summary that Black Nubble is not within the unfragmented
8 forest that has been mapped by the Appalachian Mountain
9 Club; is that correct?

10 A. That's correct.

11 Q. It's also clear from information from the Maine Natural
12 Areas Program that although Redington has what's called an
13 exemplary example of the S-3 subalpine forest, that
14 Black Nubble has not been given -- the habitat that does
15 exist there has not been given the exemplary rating,
16 there's only five of those in the state and it's tens of
17 thousands of acres.

18 Instead, Black Nubble only gets a good or fair
19 rating; is that correct?

20 A. That's correct.

21 Q. Now, the opponents have testified -- I believe it was Jody
22 Jones' testimony -- that the values between Redington and
23 Black Nubble are essentially identical.

24 Do you believe that that's accurate?

25 A. Absolutely not.

1 Q. You've testified that there will be about 64 acres of
2 habitat that will be cleared above 2700 feet, is that
3 correct, for the Black Nubble project?

4 A. That's correct.

5 Q. And 35 total acres, total acres, will be disrupted or
6 cleared permanently, the rest will revegetate?

7 A. That's true.

8 Q. This is 35 acres out of 1937 acres, I believe your
9 testimony said, above 2700 feet in the project area?

10 A. That's correct.

11 Q. What you say is about .02 percent of the PMA zoned lands
12 in the project area?

13 A. It may actually be 2 percent. Yeah, less than 2 percent.

14 Q. As far as you know, the number that has been established
15 by the -- I think it's the Maine Natural Areas Program --
16 the amount of land in PMA is about 139,000 acres; is that
17 correct?

18 A. That's correct.

19 Q. So we're talking about 35 total-acres impact out of
20 139,000 acres of PMA zone in the state?

21 A. A very small percentage.

22 Q. I'd like to focus on the species that have been identified
23 as potentially occurring within the Black Nubble area.

24 Your testimony said that there are four species of
25 concern, I believe, that have been observed on

- 1 Black Nubble?
- 2 A. That's correct.
- 3 Q. Could you explain a little bit about the difference
- 4 between I think what you said was screening process on the
- 5 species that would be on a screening list as opposed to an
- 6 observed species list?
- 7 A. Before taking off and starting to do a lot of different
- 8 surveys, we'll do a lot of desktop work. Some of the work
- 9 focuses on the studies that have been done by the US
- 10 Forest Service, a guy named DeGrath in particular.
- 11 It listed for the northeast all the different species
- 12 and the types of habitat that they find, whether or not
- 13 they're prime habitat, whether or not they can be used;
- 14 and essentially we go through that process, and then we
- 15 also have a series of other documents in-house
- 16 continuously being upgraded by the Department of Fish &
- 17 Wildlife that talk about species ranges.
- 18 So it's that type of analysis that tells us whether
- 19 or not we think certain species are going to be there, and
- 20 then it's our job -- particularly for those that may be at
- 21 risk or listed -- to focus our studies on trying to
- 22 determine whether or not they're there.
- 23 Q. Now, in the testimony of Maine Audubon, it's suggested
- 24 that there are 18 species of concern at Black Nubble and
- 25 then there's a list.

- 1 I would like to go through just a few of these and
- 2 make sure I understand whether you have actually observed
- 3 those species, whether you've detected them, trapped them,
- 4 observed them in the project area.
- 5 The Canada lynx, is that known to be in the project
- 6 area?
- 7 A. No, I wouldn't be surprised if it travels through.
- 8 Q. Is there a known risk of wind power projects to Canada
- 9 lynx?
- 10 A. No.
- 11 Q. The golden eagle?
- 12 A. There's been past reported studies of a pair that's been
- 13 around there by IF & W, more historical. We spent a great
- 14 deal of time doing surveys.
- 15 Again, there's no habitat on the mountain that they
- 16 typically use, places they wouldn't forage for. They may,
- 17 on occasion, find an individual one that could fly through
- 18 there but it's again not -- we list it but we don't see it
- 19 as a risk.
- 20 Q. What about the three-toed woodpecker?
- 21 A. There's potential habitat for those. They were not
- 22 observed.
- 23 Q. The spring salamander?
- 24 A. You find those more with kind of more permanent streams
- 25 and wetlands.

- 1 Again, the one thing about Black Nubble, it is
- 2 relatively a dry site. The lower elevation, the bog
- 3 valleys you're going to find the stream conditions where
- 4 you would more likely find those.
- 5 Q. Do you anticipate that the project as proposed would pose
- 6 any significant threat to species?
- 7 A. No, not at all.
- 8 Q. The long-tailed shrew?
- 9 A. Potential habitat. Again, we did a bit of small animal
- 10 trapping it was not found.
- 11 Q. Has there been any testimony that you're aware of that's
- 12 has substantiated that the project as proposed would pose
- 13 a threat to that species?
- 14 A. Not that or other small species.
- 15 Q. So the same would be true for the yellow-nosed vole?
- 16 A. That's correct.
- 17 Q. When you read that there's 18 species, as Maine Audubon
- 18 has suggested, of concern that are put at risk by this
- 19 project, do you believe that that's accurate?
- 20 A. It's an overexaggeration.
- 21 Q. You have read the testimony that expert witness Dr. Jeff
- 22 Wells has submitted as part of NRCM testimony; is that
- 23 correct?
- 24 A. That's correct.
- 25 Q. In earlier questioning today, it was suggested BY MR.

- 1 DIDISHEIM that that testimony said that Mr. Wells went up
- 2 and documented 54 Bicknell's thrush, but I assume you
- 3 actually know that I was with him and he did not document
- 4 54 Bicknell's thrush; is that correct?
- 5 A. It's just a projection I understand.
- 6 Q. So that's maximum utilization in that optimistic scenario
- 7 of how many -- so it was not accurate to have been told
- 8 that that was the interpretation of this study?
- 9 A. No, it's not at all.
- 10 Q. In the aerial photography of the project on some of the
- 11 display boards, there's essentially no timber cutting in
- 12 the Navy SERE land, which I assume suggests that the Navy
- 13 doesn't allow timber harvesting in the same way that
- 14 there's been thousands of acres around Black Nubble and
- 15 Redington Township; is that correct?
- 16 A. I would come to that same conclusion.
- 17 Q. So might that be a reason why the US Fish & Wildlife
- 18 concluded that the SERE property was quite pristine?
- 19 A. Absolutely.
- 20 MR. DIDISHEIM: I next would like to ask some
- 21 questions of Mr. Anderson.
- 22 THE CHAIR: Are you going to object to something,
- 23 Mr. Plouffe?
- 24 MR. PLOUFFE: This isn't cross-examination in any
- 25 sense I've ever heard of it. It appears to be a series of

1 leading questions with answers of yes or no of the witness.
2 This is not Mr. Didisheim's witness. Maybe if he could ask
3 questions instead of giving statement and then asking for a yes
4 or no.

5 MR. THALER: Mr. Plouffe asked a lot of questions
6 that were yes-or-no questions. I thought that's what cross is.

7 THE CHAIR: My -- I think that his -- I agree to some
8 extent that he's reading a lot of stuff into the record that's
9 already been put in the record, at least that's my impression.

10 Take note, please, Peter. If you have a specific
11 question, I guess we'd appreciate that you ask it, but
12 rereading stuff into the record I don't think helps us any.

13 PARTICIPANT: We can't hear you.

14 THE CHAIR: I just asked him to be a little more
15 circumspect. Putting stuff in the record that previously was
16 put in the record and I kind of had the same reaction that
17 Mr. Plouffe did, I guess.

18 So I'm asking him to ask a question as opposed to
19 making statements that can be affirmed. Thank you.

20 MR. DIDISHEIM: Okay.

21 EXAMINATION OF DWIGHT ANDERSON

22 BY MR. DIDISHEIM:

23 Q. Mr. Anderson, I want to get a fuller understanding from
24 you about the process that goes into the construction and
25 putting into place the wind turbine as has been suggested

1 by the Black Nubble wind farm application.

2 You've been involved in the Mars Hill project. Could
3 you just give us a fuller understanding of what's
4 involved, the machinery, and precisely what will happen on
5 this site?

6 A. Actually, your question -- my involvement in the Mars Hill
7 projects has really just been up to review the site as it
8 relates to wind power. As far as the erection, I think it
9 would be a better question for Tim to answer.

10 MR. FOLSTER: We would use similar type of equipment
11 as we did at Mars Hill that would consist of large bulldozers,
12 excavators, up-haul, off-highway haul trucks to move the earth
13 and rock to where it's needed.

14 The design for Black Nubble is much more conservative
15 in that the side slope treatment has been designed to minimize
16 the impact. At Mars Hill, the centerline, the line that was
17 given, we were given a template addressed to be technical that
18 we did not have limitations on how wide the sections could be
19 to the road to the turbine pads. On Black Nubble it's much
20 different. We're instructed to limit our side slope
21 disturbance.

22 EXAMINATION TIM FOLSTER

23 BY MR. DIDISHEIM:

24 Q. So the permit application is very specific in terms of
25 limitations and constraints that you'll need to operate

1 in?

2 A. Certainly the final design plans will show that.

3 Q. Your testimony said that the blasting would be much less
4 than traditional construction projects of this size and
5 magnitude.

6 Could you explain what you mean by traditional
7 construction projects?

8 A. We have done many mall projects, highway projects
9 requiring much more blasting than this project. Just some
10 examples, the Augusta mall project required almost half a
11 million yards of blasting. The 395 project in Brewer
12 required 400,000 yards of blasting. The Augusta -- excuse
13 me, Waterville Commons project was 400,000 yards of
14 blasting.

15 We expect to be about a third of that on this job.

16 MR. DIDISHEIM: I think that's all for Mr. Frick
17 [sic].

18 I have a question for Randy Mann.

19 EXAMINATION OF RANDY MANN

20 BY MR. DIDISHEIM:

21 Q. In terms of the reassessment by Maine Mountain by the
22 economic viability of this project, you mentioned that
23 there were various changes in economics that would affect
24 the Black Nubble project, including REC prices and carbon
25 prices.

1 Then you alluded to -- and also increasing demand by
2 states and possibly the federal government for renewable
3 energy.

4 Are there specific laws that have been passed in the
5 interim over the last year that have affected the
6 projections of revenues?

7 A. There have been, speaking generally now, across the
8 country several new states have passed renewable portfolio
9 standards.

10 So that shows you the trend towards more demand for
11 renewable energy. There's also been in Congress a federal
12 RPS requirement that's been debated and passed by one
13 branch of Congress. There's clearly a very significant
14 trend towards that.

15 And then some of the developments with the RPS rule
16 here in Maine being further clarified in the RGGI rules as
17 well.

18 Q. I gathered from listening to some of the witnesses that
19 there had been some changes, particularly with the design
20 of the road, over the last year from when it was
21 projected. It actually had resulted in an improvement in
22 some way in terms of the environmental impacts compared to
23 the original.

24 With the passage of time, you have made some
25 accommodations.

1 Would you like to elaborate at all about how the
2 current Black Nubble project has even reduced the impacts
3 compared to what it would have been as part of the larger
4 project?

5 THE WITNESS: I think this would be a better question
6 for Dwight, actually.

7 MR. ANDERSON: Yes, as we talked a little bit
8 earlier, we did extensive field work last summer. We spent a
9 lot of time up on the mountain. I hiked up to the top, looked
10 at the alternate routes that we hadn't looked at before to
11 really help what we had done, and we made slight adjustments to
12 the roads, as I said, to get outside of some wetlands that were
13 encountered on the Upper Black Nubble access road, as well as
14 some steep slopes that were observed.

15 These were minor, subtle shifts, but certainly
16 improvements relative to, you know, protecting natural
17 resources of that mountain.

18 MR. DIDISHEIM: I guess I have one question for Terry
19 DeWan, and I think that may be it.

20 EXAMINATION OF TERRY DeWAN

21 BY MR. DIDISHEIM:

22 Q. Terry, one of the photos that you included in your summary
23 this morning has a large dotted line for the future
24 expansion for the base lodge area for Saddleback and the
25 view is from the Appalachian Trail.

1 I'm not aware of what's proposed within that --
2 within that dotted line. Could you please tell me more
3 detail?

4 A. Yes, Terry DeWan. That was part of the application that
5 Saddleback made for a D-PD zone change, and within that
6 area, there's going to be a number of facilities based
7 upon their long-term plan.

8 There will be additional lifts, there will be
9 additional base lodges, there will be an additional ski run,
10 there will be some amount of residential development, some
11 parking areas, roads, and so forth. Those have not been
12 designed yet, but we do know that this is the area that
13 the LURC Commission ultimately looked at.

14 The other thing about that diagram, that did not
15 include all the area that had been rezoned as a D-PD.
16 There was additional land that went down beyond the
17 vicinity of the lake.

18 Those are the areas that were closest to the
19 Appalachian Trail.

20 MR. DIDISHEIM: I guess I'll give back the rest of my
21 cross-examination time.

22 THE CHAIR: The next one is the Conservation Law
23 Foundation, 15 minutes. They are going to be questions, right?

24 MR. MAHONEY: Very few, Mr. Chairman. And really
25 just of Mr. Mann and Mr. Most.

1 In large part the questions have already been asked
2 in the cross-examination by Mr. Didisheim. We don't have too
3 many questions.

4 Also, our witness, Dr. Wake, we'd like to get him on
5 this afternoon because he has classes tomorrow, so we'll keep
6 this very brief.

7 Sean Mahoney with the Conservation Law Foundation.

8 EXAMINATION OF RANDY MANN

9 BY MR. MAHONEY:

10 Q. Mr. Mann, could you tell me how many megawatts of wind
11 power Edison International currently generates in the US?

12 A. In the US we have just about a thousand megawatts worth of
13 wind projects that are either in operation or
14 construction.

15 It's probably, oh, close to 600 megawatts or so that
16 are in operation and the balance are in construction right
17 now. We're adding new projects.

18 Q. So 400 in current construction and 600 existing. Of that
19 600, how much has come on-line since 2000, the year 2000?

20 A. The bulk of it has, I think, probably at the end of 2000
21 we would have had about 150 or so megawatts, something
22 like that.

23 Q. Is it your opinion that the bulk of that wind power has
24 displaced carbon-based fossil fuel sources?

25 A. Yes.

1 MR MAHONEY: This is a question to either you or
2 Mr. Most. I just want to get clarification. We talked
3 about this a couple of times today.

4 EXAMINATION OF MATT MOST

5 BY MR. MAHONEY:

6 Q. Will new wind power generation cause by itself the cost of
7 power to increase in the state of Maine?

8 A. Absolutely not. Wind power -- all other things being
9 equal, it will cause the cost of wind power to reduce.

10 MR. MAHONEY: Thank you. That's all I have,
11 Mr. Chair.

12 THE CHAIR: Would you do that again please. Say that
13 again. Ask the question and let him answer it again.

14 BY MR. MAHONEY:

15 Q. Will new wind power generation cause the cost of power to
16 increase for Maine consumers?

17 A. No. The simple introduction of wind power into the grid
18 will not cause prices to increase, it will all cause
19 prices to decrease all things being equal.

20 The difference between that and what I said earlier
21 was the addition of carbon restrictions and the addition
22 of a carbon trading program has the impact of increasing
23 power prices because it affects the fossil-fuel-based
24 power generators.

25 A wind power service, it puts out -- it doesn't have

1 any of those carbon costs that the fossil fuel units have.
2 That does not seem to capture that increased price, that's
3 increased revenue.

4 THE CHAIR: I don't want to get started again. I
5 just caution you when you ask questions like that and the
6 answers, it would help us if they were reasonably consistent
7 because you make us wonder what you said before.

8 I'm sorry, because it is very confusing and we're not
9 experts in this at all. I'm just saying.

10 I'll give you -- you've got some time left.

11 BY MR. MAHONEY:

12 Q. So without wind power, the cost of power -- kilowatt hour
13 were a dollar, let's say -- if you introduce new wind
14 power generation, would you expect that kilowatt price to
15 decrease because of the availability of power generated by
16 wind?

17 A. The addition of wind power to the grid has the effect of
18 displacing higher costs and the higher price fuels at the
19 marginal -- I hate to use that lingo -- but the unit that
20 is setting price is the expensive unit.

21 The wind unit comes on as zero price. So it has the
22 effect of reducing power prices.

23 The distinction between that and what I was saying
24 earlier was that when you consider the addition of costs
25 to the power generation community from carbon, they have

1 the effect of increasing prices.

2 Wind reduces that impact, and this is something that
3 the PUC testified that the addition of wind reduces the
4 reliance on fossil fuels, particularly gas, and as a
5 result reduces the price of power and volatility of the
6 price of power to what it would have been without the
7 addition of wind.

8 MR. MAHONEY: Thank you, that's all the questions I
9 have.

10 THE CHAIR: I have a thousand more but I'm going to
11 restrain myself.

12 Yes, TransCanada, do they have questions?

13 MS. BROWNE: No, Mr. Chairman. No questions.

14 THE CHAIR: Thank you.

15 MS. BROWNE: We're trying to get back on schedule
16 here.

17 THE CHAIR: Appreciate your concern.

18 MR. THALER: Mr. Chair, excuse me.

19 THE CHAIR: Hold on a second.

20 MR. THALER: I'm going to identify who I'll need up
21 there. Mr. Hanisch, Woodlot, DeWan and Segal. I think that
22 will be it.

23 THE CHAIR: While they're assembling, does the court
24 reporter need a break?

25 (There was a break in the hearing at 2:58 p.m. and

1 the hearing resumed at 3:09 p.m.)

2 MR. THALER: I'm just going to ask some quick
3 questions, members of the Commission, following up on specific
4 questions that were asked this afternoon.

5 EXAMINATION OF JOHN HANISCH

6 BY MR. THALER:

7 Q. Mr. Hanisch, you were asked some questions by
8 Mr. Didisheim and in terms of the question of emissions
9 and what would be displaced, in the record from last
10 summer was -- and you were here last summer when Dr. Colin
11 High testified to the Commission on behalf of Conservation
12 Law Foundation; is that right?

13 A. Yes, I was.

14 Q. Back at that time Conservation Law Foundation was neither
15 for nor against the whole two-mountain project, just as a
16 point of reference.

17 Dr. High did a study and testified that the full
18 project -- and obviously the numbers somewhat different
19 this time -- would avoid emissions of NOX, N-O-X, and SOX,
20 S-O-X, and CO₂ and would also avoid significant emissions
21 of fine particulate matter -- mercury, organic compounds,
22 and some others.

23 You were asked a question earlier about acid. I'm
24 not an expert in that area.

25 If NOX is avoided, is NOX a contributor to acid rain?

1 A. Actually I wasn't the one who was asked that question, and
2 it kind of struck me as odd because I am the air quality
3 expert here.

4 But NOX does impact both smog and acid rain, so those
5 pollutants will reduce acid rain, so that was a
6 misstatement.

7 Moving on to Mr. Pelletier.

8 EXAMINATION OF STEVE PELLETIER

9 BY MR. THALER:

10 Q. There was a question asked of you, I think by
11 Mr. Didisheim, who was referencing US Fish & Wildlife's
12 description of the area around the SERE facility if you
13 recall that.

14 Did US Fish & Wildlife review any aspect of the
15 pending Black Nubble project?

16 A. My understanding is that they did review it and determined
17 that they weren't going to comment.

18 Q. Was that with respect to the wetland impact from this
19 project?

20 A. And the associated wildlife impacts as well.

21 Q. You're going to have to speak into the mic.

22 A. Because of the associated wetlands, it allows them to look
23 at wildlife issues and decided not to comment.

24

25

EXAMINATION OF TERRY DeWAN

1 BY MR. THALER:
 2 Q. While we're on SERE, Slide 26 from Mr. DeWan's
 3 presentation of the SERE facility, can one of you --
 4 Mr. DeWan, do you have a laser pointer -- can you just
 5 explain to us -- I think we heard reference to some of the
 6 structures there, helicopters and others -- can you tell
 7 us what we're looking at there?
 8 A. I really don't know what it is we're looking at, but I
 9 know there is development that you see here, there are
 10 several structures. There's a large H in ground, I assume
 11 it's a helicopter landing pad.
 12 You see the structure down here. There are mounds of
 13 earth in this area, and a road system.
 14 Q. Where is Black Nubble in that picture?
 15 A. This is Black Nubble right here. The project area runs to
 16 this point up to there and down a little bit off the slide
 17 to the left.
 18 Q. And the road to the SERE facility is obviously already
 19 there as well?
 20 A. That's correct, the Dallas Road.
 21 Q. Just a couple of questions now that I have you Mr. DeWan,
 22 Ms. Segal.
 23 Mr. Plouffe asked you some questions about views and
 24 360 views, and I'm not going to go toe-to-toe with Bill on
 25

1 hiking, but having been up the Caribou Speckle a couple of
 2 weekends ago, there's a 360 view there, if you're on a
 3 mountaintop with 360 views, for example, from Caribou
 4 Speckle, a number of places, Bald Face and Evans Notch,
 5 you can see Mount Washington, for example, or around here
 6 you might be able to see the towers of Sugarloaf.
 7 Is what we're talking about when we're talking about
 8 angle of views, field of vision, things like that, when
 9 you have a 360 that there is a lot of opportunity to sit,
 10 have your lunch, and not look at one particular location
 11 of the view?
 12 A. You certainly have that freedom of choice to be there and
 13 to orient yourself in any direction you want to.
 14 Up in these areas around Saddleback, there are
 15 beautiful views in all directions.
 16 Q. So, for example, when Mr. Plouffe was showing you Yosemite
 17 National Park here behind me and -- by the way,
 18 Black Nubble is not in a National Park, is it?
 19 A. It's not in the National Park. As far as I know, the
 20 National Park Service never attempted to gain control of
 21 it, unlike a piece of land on top of Saddleback where they
 22 have a scenic easement.
 23 Q. But Bill was getting out of your car, walking down a trail
 24 through the woods, and seeing a view or you can sit and
 25 look at it.

1 If behind you are woods and a parking lot, that
 2 wouldn't be a 360 view, that would be more of a focused
 3 view; is that correct?
 4 A. I would think so.
 5 Q. While we're talking about mountaintops, I know having
 6 tried for many years to duplicate an experience I had on
 7 top of Mount Washington years ago where I could see the
 8 ocean because it was so clear, that despite getting up at
 9 4 in the morning and still climbing on days that I think
 10 are clear, there seems to be more haze in the atmosphere
 11 in Maine.
 12 Is that something based on your experience and
 13 modelling places around the state is a trend in terms of
 14 ozone?
 15 A. I'm not a weather expert. I really cannot comment on
 16 that.
 17 It certainly was a factor, though, in our determining
 18 when to take the photographs. We did the best we could
 19 because there were so many days we were up there it was
 20 hazy.
 21 MR. THALER: One or two other questions,
 22 Mr. Chairman, and I'm done.
 23 BY MR. THALER:
 24 Q. We had -- Mr. Plouffe asked you questions, well, isn't it
 25 true you could see the project from certain locations or

1 how many turbines.
 2 And again to clarify two points: One is, when he's
 3 talking about those views, we're talking about views that
 4 are at least 4 our more miles away, and therefore to
 5 evaluate what those views would look like, would be
 6 holding this exhibit out -- 21-A or -B -- in front of me
 7 approximately arm's length, and then looking at the
 8 relative size of a third to a half inch; is that correct?
 9 A. Yes.
 10 Q. Last question. We heard questions about how people would
 11 respond to those views. You were here last summer and I
 12 know you've read all of the various testimonies.
 13 Are there people, hikers, and others to your
 14 knowledge who have said in surveys and sworn testimony to
 15 this Commission that they would welcome the opportunity to
 16 see wind turbines in the 21st Century in Maine?
 17 A. We have definitely heard that testimony. We also heard
 18 that up at Mars Hill they've actually had to buy two buses
 19 to accommodate the people that are coming up there to get
 20 tours of the area.
 21 Q. In terms of the -- really last one -- we made up time from
 22 this morning.
 23 This is a serious question, I'm sorry.
 24 Mr. Plouffe spent a lot of time questioning you,
 25 Mr. DeWan, about testimony you gave last summer and this

1 and about the differences between your evaluation of the
2 project.

3 Can you in a nutshell tell the Commission your -- how
4 you have arrived at your assessment of the Black Nubble
5 impact in the prefiled testimony, in your sworn testimony,
6 to the Commission in terms of the differences of what you
7 said last summer in this?

8 A. Not in a nutshell but I'll give you a few points.

9 THE CHAIR: Are you objecting, Mr. Plouffe?

10 MR. PLOUFFE: Yeah, I thought this was a 5-minute
11 bullet question, not a regurgitation of his whole visual impact
12 assessment.

13 MR. THALER: I'm not asking for a regurgitation.
14 There were several hours -- three or four hours of cross on my
15 panel. You gave me 5 minutes, I'm trying to do 5 minutes.

16 But I think -- even if it's 10, I think as the
17 applicant we're entitled to try to clarify several hours of
18 testimony.

19 THE CHAIR: I'll let Mr. DeWan answer that question.

20 MR. THALER: Thank you.

21 THE WITNESS: I'll try to keep it brief. We've done
22 several things since then. We saw the Mars Hill project. We
23 had not seen that the last time. We have a much better
24 understanding of visual impacts of towers of a similar height
25 from various viewing distances.

1 We have a better understanding of the lighting
2 conditions. We now know about the mitigation that's being
3 offered on the Redington site. That was not present last time.

4 DeLuca-Hoffman, of course, has done 75 percent
5 engineering drawings at this point and have answered a lot of
6 the questions that we had about potential visual impacts.

7 I think what we did is reassess the project based
8 upon the concerns that we heard by the Commission.

9 We still think, though, that the turbines are going
10 to be visible from the locations that we talked about. We now
11 know, as we did before, how big they will be.

12 MR. THALER: That's all I have. Thank you.

13 THE CHAIR: Okay.

14 MR. PLOUFFE: Mr. Chairman, I believe the rules also
15 have recross if we're going to have redirect. I'll limit it
16 just to Mr. DeWan.

17 THE CHAIR: In the spirit of generosity, I'll let you
18 go ahead and ask your one question. Okay.

19 MR. THALER: I don't have an objection to asking one
20 question as long as it relates only to anything I said on
21 redirect of Mr. DeWan.

22 MR. PLOUFFE: And it does.

23 MR. THALER: Thank you.

24
25

EXAMINATION OF TERRY DeWAN

2 BY MR. PLOUFFE:

3 Q. Terry, you told me last fall -- last summer when you were
4 here that you had visited other wind power sites,
5 including, I believe, Searsburg in Vermont, that you had
6 reviewed the materials given to you by DeLuca-Hoffman
7 regarding the roads, and you heard it today that the road
8 changes were minimal.

9 What on earth does having seen Mars Hill have to do
10 with your visual assessment since you had already seen
11 wind farms? Are you telling me that last year your visual
12 assessment was based on an absence of knowledge about what
13 wind plants look like?

14 A. The significant difference is that Searsburg has towers
15 that are 200 feet tall. These are obviously a lot taller.

16 We deal with an object at a different scale,
17 different colored blades. I think that there is a -- we
18 were very curious as to how far you would be able to see
19 them from.

20 I have seen wind turbines in many other states and in
21 Europe, nothing as compared to the size of the facility
22 that's being proposed here and also that has been
23 completed up in Mars Hill.

24 It has a direct bearing on our understanding of what
25 the impacts will be.

1 Q. This is the biggest plant you've seen internationally?

2 A. No --

3 Q. Oh, I thought that's what you said.

4 A. It's the largest towers, this generation. I've been out
5 to several facilities in California and seen thousands of
6 them.

7 Q. So you tell me of all the wind plants you've seen
8 internationally, these have the biggest towers?

9 MR. THALER: One question became three.

10 THE CHAIR: Let's call it good right there because
11 this is just going down a slippery slope.

12 We need to move on because we've got a couple of
13 other intervenors that we need to hear from this afternoon.

14 I think it's the supporting intervenor group at this
15 point. They have 20 minutes. There's two of you who are going
16 to testify.

17 MR. HOLT: There are four of us who will be up here,
18 one will be speaking.

19 Good afternoon, my name is Ed Holt. I'm speaking
20 this afternoon on behalf of the consolidated intervenors, Maine
21 Interfaith Power & Lights, Maine Energy Investment Corporation,
22 Ed Holt & Associates, Incorporated, and Independent Energy
23 Producers of Maine.

24 We're comprised of three nonprofit organizations and
25 one consulting firm is engaged in work to ensure clean energy

1 in Maine, and what I intend to do this afternoon is summarize
2 very briefly the key points that we have prefiled in our
3 testimony.

4 Before I do that, I would like to just ask each of
5 the parties to introduce themselves briefly, just name and
6 organization so you know who's affiliated with what.

7 MR. HAZZARD: Chuck Hazzard, Maine Energy Investment
8 Corporation.

9 MR. WILBY: Dave Wilby, Independent Energy Producers
10 of Maine.

11 MR. FLAGG: David Flagg, Maine Interfaith Power &
12 Light.

13 MR. HOLT: Going by organization, Maine Interfaith
14 Power & Light, in its testimony, contends essentially that
15 there is a clear demonstrated need for the project from the
16 standpoint of energy need and environmental benefits.

17 Maine Interfaith Power & Light bases this conclusion
18 on increasing sales that they are seeing as marketer of cleaner
19 electricity, products to Maine consumers, and a growing
20 consumer concern over spiralling energy costs, and a
21 detrimental environmental impact of fossil-fuel-generated
22 electricity.

23 Maine Interfaith Power & Light also contends that
24 Black Nubble would reduce a substantial amount of carbon
25 dioxide being emitted from existing power plants in New

1 England, not to mention the avoidance of upstream impacts from
2 fossil fuel use, including mining, drilling, pipeline
3 construction, and fuel transportation.

4 By contrast, NEPOOL offers products to its consumers
5 that are free of greenhouse gas emissions, including wind and
6 hydro, and by contrast, the electricity that a typical Maine
7 household chooses -- not chooses, but purchases -- under the
8 standard offer service is responsible for over 4500 pounds of
9 CO₂, NOX, and SO₂ emitted into the atmosphere each year.

10 The Maine Energy Investment Corporation addresses
11 primarily the suitability of the Black Nubble site and the need
12 for wind power. MEIC contends that Maine will need to balance
13 the preservation of the western mountains against the backdrop
14 of climate change, which you've heard a lot about here in this
15 proceeding. Also increase threats to respiratory health and
16 other health ailments and national security and economic
17 development. These are broad issues that I realize go beyond
18 the factors that this Commission often considers, but that's
19 the context.

20 MEIC feels strongly that the proposal -- the revised
21 proposal establishes the desired balance between the
22 preservation of Maine's western mountains against the need to
23 enhance our renewable energy to a clean energy portfolio.

24 The testimony of Ed Holt & Associates -- that's me --
25 really goes to the question of consistency with State energy

1 policy, the fact that clean energy has strong public support
2 and is not likely to have negative effects on property values
3 or tourism.

4 With respect to Black Nubble's consistent with energy
5 policy, I point out that any ambiguity around the goal of
6 increasing new renewables to 10 percent by 2017 that was passed
7 last year by the legislature was clarified in this year's
8 session by the passage of LD 1920, which mandated an increase
9 in the share of new renewable generation during the same period
10 of time, 2008 to 2017.

11 I also added in my testimony that in addition to the
12 small consumer demand that MIPL -- Maine Interfaith Power &
13 Light -- has seen, there is also significant demand for
14 renewable power among Maine's large and medium electricity
15 customers. These customers include many prominent Maine
16 institutions, including colleges, hospitals, and this facility
17 here, Sugarloaf USA.

18 The Independent Energy Producers of Maine addresses
19 the demonstrated need criterion by explaining how the
20 development of the project would be consistent with the energy
21 policies of the State of Maine and New England and federal
22 governments.

23 Some of those policies include Maine's renewable
24 portfolio standard, or RPS, as well as those of other
25 New England states, which ask for demand for these types of

1 projects.

2 The position of the PUC that new wind resources would
3 reduce electricity prices, lessen price volatility, and
4 increase system reliability. The importance of the addition of
5 wind power to Maine's ability to successfully implement its
6 climate action plan, and the regional greenhouse gas
7 initiative, which I know you've also heard about.

8 ISO New England's analysis, the development of new
9 non natural gas generating facilities, such as wind, was
10 "important for both the economy and electric system
11 reliability."

12 IDPM also echos the comments of the Maine PUC at
13 State Office of Energy Independence and Security, citing the
14 fact that they state that wind facilities will avoid on a 1:1
15 basis fossil fuel generation and associated emissions.

16 Second, Black Nubble will not add an appreciable need
17 for operating reserves. Third, will help Maine make progress
18 toward reducing our dependence on fossil fuels, which means
19 that we need to develop not only these new clean energy
20 products, but also energy efficiency at the same time.

21 And finally, the Independent Energy Producers note
22 that the challenging numerous ingredients necessary for a
23 location for wind develop limit the number of economically
24 viable sites. There's not one best reasonably available site,
25 rather there's a handful of sites in the state that can achieve

1 an appropriate balance between allowing development of a clean
2 energy source with the environmental and zoning values
3 administered by the Commission.

4 MIPL's assessment of the Black Nubble project is
5 consistent with the zoning and environmental values
6 administered by the Commission and its potential adverse
7 impacts are negligible.

8 Our four organizations strongly encourage you to
9 approve the Black Nubble-only proposal. We believe that
10 projects such as this are needed to make the necessary
11 transition from polluting fossil-fuel-generated power to clean,
12 renewable electricity, and we support the timely approval of
13 this application so this project can begin construction.

14 Thank you for your time.

15 THE CHAIR: Does anybody else on your group? Okay.
16 Ed? Anybody down here?

17 Nobody has any questions.

18 MS. KURTZ: I do.

19 THE CHAIR: I knew if I waited long enough I could
20 invoke one.

21 MS. KURTZ: I guess I'm really struggling with this
22 relationship that's being drawn between strong public support
23 and no negative economic impact on real estate or recreation.

24 I'm wondering, can you give me a little more
25 information about this public support, what demographic this

1 is, where the -- who's been queried, who's been polled, what
2 these numbers represent, where they are in the part of the
3 state, that kind of thing just so I can get a feel for the
4 opinion, you know, where that opinion is coming from.

5 MR. WILBY: I think -- Dave Wilby for IPM -- I think
6 maybe each organization addressed some of the public support
7 maybe in a different way. I'll explain my comments and
8 hopefully they'll address your questions, and if not, somebody
9 else can. Certainly Ed is the one who has provided some
10 testimony on the property values and some of those issues.

11 In my testimony I simply reported on the public
12 opinion poll that was done by a reputable pollster here in the
13 state in May, I believe, and in fact I that I attached a copy
14 of the question and results and the details of the poll.

15 That was a typical public poll by my reading and I
16 have some experience with these things from past professional
17 experience, a very typical poll. I don't know off the top of
18 my head how many people were polled, but it's probably
19 typically in the 400 range, which is accepted by pollsters
20 generally in this state as being a representative answer.

21 If you see in the governor's race, you know, these
22 are the poll numbers. That's the sort of polling process that
23 would have been used here. So it's a general poll of all
24 demographics across the state is my understanding.

25 Now, I did not commission this poll, I didn't have

1 anything to do with it other than I read about it in the paper
2 and obtained a copy of the question and the response, which
3 showed very, very strong support for wind power, over 85
4 percent, either strongly or somewhat favoring the development
5 of wind power in this state. And the question, again, was an
6 exhibit, Exhibit B, in my testimony.

7 MR. HOLT: With respect to your question about
8 economic impacts, the basis of my statement is in the record
9 from last summer. It has not changed from then.

10 It was based on research that I undertook to
11 determine what kinds of studies have been done with respect to
12 impacts on property values, specifically on wind projects.

13 There were a number of them, but there were two that
14 stood out as being really head and shoulders above the others
15 in terms of the breadth, the variety and type of projects that
16 they analyzed.

17 One of them was a survey of projects that had been
18 undertaken between I think 1993 and 2000 and the county tax
19 assessors in the counties or in the neighboring counties where
20 those projects were located were surveyed as to whether it had
21 any impacts on property values. The answer to that was -- the
22 conclusion was no.

23 The other study that I found that I think is
24 particularly useful, it was a separate study designed. It
25 included ten projects in different parts of the US, including

1 Pennsylvania, New York and Vermont -- I think Vermont were the
2 regional ones in our region -- that looked at property values
3 before and after a wind project went in; also looked at
4 comparable communities nearby that were not affected by the
5 wind project, did not have it in their views.

6 So in one case they're looking at properties that are
7 in the viewshed of the wind projects, and in the other case
8 you're looking at comparable properties that are not in the
9 viewshed.

10 It looked at several different scenarios, and in most
11 of the scenarios they found that property values of those
12 properties that were in the viewshed of the wind turbines
13 increased in value faster than those in the comparable
14 communities, suggesting -- one conclusion, I suppose, would be
15 that it adds to property value but my take away from it would
16 really be that it does not have a negative effect.

17 One can have opinions based on your like or dislike
18 of the appearance of wind turbines in your neighborhood, but
19 the facts don't bear that out.

20 MS. KURTZ: Are you the only two that are going to
21 respond?

22 MR. HOLT: It depends on what the question is. We're
23 here to respond to any questions that you might have, but we'll
24 respond specifically to the things that we testified about.

25 MS. KURTZ: The question -- the thing that comes to

1 my mind, then, is certainly throughout the country there are
2 obviously different types of neighborhoods, different kinds of
3 landscapes, different kinds of economies, industry, the
4 whole -- you know, it runs the gamut. I just -- I'm not sure
5 that any -- that we're comparing apples to apples.

6 MR. HOLT: Anything like us anywhere else.

7 MS. KURTZ: Well, I guess you could say that in a
8 nutshell. I guess the next question I would have is, have
9 the -- when we're talking about something as specific as real
10 estate, have the local realtors been asked? Has an impact
11 study been done for this region? It is a little different than
12 us, I guess, in Oregon. It's certainly not like a
13 Pennsylvania.

14 From a broad sweep, you could say yes, there are no
15 negative economic impacts, but it seems to me that a project of
16 this size and precedent sort of setting project that it really
17 deserves a study that is close to home.

18 MR. HOLT: I think I heard two questions in that.

19 One is, why don't we just ask real estate agents.

20 Agents reflect what they think is happening in the
21 market. They develop opinions, they list to what people tell
22 them, but it's not a very scientific survey.

23 The two surveys that I cited -- and the first one
24 that I cited or that I referred to -- they specifically chose
25 to ask assessors rather than real estate agents because

1 assessors have no interest in what property values are doing,
2 they just simply reflect what's happening.

3 In the second study, they looked actually at the
4 property -- at valuations or transactions, and there were some
5 in total, some 25,000 different pieces of property and
6 transactions that were looked at. In that case, again, they
7 were looking at some factual data about what the property
8 values are as opposed to what somebody thinks they will be or
9 might be under different scenarios.

10 So in one case I think it would be more speculative;
11 in the other case I think -- I tried to restrict my research or
12 reporting on what I testified to was those that focused only on
13 experience-based results as opposed to what might be.

14 Now, the second question that you raise is, shouldn't
15 there be something closer to home, and I suppose it would be
16 nice to have something closer to home, it would be more
17 reassuring, but we don't have that.

18 So what I tried to do in my research and my testimony
19 was reflect what I felt were the best -- and again by best
20 meaning best designed and most objective -- and in terms of the
21 variety of situations that are covered, yes, I know Maine is
22 special to us but I can tell you that people that live in
23 Montana or Minnesota or New York or Pennsylvania believe that
24 their hills or their countryside is very special to them, too,
25 because they grew up with it. It has the same emotional tug to

1 that that our mountains or our coast or other parts of the
2 state have to us.

3 So while they don't -- I would say the other site --
4 the Vermont site is somewhat similar to ours. It is a
5 mountainous area site which is heavily forested, small
6 communities, not right nearby.

7 The other sites are going to be different, yes, but
8 they're all, again, the properties are still residential
9 properties, people have to look at it or get to look at it --
10 depending on your point of view.

11 If it were just one study from, say, Washington,
12 Oregon or any other place, I would be more inclined to agree
13 with you or to hesitate to take the results as being applicable
14 to us here.

15 But when you look at the studies that look at a range
16 of projects, a range of settings, and the kind of variety of
17 types of economic activity and occupation and so on that goes
18 on there, with the same kind of powerful results I think that
19 we can apply those results here in Maine and that's why I
20 reported them in my testimony.

21 THE CHAIR: Okay?

22 MS. KURTZ: Yes, thank you.

23 THE CHAIR: Okay, Ed?

24 MR. LAVERTY: (Indicates yes.)

25 THE CHAIR: All right. I guess that brings us to --

1 do you have any questions Mr. Thaler?

2 MR. THALER: Yes, Sarah Tracy will be doing this.

3 THE CHAIR: Okay, ten minutes, please.

4 MS. TRACY: Thank you.

5 EXAMINATION OF ED HOLT

6 BY MS. TRACY:

7 Q. We heard a fair amount of discussion on economic benefit
8 and property values, and I think the discussion has been
9 informative. Just to put it in context, in the Washington
10 study that you looked at, Mr. Holt, a year ago, isn't it
11 true that that study looked at projects where there were
12 90 turbines on average?

13 A. That were on average. Larger projects than the one we're
14 looking at here.

15 Q. And here there are 18 turbines?

16 A. That's correct, 18 turbines here versus an average of 90
17 turbines in the projects that we were examining.

18 Q. So despite the fact that these were much larger projects,
19 the conclusions were in that study?

20 A. The conclusions, again, were that there were no
21 discernible impacts on property values.

22 Q. Were you here during the presentation of Mr. DeWan's
23 testimony?

24 A. This morning?

25 Q. Yes.

- 1 A. I was present. Whether I was paying attention fully is
2 another question.
- 3 Q. During that testimony -- if I could indulge you for a
4 minute -- there was a card passed out, and I'm going to
5 give it to you now. The commissioners already have this
6 card.
- 7 For your benefit, Mr. DeWan testified this morning
8 that the nearest residence is at least 4 miles away from
9 our project, and if you take a look at this card that
10 Mr. DeWan also provided, you can see on the left-hand side
11 of that card it refers to a view of what turbines would
12 look like from Saddleback Junior at 4 miles.
- 13 This -- I understand Commissioner Kurtz' point about
14 sort of global conclusions based on studies that aren't
15 from Franklin County, but you are the person to have sort
16 of done a broad survey of impacts to residential
17 properties and looked at all the details of these studies
18 and based upon taking a look at this card and what the
19 turbines would look like and then filtering it through
20 your assessment of these studies, do you have any reason
21 to believe that views of this size would have any
22 different impact or result than those studies?
- 23 A. The short answer is no, I don't think it would necessarily
24 be different. Let me elaborate if I might just a little
25 bit.

- 1 I read those studies most recently, I read the full
2 studies, a year ago before I filed my testimony, so I may
3 not remember completely; but because of the variety of
4 projects that were examined, the range of view, that is,
5 the distance from these properties to the wind turbines
6 and the projects in question, varied -- would include all
7 of these ranges that you see here on this card from 4
8 miles or less to up to 10 miles perhaps.
- 9 So my observation -- trying to connect this to those
10 studies, I would say that those studies are looking at
11 visual impacts that are similar to these and that they
12 would be reflected in the economic or property analysis
13 values that I reported earlier.
- 14 MS. TRACY: Thank you very much for your time. I
15 have no further questions.
- 16 THE CHAIR: Good. Go ahead, Ed. Ed had a concern
17 about the question.
- 18 MR. LAVERTY: Mr. Holt, you testified that in
19 response to questions of Commissioner Kurtz that it would be
20 nice if we did have a more specific economic analysis related
21 to the impact of this project but that we don't and
22 consequently might undertake in a sense a bibliographic search.
- 23 Do you think, then, given the project of this size,
24 of this amount of money that's being invested, that the
25 applicant should have undertaken an economic analysis specific

- 1 to this area?
- 2 MR. HOLT: That's a great question and I'm glad you
3 gave me the opportunity to clarify that because the answer is
4 no.
- 5 I don't think a project of this size would warrant a
6 study of magnitude that is going to be taken here. The studies
7 that were undertaken, particularly the second one I mentioned,
8 was really an independent one, independent of any particular
9 project. It wasn't in support of a particular property, it was
10 trying to address this question that comes up in every
11 situation, or nearly every situation, where a wind project is
12 proposed.
- 13 It's to allay concerns or fears that property
14 owners -- that they're going to be negatively impacted. I
15 said, it would be nice to have that information because it's
16 hard for us to accept sometimes information that isn't local,
17 you know, it comes from somewhere else so therefore there's
18 some reservation about whether or not it applies here.
- 19 That's why I said it would be nice to have it, but I
20 did not intend to mean that the applicant or that any -- not
21 even just this one -- but an applicant should undertake this
22 for every project that is proposed.
- 23 THE CHAIR: I guess that's it. Unless Mr. Plouffe is
24 going to stand up, I think you better run right now.
- 25 MR. TRAFTON: I requested time.

- 1 THE CHAIR: Of course, yes. Just as a reminder to
2 ourselves again, these questions need to be directed to
3 testimony that was by these individuals and not try to get them
4 to answer questions that were presented by other people.
- 5 Please keep that in mind.
- 6 MR. TRAFTON: The question's for Ed.
- 7 EXAMINATION OF ED HOLT
- 8 BY MR. TRAFTON:
- 9 Q. I think there's a bit of déjà vu here. You may remember a
10 year ago we discussed these issues of property values and
11 the kinds of studies that might be relevant.
- 12 First of all, could you tell me what your
13 qualifications are in the realm of valuating property
14 values and so on?
- 15 Do you have any, or have you simply read these
16 studies?
- 17 A. A bit of the latter, but I have no experience as a
18 property evaluator. I'm not a tax assessor or anything
19 like that.
- 20 I do have -- I have training -- a master's degree in
21 urban planning -- which does provide training and an
22 overview in various kinds of environmental/economic
23 impacts and how you go about doing that. I have a strong
24 research background, which I have employed over my 30-year
25 career.

1 Q. Thank you. You say that you think it's really not
2 necessary to do economic impact studies in any detail for
3 a project of this size, and yet as the nearly 2000
4 signatures on our petition, mostly from people who live
5 here either full time or part time, indicates there is a
6 great deal of anxiety in this area about this project, and
7 it's very controversial and the commissioners have to make
8 a decision.

9 Many assertions have been made about benefits,
10 economic benefits, and they are unfortunately not backed
11 up by any thorough studies, and it seems to me --

12 MR. THALER: Excuse me, Mr. Chairman, that's
13 testifying.

14 MR. TRAFTON: Sorry.

15 BY MR. TRAFTON:

16 Q. What would be so difficult about doing an economic impact
17 study, or even a study, a limited study, on the probable
18 effects on property values? I don't see that that's very
19 hard.

20 A. Well, the issue would be where would we find another wind
21 project in Franklin County to evaluate -- to determine
22 before-and-after effects.

23 If this applicant were required to undertake a study
24 of this sort, he would probably end up doing what --
25 something similar to what these other two studies have

1 done, that is, they would identify other wind projects
2 elsewhere, and they would probably pick the ones nearest,
3 which are in New York and Pennsylvania and in Vermont
4 which were included in this earlier study, and evaluate
5 them on the same basis or a similar basis to what was
6 already done.

7 So again, it might be done by this applicant, but it
8 wouldn't be specific to some before-and-after study here
9 in Franklin County.

10 Q. You are aware, I know, of the studies that's been done of
11 the Cape wind project by Beacon Hill Institute.

12 Would you say there are some striking similarities
13 between Cape Cod and the opposition to the Cape wind
14 project and this area and the opposition to it: Tourism,
15 second home, second home real estate market, and so on?

16 That study, as you know, found that there would
17 probably be severe harmful effects.

18 MR. THALER: Excuse me, again.

19 THE CHAIR: Dain, you really have to stick to the --

20 MR. TRAFTON: I'm sorry.

21 THE CHAIR: Your opinions, ask questions. Mr. Thaler
22 is probably asking me to strike that from the record.

23 MR. THALER: Mr. Trafton will get a chance to testify
24 tomorrow.

25 THE CHAIR: If you have a question about the Cape

1 wind project you want to ask him, that's fine.

2 MR. TRAFTON: I will move on to a different subject.

3 BY MR. TRAFTON:

4 Q. Also for you, Ed, LD 1920 -- a question about that --
5 does -- do the requirements of LD 1920 have to be
6 satisfied by the inclusion of 1 percent of renewable power
7 in the provider's portfolio?

8 A. Yes, it's a requirement that it will be 1 percent in the
9 first year, 2008, increasing by 1 percent each here
10 thereafter to 2017.

11 Q. Well, isn't there an alternative to including the
12 1 percent of actual wind power? There are two
13 alternatives?

14 A. I understand what you're getting it. You can comply with
15 this requirement either by buying renewable energy
16 certificates or by paying what they call an alternative
17 compliance mechanism which is essentially a cap on the
18 cost of complying.

19 If you cannot buy certificates for less than the cap,
20 then you can pay the capped amount in order to meet your
21 obligation.

22 Q. So would you say that that escape hatch -- as we might
23 describe it in the bill -- actually provides a kind of
24 relief for a board like the commissioners of LURC to not
25 feel pressured into approving projects just in order to

1 satisfy this requirement? As you just said, it can be
2 satisfied in other ways?

3 A. Frankly, I think it's way beyond the role of LURC to
4 decide whether it's adequate for an obligated entity, a
5 utility of low serving energy to pay versus buying
6 certificates.

7 The effect is, from my perspective, from a policy
8 perspective, the effect is the same.

9 Q. But there would be no requirement to approve this project
10 so that there will be wind power available?

11 A. There is no -- LURC is an independent Commission. There
12 is no requirement on them to approve this project.

13 MR. TRAFTON: Right. Question for Dave.

14 EXAMINATION OF DAVE WILBY

15 BY MR. TRAFTON:

16 Q. You say in your written testimony that according to MPUC
17 comments on the Stetson wind project that LD 1920 is
18 "intended to promote wind power." The last five words
19 were quotation from you.

20 I can't find that statement in the MPUC comments or
21 in the legislative document itself. Can you point them
22 out to me?

23 A. Well, as I don't have those comments in front of me, I'm
24 unable to do it right now. I believe I footnoted that,
25 but I would have to look at the specific comments.

1 Q. In the -- you mention the poll, which has come up several
2 other times today, this poll which shows very strong
3 support for wind power in Maine. I have what you have
4 handed out in front of me.

5 Does it -- did it have anything to do at all with
6 this particular project?

7 A. The question posed, as anyone who has the exhibit can see,
8 does not specifically address this or any other specific
9 project; but it did start with a note that this Commission
10 is considering several multi-million dollar proposals for
11 projects in the UT.

12 So not by name but certainly by reference, yes.

13 Q. Well, people support wind power, but I don't see the
14 reference. Can you show me the reference to this
15 particular project?

16 A. Well, I said, there's no specific -- there's an indirect
17 reference I would suggest.

18 I mean multi-million dollar proposals for wind
19 development projects in the unorganized territories in
20 Maine. That's a direct quote, and I don't know how you
21 would characterize that without including this project.

22 MR. TRAFTON: One last question, Mr. Chairman,
23 please. Back to, Ed. I'm sorry, I should have asked you this
24 earlier.

25

1 costs. In fact, the whole issue about reliability is not
2 a physical issue about having more capacity; it's really a
3 question of economics and do you purchase the ancillary
4 services that firm up the loads. That usually costs,
5 according to all the studies that I've seen, between 2 and
6 \$5 per megawatt hour.

7 Q. But this is a special charge for wind and wind only.

8 Now, would you agree --

9 MR. THALER: Let me just move to strike that as well.
10 That's testimony and not a question.

11 MR. TRAFTON: Just a minute. I asked it as a
12 question.

13 MR. THALER: But you then went on to say something
14 else with a declarative sentence, that's all.

15 THE CHAIR: Just ask the question, Dain.

16 MR. TRAFTON: I don't think I'm the only one who's
17 used at declarative sentence.

18 THE CHAIR: I understand. Some of this might make
19 good testimony, so don't give away your only testimony.

20 MR. TRAFTON: Thanks for that help, Bart.

21 I do have one last question.

22 THE CHAIR: That's only one of my tips for
23 testifying.

24 BY MR. TRAFTON:

25 Q. Would you agree that whatever price, special price, is set

1 EXAMINATION OF ED HOLT

2 BY MR. TRAFTON:

3 Q. There's a section in your testimony, your written
4 testimony, that I wasn't clear about. You refer to Tom
5 Hewson's point from last year that the amount of wind that
6 can be accommodated by a transmission system without
7 causing significant problems is in the range of 10 to 20
8 percent of peak load.

9 In this figure, cited by Mr. Hewson, came from a
10 National Renewable Energy lab study. But you suggested a
11 percentage may be much higher.

12 Are you aware that the Bonneville Power Authority --

13 A. Administration.

14 Q. I'm sorry, Administration -- having reached 15 percent
15 penetration by wind has recently initiated a rate case in
16 Utah asking for an extra price for the balancing services
17 for wind? Are you aware of that?

18 A. Not specifically but I do follow what's going on in the
19 northwest since I did live there for 20 years.

20 Q. This is relatively new.

21 Are you aware of the price?

22 A. I understand.

23 Q. The price they're seeking is over \$4 a megawatt hour?

24 You're probably not aware of that?

25 A. Actually, that's very much in the range of balancing

1 for wind will ultimately be borne by the rate payers
2 and/or in the case of subsidies, taxpayers?

3 A. Of course.

4 MR. TRAFTON: Thank you. That's it.

5 THE CHAIR: Thank you Dain.

6 MR. TRAFTON: Thanks for bearing with me.

7 THE CHAIR: We'll make a lawyer out of you yet.

8 All right. I think that -- unless the Commission has

9 any other questions or comments -- no comments, okay.

10 That brings us to the Conservation Law Foundation
11 testimony. I believe there are two folks for that.

12 MR. THALER: I just want to note for the record,

13 Mr. Chairman, we are exactly on schedule now.

14 THE CHAIR: Thank you. Who should we thank for that?

15 I guess all of you.

16 I'll make note of your departure. Just for the

17 record, Lisa, just please make note that Commissioner Schaeffer

18 had to leave.

19 (Commissioner Schaeffer left the hearing at

20 4:00 p.m.)

21 MR. MAHONEY: Good afternoon Mr. Chairman and fellow
22 commissioners. My name is Sean Mahoney. As I said earlier,

23 I'm from the Conservation Law Foundation.

24 With me today is Dr. Cameron Wake from the University

25 of New Hampshire.

1 As much as it is against my personality and training,
2 I'm going to let Dr. Wake do most of the talking this afternoon
3 with respect to his testimony and I'll follow up with a few
4 brief comments at the end.

5 I would note that Dr. Wake was not here this morning,
6 Chairman Harvey, when you swore in the witnesses, so he will
7 need to be sworn in before we get going.

8 He also has a PowerPoint presentation, and I do have
9 hard copies of those slides.

10 THE CHAIR: That PowerPoint will have to go into the
11 record?

12 MR. MAHONEY: Yes.

13 THE CHAIR: It's prefiled, we already have the
14 prefiled in the record?

15 MR. MAHONEY: Yes.

16 (Witness was sworn.)

17 THE CHAIR: Please go ahead when you're ready. We'll
18 put the PowerPoint in and share it with the intervenors and
19 Marcia will assign it a number.

20 DR. WAKE: Thank you very much. I'm here to talk
21 today about a project that I've been involved with for the last
22 three years called the Northeast Climate Impact Assessment, of
23 which you have that report and I've seen many copies floating
24 around.

25 I just want to clarify a couple of things about

1 how -- who did the work on this report.

2 It was organized by the Union of Concerned
3 Scientists, but the results in the report come from the
4 research from 50 independent scientists who work in teams to
5 address different issues, such as climate change and the impact
6 on different sectors.

7 The report was put together primarily for the general
8 public and policymakers and decision makers, but it is based on
9 the results. There are 15 papers that have been published or
10 soon will be published in the peer reviewed literature.

11 So I'm going to highlight some of the results of our
12 research with a particular focus on Maine and a particular
13 focus of forest and recreation in Maine.

14 But I would like to start by telling you the main
15 conclusion of the report, that the climate that our children
16 and grandchildren experience in the northeast depends
17 fundamentally on the decisions we make today and over the next
18 decade about how we produce and use energy. Those different --
19 I'm really going to talk about different climate outcomes
20 depending on what those decisions are.

21 All right, I just want to start briefly and let you
22 know -- I think most people know -- our climate in fact is
23 already changing. Work that I've led at the University of
24 New Hampshire shows that our winters have warmed significantly
25 over the last three or four decades, we have a decrease in

1 snowfall, we have fewer days of snow on the ground, our ice-out
2 dates are earlier -- and that's coming from the USGS work in
3 Augusta -- our lilacs are blooming 4 days earlier, we have
4 frequent extreme precipitation, our stream runoff occurs
5 earlier in the season, and sea levels are continuing to rise.

6 So we now -- we know very clearly that our climate is
7 already changing.

8 What we did as part of the Northeast Climate Impact
9 Assessment was to really look at how our climate might change
10 in the future depending on two different scenarios, carbon
11 dioxide emission scenarios.

12 As I said, this was 15 independent scientists who
13 work together, the geographic scope in the northeast, and it's
14 really based on peer reviewed literature.

15 This really gets to the crux of the matter. We
16 looked at two different scenarios for what our greenhouse gas
17 emissions would be.

18 We cannot predict human behaviors, so instead of
19 predicting it, we have developed -- or we used scenarios
20 plausible story lines and what might happen, and this comes
21 from the United Nations Intergovernmental Panel on Climate
22 Change.

23 We looked at two of them. Here we're looking at time
24 periods from 2000 to 2100, and these are our greenhouse gas
25 emissions and carbon dioxide equivalent, CO₂, different kinds

1 of carbon.

2 What we see here, we looked at the A-1 and F-I
3 scenario, which is this red dashed line, where our emissions of
4 greenhouse gases continued to grow over the course of the 21st
5 Century as we rely primarily on fossil fuel for our energy.

6 The other scenario we looked at was a B-1 scenario
7 where our emissions grow much more gradually, flatten out by
8 the middle of the century, and then actually begin to decline
9 out toward the end of the century.

10 This results in the atmospheric concentration of
11 carbon dioxide in the atmosphere at 2100 of about 550 parts per
12 million, two times natural background levels. This higher
13 scenario results in atmospheric concentrations of 970 per
14 million, about 3.5 times natural background levels.

15 What we did was we took those emission scenarios and
16 then fed into a series of global circulation models, and we
17 used three state-of-the-art global circulation models, one that
18 comes out of Princeton, one that comes of the NFF in Boulder,
19 and one that comes out of the United Kingdom.

20 That output is fed into these grid of different sizes
21 for different models, and one of the things that we did was
22 take the output from those big grid cells and we did a
23 statistical down-scaling so that we could get much finer
24 information on how our climate might change across this region.

25 All right, I'm just going to jump right into the

1 conclusions here. I'll be happy to answer any questions, and
2 there's a lot more detail in the report itself.

3 As we look out -- this 1900 to 2100 -- and as we go
4 out over the course of the next hundred years, we see that the
5 mean annual temperature is out into the middle of this century
6 are about the same under the high emissions or the lower
7 emissions scenarios.

8 The amount of climate change we're going to
9 experience over the next 20 to 30 to 40 years is already in the
10 pipeline, and that's because of the thermal inertia in the
11 climate distance and the fact that we've already dramatically
12 increased greenhouse gases.

13 The difference really happens after 2050, and what we
14 see is under the higher emission scenarios, we see temperatures
15 rising on the order of 6.5 to 12.5 degrees Fahrenheit by the
16 end of the century, compared to under the lower emissions
17 scenario of 3.5 to 6.5 degrees Fahrenheit.

18 I would argue -- and we talked about this in the
19 report -- that this climate change that we can adapt to, and
20 this represents catastrophic climate change that would be very
21 difficult to adapt to. The range that you're seeing here is
22 the range of the three different global circulation models that
23 we used to get these results.

24 The other piece of this -- in fact the models do a
25 pretty good job at recreating climate change over the course of

1 the last 50 years.

2 All right, what does this mean for Maine? We looked
3 at a sense of how hot summer would feel with the combination of
4 temperature and humidity, and we put together this set of
5 migrating state maps. Here is Maine right now, the average
6 from 1961 to 1990.

7 Under the higher emissions scenario, by the end of
8 the century we would expect Maine to have a climate comparable
9 to that -- at least the southern half of Maine -- climate
10 compared with that that occurs in Washington, DC today.

11 Conversely, under the lower emissions scenario, we
12 will expect the summertime climate of Maine to feel something
13 like that of New York state or southern Pennsylvania.

14 This is a change that we're going to have to live
15 with and adapt to, this is a change we can potentially avoid if
16 we actually change our behavior and reduce our greenhouse gas
17 emissions.

18 We also looked at drought, and this was one of the
19 most shocking results that came out of our study. We took the
20 output and we actually did a water balance equation, a soil
21 moisture equation, that actually looked at inputs from
22 precipitation and output from evaporation. So we're looking at
23 the water that is available to use.

24 What we have plotted up here, 1961 to 1991, the
25 average, is the frequency of drought per that 30-year period.

1 So the colors here in 10 to 15 indicate for most of this
2 region -- and certainly in Maine -- we experience a short-term
3 drought one those three months about every two to three years.

4 In terms of a long-term drought, we experience very
5 few, if not zero, long-term droughts greater than six months
6 every 30 years. That's what the colors mean here.

7 Let's just focus on this image in the lower left-hand
8 panel here. Under the high emissions scenario, by the end of
9 the century you can see that we would expect drought in the
10 entire region of Maine 30 times in 30 years.

11 That means that we experience a drought every year
12 and that drought is going to come in summertime because while
13 the precipitation goes up a little bit, the summertime
14 temperatures are going up a lot, there's a lot more
15 evaporation. We're moving to a world -- the high emissions
16 scenario -- where Maine would have to deal with drought all the
17 time.

18 We also looked at a hydrological model. We looked at
19 the snow cover, snow-on-ground days. You can see here, this is
20 climatological average, 1961 to 1990. What we're plotting here
21 is the frequency of days per month when there's snow on the
22 ground, average for winter: December, January, and February.

23 You can see most of Maine and the mountains of
24 New Hampshire and Vermont experience 30 days of snow cover per
25 month. That's what we are expect in this part of the world.

1 If we look at the higher emissions scenario at the
2 end of the century, what you'll see is that for most of that
3 season, 30 days out of snow on the ground, we're looking at
4 sort of 15 to 18 days on average with snow on the ground, so
5 less than half of the normal snow on the ground days that we
6 experience.

7 You will also notice that under the low emissions
8 scenario, there is certainly a reduction of snow-on-ground
9 days, but the higher elevation areas continue to have 30 days
10 with snow on the ground. There's a real difference once again
11 between the two scenarios.

12 All right. What are the impacts on forests going to
13 be? And this comes out of work that was led by Lou Iverson
14 from the US Forest Service.

15 We took out climate data that we generated with these
16 two different scenarios, and then we provided it to six
17 different teams, groups of scientists who looked at what the
18 impact would be on their specific sector.

19 So we looked at marine resources and coastal
20 infrastructure. What I'm going to talk about today are on
21 forests and on winter recreation, which really do in fact focus
22 on Maine.

23 Here you have the current, in terms of looking at a
24 climate analysis, that the habitat that's suitable for
25 different forest types, and you'll see that Maine, northern

1 Maine, is sort of covered in this green, which is really a
 2 spruce/fir forest that dominates much of that region.
 3 You'll see the golden area here is a
 4 maple/beech/birch forest, which gives us our tremendous and
 5 spectacular fall foliage season, and you'll see that the old
 6 hickory, in terms of the dominant species, don't occur here.
 7 It doesn't mean that these other species don't occur here, it
 8 just means that colors identified as dominant species that are
 9 suitable for the existing climate.

10 You can see if you look under -- if you look down
 11 here in under the high emissions scenario, right, we
 12 essentially see the entire loss of a climate that is suitable
 13 to support a spruce/fir forest.

14 When you in think of a spruce/fir forest in Maine, we
 15 get about half of our saw logs from that industry, we get 20
 16 percent of our pulp and paper. It's incredibly important for
 17 the economic vitality of the region, especially in the north
 18 country, and you see that that's spruce/fir forest almost
 19 entirely will disappear. You see a significant reduction in
 20 terms of the maple/beech and birch forests.

21 Under the lower emissions scenario, the maple/beech
 22 and birch will dominate up here, but we will retain some spruce
 23 and habitat that's suitable to spruce and fir.

24 So you can see, once again, major differences in
 25 terms of the emissions choices that we as a society make now

1 and over the course of the next decade.

2 Just some details here, under the higher emissions
 3 scenario, we even expect a 70 to 85 percent loss of the
 4 suitable habitat for the balsam fir, and a 50 to 70 percent
 5 loss suitable habitat for red spruce.

6 I would also like to add that Nick Rodenhouse from
 7 Wellesley did a very particular study looking at the effect of
 8 climate change on birds, and then as part of that, looked at
 9 the effect of what the loss would be for alpine zones that we
 10 have.

11 What he is forecasting that under the high emissions
 12 scenario, we would expect a complete loss of suitable habitat
 13 for Bicknell's thrush and other mountain-breeding birds,
 14 because we would essentially lose that habitat. There's
 15 nowhere for it to go.

16 As the climate warms, these habitats are going to go
 17 up mountains. That's where we find the Bicknell's thrush up
 18 high now, but essentially as it warms there's no land up above
 19 the high elevations, and that habitat would essentially
 20 disappear.

21 So what he has concluded is that we would expect the
 22 habitat for Bicknell's thrush to actually disappear under the
 23 high emissions scenario by the end of the century.

24 We also looked specifically of the distribution of
 25 the hemlock woolly adelgid. This is a disease that attacks

1 hemlock forests, it's prevalent in Connecticut, southern
 2 New York, Massachusetts. It's just coming into Kittery, in the
 3 southern part of the state in Maine; and it turns out that
 4 hemlock woolly adelgid is controlled in a large part by minimum
 5 wintertime temperatures. So if it's cold enough, it would
 6 essentially get killed off; if it's not cold enough it can
 7 survive the winter and reinfect the tree and spread.

8 What you see in the blue here is the climate
 9 conditions that represent the area where the climate currently
 10 allows for the threat of the hemlock woolly adelgid.

11 The red indicates the typical range for the hemlock
 12 woolly adelgid under the high emissions scenario. So
 13 essentially you see the spread of the woolly adelgid to the
 14 entire region except for this one little spot up here, two
 15 little spots up here, in northern Maine.

16 Conversely, under the lower emissions scenario you
 17 can see that it's going to continue to spread throughout the
 18 region but actually would not go into the northern part of the
 19 range. And so there's hope to preserve some of our hemlock for
 20 us under the low emission scenario.

21 Dan Scott from the University of Waterloo did a very
 22 detailed study on the effect of climate change on winter
 23 recreation and focused on those winter recreation aspects that
 24 were most important -- snowmobiling and skiing, alpine
 25 skiing -- and these are the results of his study.

1 What we're plotting here is for a number of different
 2 areas across the region -- why don't we look at northern
 3 New Hampshire, it's more comparable to where we are here --
 4 what we have plotted here is the average season length in days
 5 of the snowmobile season, and that is days when snow is greater
 6 than 4 inches on the ground. It's a threshold that is widely
 7 accepted in the industry.

8 Right here in northern New Hampshire, as is true in
 9 western Maine, there's over a hundred days that are suitable to
 10 support snowmobiling, which makes it very viable as an economic
 11 activity in the region.

12 If we look at right through 2070 to 2099, we have a
 13 number of days that we would expect snowmobiling to be suitable
 14 under the high emissions in red and the low emissions in
 15 yellow.

16 What you see for northern New Hampshire is it is
 17 reduced to slightly over 60; the numbers for western
 18 Massachusetts are actually reduced by half of the 50 days. So
 19 we go from it being a -- where we have more than a hundred days
 20 suitable for snowmobiling, which is classified as a long
 21 season, to being about 50 days, which is classified as a short
 22 season.

23 You do see in almost the remainder of the area --
 24 north country in New York, southern Vermont, western Mass, Down
 25 East Maine -- an almost complete loss of the snowmobile

1 seasons.

2 One of the things we couldn't do is what's the
3 response of the snowmobiler going to be? Are they all going to
4 come here? Or are they going to end up just quitting the
5 sport? That's not the type of analysis that we did, but there
6 would be significant changes to this significant business
7 across the region.

8 We also looked at the vulnerability of ski areas to
9 climate change. Now, snowmobiling is pretty clearly vulnerable
10 because they can't really make snow because of the long
11 distances over which they have to make snow. It's not
12 economically viable for them. So they don't have much adaptive
13 capacity.

14 Conversely, ski areas do have adaptive capacity and
15 have been using it over the course of the 15, 20 years where
16 they can make snow. And that adaptive capacity was an
17 expletive part of Dan Scott's model. He includes that, and so
18 he has the temperatures at which people can make snow, he uses
19 the temperatures we provided him to figure out how vulnerable
20 different ski areas are.

21 The threshold that he used in his study was whether
22 or not the ski area was open for more than a hundred days,
23 which is a rule of thumb in terms of economic viability, and
24 also whether or not they would be open for the Christmas
25 season. So in order to remain viable, it had to be open for

1 hundred days and it had to be open for the Christmas season
2 75 percent of the time.

3 So what you see here is that in the earlier part of
4 the century, 2010 to 2039 you can see the green are viable
5 areas, but essentially areas in the southern part of the region
6 no longer are viable.

7 If we skip right down to 2070 to 2099, what we see is
8 that we lose downhill skiing in the southern part of the
9 region. The only place that actually remains viable are the
10 mountains in western Maine -- Sugarloaf, Sunday River -- and
11 even areas in norther New Hampshire and northern New York
12 become vulnerable.

13 So you might think yahoo, we're going to see winters
14 here, but once again, we weren't able to actually model what
15 would happen to the demand of people to go skiing if all these
16 other ski areas actually closed.

17 But you can see that as a region it's highly
18 vulnerable to this warming climate.

19 All right, so I just want to come back to where I
20 started. I mentioned these different greenhouse gas emissions
21 scenarios on which we based our analysis, and I talked about
22 the A-1 F-I, which there's a great saying in New England that
23 says -- I learned when I came here -- if you're not careful
24 you're going to end up where you're going. That's exactly
25 where we're headed on this one if we continue to rely primarily

1 on fossil fuel.

2 How is it that we might actually begin to stabilize
3 our greenhouse gases and then reduce our emissions over time?
4 Well, there was a very influential paper that was published in
5 Science Magazine 2004 by Pacala and Socolow from Princeton, and
6 they talked about this notion of the stabilization triangles.

7 So here is the emissions track that we're on, and
8 this goes up to the middle of the century, right, there's sort
9 of monotonic growth in greenhouse gas emissions, and where we
10 need to be is we need to stabilize our emissions and eventually
11 decrease them.

12 So they call this the stabilization triangle, and
13 this triangle they then broke up within this series of wedges,
14 stabilization wedges. Each one of these wedges, as you get out
15 to 2050, represents 1 gigaton of carbon.

16 So the point I want to make here is that these wedges
17 really represent different potential strategies, and there's no
18 one strategy that can actually solve the problem to reduce the
19 7 gigatons of emissions by 2050.

20 There's a whole bunch of strategies that are smaller
21 that can add up. Actually, each one of these wedges that we
22 can add up to actually reduce our emissions. There's no silver
23 bullet, there's no one thing we can do.

24 Wind isn't a silver bullet, hydro is not the silver
25 bullet, carbon sequestration and capture aren't the silver

1 bullet. We're actually going to have to do them -- we're going
2 to have to find a group of them together that can significantly
3 reduce our greenhouse gas emissions.

4 So each one of these wedges represents a gigaton of
5 carbon, and here's an example of what we have to do to just
6 reach one of those wedges. These are right in their paper,
7 they came up with 15 different examples -- the one I want to
8 highlight here is switch wind power out for coal power.

9 If we want to generate one of those wedges by 2050,
10 we have to add two million 1-megawatt windmills. I present
11 this because I think it's very important for you to understand
12 the scale of the problem on the globe is that we as a society
13 in this country and globally need to figure out ways that we
14 can significantly reduce our emissions, and we have to do it in
15 the next decade, because if we don't do it in the next decade,
16 we're going to have an energy system that's going to take that
17 much longer to actually change.

18 The scale of the problem is huge, but I would argue
19 that actually this country is at its best to prevent the grand
20 challenge, and that's what our scientific constraints in this
21 problem are starting to provide is that we need to act now and
22 we need to act in big and bold ways to forestall that dramatic
23 climate change about which I spoke.

24 I think I'm probably over time. I'll stop there.

25 MR. MAHONEY: I won't add anything. I'll continue my

1 one-time policy of not adding any more than necessary and leave
2 it open for questions from the commissioners.

3 THE CHAIR: Thank you. Anybody have any questions?
4 Ed?

5 MR. LAVERTY: I guess this is as much a comment as
6 anything. I really appreciate your presentation and I want to
7 thank you for coming and sharing this information with us. Our
8 difficulty, however, is relating specifically to this project.

9 Do you have any observations about this specific
10 project or concomitantly, do you believe that wind power
11 projects, irrespective of where they're located or what their
12 impact might be in terms of elimination of certain habitat or
13 natural resources or their visibility impacts, that every
14 different magnitude of problems -- every wind project should be
15 approved irrespective of its specific impacts?

16 DR. WAKE: I'm happy to answer that question as long
17 as you realize it's outside my area of scientific expertise.
18 It's a personal reflection based on my understanding of the
19 scientific problem.

20 My answer would be no, I don't think we should put up
21 windmills irrespective of local concerns for the environment.

22 I think it's actually very important that we ensure
23 that the projects that do move ahead are ones that are viable
24 from an economic perspective and also from an environmental
25 perspective.

1 We really put this, at the University of
2 New Hampshire, through the rubric of sustainability. So we
3 have a climate system problem we have to deal with, we have a
4 biodiversity problem we have to deal with, a food and
5 agriculture problem, culture of society, and they all integrate
6 into this notion of help and integrity of human, of our eco --
7 no, I think it's critical that we put these projects up so that
8 they are both economic and they don't negatively impact the
9 ecosystem.

10 My big concern is that so much of the debate is
11 around relatively small impacts. There's a lot to the big
12 picture. I mean, we are talking about a catastrophic climate
13 change that's going to impact all human life, for everybody in
14 Maine, for everybody in this country, and everyone in the
15 globe.

16 I don't think most people understand the urgency that
17 we have a decade to turn this around before we hand our
18 children and grandchildren an absolutely and utter mess.

19 MR. LAVERTY: I tend to agree with you, please don't
20 misunderstand where I'm coming from, but I feel that --

21 DR. WAKE: I'm a little passionate.

22 MR. LAVERTY: I understand. I guess that's one of
23 the -- I don't know how to say this -- I think we recognize
24 that global change, or climate change, has tremendously complex
25 and important implications.

1 As you had implied, there are winners and there are
2 losers. There's a qualitative judgment that needs to be made.
3 I think that the scientific, and what we really appreciate your
4 efforts for, is to demonstrate the magnitude of the change but
5 all change is not necessarily bad.

6 I, for one, am very concerned about the type of
7 change qualitatively that is going to take place in Maine, but
8 I think it's important to point that out, is it just because
9 change is going to take place, there may be many people who
10 appreciate a Maine with warmer temperatures, I wouldn't.

11 So the mere assertion of the magnitude of change, it
12 seems to me, does not necessarily lead to the qualitative
13 determination that that change -- change is always necessarily
14 bad.

15 I make my own judgment, you make your own judgment;
16 but I think from a scientific basis, I think your documentation
17 of the magnitude of that change is very important for us to
18 keep in mind.

19 Whether that's good or bad, I think we have to
20 realize it's a scientific question, it's a value-laden question
21 that has to be resolved through public debate and discourse.

22 I also appreciate the fact that it is exceedingly
23 difficult to relate these large issues to a specific project
24 and tie impact to that specific project to the benefit of
25 effecting change and at the time same time balance that against

1 the impacts that are going to be undertaken by that specific
2 project.

3 I think you appreciate the complexity of the issues
4 we're trying to deal with.

5 DR. WAKE: I'd love to respond to that. We made a
6 concerted effort here to actually do more than let the reader
7 say, oh, there's change, that might be good or bad. That
8 really is the focus of the effort on the different sectors.

9 So we looked specifically at the marine sector and
10 the coastal infrastructure sector. And I would say throughout
11 this entire report, it -- and I've read it several times -- the
12 negatives far outweigh the positives in every one of those
13 sectors that we looked at from a scientific analysis.

14 When I say that, I say the entire loss of the
15 commercial fishing, the potential flooding of our coastal
16 regions. The loss of the hemlock fir forests and what that
17 means for recurring logging systems in Maine. So we have tried
18 to take that extra step in this report and not just stop at
19 climate change.

20 In terms of -- there's certainly a lot of complexity
21 around this particular project, but -- and I actually followed
22 this from a distance for a while, I am a scientist, I take an
23 academic view of this, I actually have skied for years in this
24 area, I love back country skiing and alpine skiing, I have a
25 wood lot over in Mason Township that I've had for a couple of

1 years and a small camp up there, I love to recreate in this
2 region -- it is important that we get on with the business of
3 dealing with the energy that we're going to produce to maintain
4 our quality of life in the future and decrease our carbon
5 footprint at the same time.

6 This project is a very important step in that. Just
7 because it's not the millions of megawatts that we need,
8 doesn't mean that it's not critical in terms of moving the
9 region forward.

10 I really think that Maine, and in particular
11 New England, who play a very valuable role, has the resources,
12 we have the technical resources, we have the innovative
13 resources, and we have the financial resources to actually lead
14 the country in working to solve the problem.

15 MR. LAVERTY: Thank you.

16 MS. KURTZ: I just have a couple of questions about
17 emissions in general. I do appreciate your presentation. It's
18 a little frightening.

19 I'm wondering, when you talk about emissions, we've
20 been talking about coal-fired plants and petroleum plants,
21 blah-blah-blah, how much of the emissions are actually coming
22 from energy producing plants versus cars.

23 DR. WAKE: I don't have the graph with me, but if we
24 look at New England wide, about 38 percent of our emissions
25 come from transportation.

1 I'm going to guess at the other numbers, but
2 somewhere around 25 percent from electricity production, and
3 then slightly less than that from residences, and then down low
4 at about 10 percent, it would be industrial and commercial
5 sources.

6 MS. KURTZ: How about nationwide?

7 DR. WAKE: We're heavy on transportation and light on
8 industry, and so transportation and electricity would be in the
9 same kind of ballpark nationally.

10 MS. KURTZ: That wedge that you had up there was a
11 wedge, and 10 or 15 -- the next slide, no, I'm sorry, in the
12 other direction, the 15 strategies, how are they organized?

13 DR. WAKE: They are not.

14 MS. KURTZ: They're not?

15 DR. WAKE: Pacala and Socolow said, listen, here's 15
16 ways that you can get a gigaton of carbon reduction by 2015.
17 Each one of these, if you read the paper, may allude to not
18 quite, but close to, excruciating detail on how you do that.

19 MS. KURTZ: Thank you very much.

20 MR. MAHONEY: And I would note just for the record
21 that at the hearing a year ago, there was testimony from Seth
22 Kaplan of the Conservation Law Foundation which was simply
23 based on this study from Socolow, the wedge theories.

24 THE CHAIR: Marcia, do you have a question?

25 MS. SPENCER-FAMOUS: Yes, I do. I don't want to

1 scare anybody any more, but I was listening to your
2 presentation and one point of clarification, if you could.

3 How much of the modelling took into account what's
4 been in the news, in the last couple of years they're calling
5 it global dimming, which is factoring it in would accelerate
6 the level of global warming.

7 DR. WAKE: The three global circulation models that
8 we obtained the output from actually deal with a whole range of
9 factors observed for change of climate, so there's a bunch of
10 natural factors for their output, but then there's the man-made
11 driven ones, like decreases in greenhouse gases.

12 We talked about global dimming, that's really driven
13 by an increase, so when we burn coal, we have sulfur dioxide.
14 That oxidizes the sulfate aerosol, which we call acid rain, but
15 when there's sulfate aerosol, the output is there to reflect
16 incoming solar radiation.

17 So while at the same time we've been heating the
18 planet because of greenhouse gas emissions, we've also been
19 cooling the planet because of the sulfate aerosols.

20 There's been a whole bunch of land use and land
21 coverage changes. At the same time we're cutting down forests,
22 especially in the tropics. It's changed albedo, which is the
23 reflectivity on the surface which are accounted for. The
24 planes that fly around high up in the atmosphere, with there
25 contrails from, which create clouds.

1 So all of those factors are actually taken into this
2 model, so it's not just a simple model driven by greenhouse gas
3 emissions, but it has all of those. So in fact, we have been
4 at the same time warming and cooling the planet.

5 In some ways global dimming is masking the rate of
6 warming that would otherwise be occurring as a result of
7 greenhouse gases.

8 MS. SPENCER-FAMOUS: So your models did take that
9 into account?

10 DR. WAKE: Absolutely. I should clarify, these are
11 not the models I used, but these were the model output that was
12 run by the United National Intergovernmental Panel on Climate
13 Change -- well, it was run by the different groups for them and
14 then we obtained the output from that and statistically
15 down-scaled it.

16 THE CHAIR: The CLF, are you supporting other things
17 than wind power as part of your program here?

18 MR. MAHONEY: As an entity, we support renewable
19 energy projects, whether they're wind power or tidal. We're
20 absolutely looking at that.

21 Another major focus of ours is reducing energy demand
22 and increasing energy efficiency. I think as you noted at
23 another hearing that the wind power is not the silver bullet
24 and quite frankly, it's probably -- much to your chagrin -- the
25 easiest of the options to do.

1 It's going to be much harder to reduce energy demand,
2 to get people to start driving two per car as opposed to one
3 per car.

4 It's going to be harder to get fuel efficiencies
5 increased from 30 miles per gallon to 50 miles per gallon.
6 Those are going to be some very hard decisions we're going to
7 make. Our focus is completely on that.

8 With respect to other cleaner technologies, we
9 supported natural gas facilities because we see that as a
10 transition fuel away from coal and carbon and it's better on
11 pollutants, but it still has the CO₂ impacts that renewable
12 projects don't.

13 Certainly the best energy is the energy that you
14 don't use. That's where you really are making the biggest
15 impact.

16 THE CHAIR: Thank you. There does seem to be a
17 certain irony in us worrying about global warming and carbon
18 emissions, their impact on snowmobiling and skiing, which are
19 great consumers of fossil fuels. So we're promoting one way to
20 not reduce them so we can save another one to do it.

21 MR. MAHONEY: Even though western Maine ski areas may
22 be "winners," of course to be a winner under the scenarios that
23 Dr. Wake was talking about, it's going to require snow making,
24 which requires water, which requires energy.

25 So you're right, even as a winner, it's going to be a

1 loser to some degree.

2 THE CHAIR: I guess probably I had better not pursue
3 that any further.

4 DR. WAKE: If I could respond very briefly. Hard for
5 snowmobile but you can imagine the hybrid snowmobile of the
6 future, the battery-powered snowmobile of the future, and also
7 you could imagine ski areas -- Sugarloaf and Sunday River are
8 already doing this -- they're buying -- I think they're buy
9 RECs, but they're powered primarily by wind.

10 We could actually enjoy those recreational
11 opportunities, you know, maintain our quality of life but
12 reduce our carbon footprint.

13 THE CHAIR: We're known as a people who want our cake
14 and eat it, too. Seems that's going to be difficult from what
15 you said.

16 I note we have cross-examination of this group by two
17 parties only, so I guess the applicant wishes to cross-examine.
18 He has 15 minutes, and then followed by NRCM/supporting
19 intervenors.

20 I take it that the other intervenors did not have an
21 interest in this particular testimony.

22 MR. THALER: I think we were the only two.

23 THE CHAIR: Okay. Go ahead, please.

24 MR. THALER: Thank you Mr. Chairman. Sean, I just
25 have one general question for you as director in Maine for

1 Conservation Law Foundation.

2 EXAMINATION OF SEAN MAHONEY

3 BY MR. THALER:

4 Q. I know when you testified at Stetson, but you're generally
5 aware that the Maine legislature has passed a law that
6 Maine increase its amount of renewables by 10 percent --
7 an additional 10 percent by 2017.

8 Are you generally aware of that?

9 A. Yes, I am.

10 Q. Other than the three pending wind farm applications before
11 LURC, are you aware of any other significant or meaningful
12 size hydro or other projects on the books that are being
13 reviewed by agencies in Maine?

14 A. No, I'm not. There are, as the Commission is well aware,
15 there are some Met towers for the project in northern
16 Maine in Aroostook County and there was an announcement
17 for another wind power project in Roxbury that was in the
18 papers, and they've got some Met towers up there.

19 As far as hydro, I'm not.

20 Q. Or any other renewable other than wind? Are you aware of
21 any other power plant proposals?

22 A. I'm aware of -- as far as renewable, I'm aware of a number
23 of tidal energy investigations going on. There aren't any
24 proposals for any specific tidal projects.

25 There is a proposal for a coal gasification facility

1 in Wiscasset, Maine, but that is just beginning the
2 process there. From our point of view, it has some
3 significant problems because it's -- the carbon capture
4 sequestration technology, which is necessary for a plant
5 like that to be able to control the CO₂ emissions is
6 currently not available, and it's quite frankly hard to
7 imagine how CO₂ could be sequestered given the geology of
8 Maine. I understand the closest place to do that would be
9 Georges Bank.

10 Q. Anyway, coal's not a renewable source; correct?

11 A. And coal's not a renewable source.

12 MR. THALER: All right. Moving on, Dr. Wake, I have
13 a couple of questions for you.

14 EXAMINATION OF CAMERON WAKE

15 BY MR. THALER:

16 Q. Mr. -- I don't know if you were here this morning or
17 afternoon, I guess, when Mr. Plouffe was asking questions
18 about your report, about the UCS report, but he was
19 suggesting that UCS was an advocacy group and therefore
20 this was an advocacy report.

21 Looking at the report that you have in your
22 testimony, it has -- whether it's 50 or 60 -- it says,
23 independent experts, including three from Maine -- USM,
24 Bigelow Laboratory, University of Maine -- and said it was
25 peer reviewed.

1 Were you one of the independent professors/experts
 2 involved in the project?
 3 A. I was one of the independent experts. I, along with
 4 Katharine Hayhoe, co-led the climate analysis part of this
 5 effort.
 6 Q. Were the studies that were being done that made up the
 7 ultimate report peer reviewed generally?
 8 A. Each and every study was peer reviewed, first peer
 9 reviewed by the group of scientists that are actually
 10 listed on the inside cover.
 11 So if you look at the synthesis team, very well known
 12 and respected scientists, but then it also went out for
 13 external peer review to a wide variety of scientists; and
 14 as I mentioned, all of the results that are presented here
 15 have actually been published in the peer reviewed
 16 scientific literature in an edition that I was actually
 17 the lead editor for.
 18 So I was involved in many of that, of that peer
 19 review process, upon which scientists -- and I'm sure
 20 you're all aware.
 21 Q. I want to switch now to a couple of questions that
 22 Commissioners Laverty and Harvey asked you and maybe
 23 Commissioner Kurtz.
 24 In terms of bringing the global aspect -- the global
 25 warming or the study back to Maine and to this

1 jurisdiction, the unorganized territories for LURC, I want
 2 to give you an exhibit, and I'll pass it out to the
 3 Commission and the parties?
 4 MR. THALER: Sarah, I think you've got the
 5 intervenors.
 6 Mr. Chairman, just for the record, while that's being
 7 passed out, the exhibit that I'm presenting and will offer as
 8 an article summarizing statements from University of Maine
 9 professors, as well as Maine IF & W staff and others, about how
 10 climate change already is affecting Maine's ecosystem.
 11 I'd like to ask you, Dr. Wake, some questions as to
 12 whether what they are reporting is consistent or not with what
 13 you were testifying about.
 14 BY MR. THALER:
 15 Q. The director of the University of Maine's Climate Change
 16 Institute said that over the next few decades the climate
 17 in Maine will become much more like northern
 18 Massachusetts.
 19 Is that generally consistent with what your report is
 20 finding?
 21 A. Yes; in terms of change, that has already occurred. I
 22 would almost say that it has become much like
 23 Massachusetts.
 24 Q. Some of the changes that they describe in here, for
 25 example, to wildlife, the threat of ticks causing more

1 moose and other wildlife mortality, the change of
 2 vegetation and forest types, are those consistent with
 3 what your report and the report of what UCS was suggesting
 4 is attributable to the fossil-fuel emissions?
 5 A. I would have to look at these in some particular detail to
 6 comment on each and every example. I did receive this
 7 article.
 8 What I would say is that what they're talking about
 9 in terms of the changes that they've seen in specific
 10 ecosystems are consistent with the types of climate change
 11 that I've been studying.
 12 I'm not an ecosystem specialist, but certainly the
 13 changes that they're talking about are changes that are
 14 resulting from warmer and a sometimes wetter and
 15 oftentimes drier climate, which may be confusing but
 16 that's what's happening.
 17 Q. When the people from Maine -- and in your report -- talk
 18 about the shifts in habitat, shifting so that the habitat
 19 in Maine would be more like Massachusetts, does it also
 20 involve shifts in habitat in terms of elevation?
 21 In other words, if, for example, certain bird habitat
 22 may be found at the 2500-foot level, because of warming
 23 the habitat may keep rising to the point that it's
 24 eliminated from the mountain?
 25 A. I think it's consistent. No where in here did I see --

1 maybe I read it too quickly -- that's a tough ecosystem to
 2 study.
 3 Certainly, as it warms, what we expect is those
 4 ecosystems that are predominant on or close to the top of
 5 mountains are out of luck because they have nowhere to
 6 move.
 7 So, yes, it's not just a spatial spread, but it's an
 8 elevational spread, and in some ways it's a similar
 9 response in that those ecosystems are shifting towards
 10 cooler temperatures.
 11 Q. Let me just ask a couple of questions to again bring it
 12 back to LURC's -- what LURC is comfortable with, which is
 13 the CLUP, and some of the LURC standards. By CLUP I mean
 14 the Comprehensive Land Use Plan for LURC.
 15 I would like to describe for you a couple of the
 16 broad goals and policies of LURC in the CLUP, which is
 17 what this project is being reviewed by, and ask you how
 18 displacing fossil-fuel emissions, say 400,000 pounds a
 19 day, would be consistent or not with some of these values
 20 based upon your professional judgment.
 21 One of the broad goals of the Commission, which is
 22 Page 134 of the CLUP is to --
 23 MR. TRAFTON: In the spirit of a little comic relief,
 24 I would like to say, was I worse than this? Would declarative
 25 statements --

1 MR. THALER: I think reading the CLUP is not
2 testifying to ask a question. He doesn't have it in front of
3 him.

4 THE CHAIR: Object. We get the point. Ask the
5 question and move on, okay. Please.

6 MR. THALER: Thank you, I'm going through the CLUP.
7 BY MR. THALER:

8 Q. The first broad goal is to ensure the continued
9 availability of outstanding quality: Water, air, forest,
10 wildlife, and other natural resource values of the
11 jurisdiction.

12 Is it your opinion, your professional judgment, that
13 in order to ensure the continued availability of these
14 types of outstanding resources that there needs to be more
15 clean renewable power generated in Maine and in
16 New England as quickly as possible?

17 A. I would say that we need to figure out ways to
18 significantly reduce our greenhouse gas emissions in
19 Maine, in New England, and in the United States, of which
20 renewable energy, if we really did much more than we're
21 talking about today, would be one wedge towards solving
22 that problem.

23 So yes, renewable energy is one solution and an
24 important solution. As I said, there's no one thing that
25 we can do that's going to solve the problem. We really

1 have to pursue all the different strategies.

2 Q. Would displacing or avoiding 400,000 pounds a day of
3 fossil-fuel emissions be contributing to the goals of
4 trying to at least assure as long as possible those
5 natural resource values?

6 A. I think there's a great Buddha saying that a voyage of a
7 thousand miles starts with the first step. In that sense,
8 absolutely, have to start now.

9 Q. Just a couple other of the CLUP goals, which, again, the
10 Commission has to apply to this proceeding, one of them is
11 to conserve, protect, and enhance the forest resources
12 which are essential to the economy of the state as well as
13 the jurisdiction. You presented some slides about that,
14 the role of the forests in Maine.

15 Would displacing 400,000 pounds per day of
16 carbon-based emissions contribute to the -- as a small
17 step -- conserving or protecting the forest resources of
18 Maine?

19 A. Absolutely. And I would say that the alternate is also
20 true, that if we don't make these changes, it will not be
21 preserved. It will change in dramatic ways.

22 Q. Likewise, one other goal of the CLUP that the Commission
23 has heard about last summer -- and I'm sure we'll hear
24 about tonight and tomorrow -- is about mountain resources,
25 conserving and protecting the values of high mountain

1 areas, including the natural equilibrium of vegetation,
2 geology, slopes, soil, and climate.

3 In your professional opinion, would avoidance or
4 displacement of 400,000 of pounds per day of carbon-based
5 emissions contribute to the conservation or protection of
6 those high mountain value resources?

7 A. As I first step, yes.

8 MR. THALER: I have nothing further, Mr. Chairman.
9 Thank you.

10 THE CHAIR: NRCM, are they planning to cross-examine
11 here?

12 MR. DIDISHEIM: Just some quick ones, yes.

13 MR. THALER: I'm sorry, I should ask for the
14 admission of that exhibit.

15 Are we continuing the numbering sequence?

16 MS. SPENCER-FAMOUS: Yes.

17 MR. THALER: Would it be 23?

18 MS. SPENCER-FAMOUS: No, you're 22.

19 MR. THALER: Okay.

20 THE CHAIR: This is what you're talking about here?

21 MR. THALER: Yes.

22 MS. SPENCER-FAMOUS: I've got a copy of that.

23 THE CHAIR: Are you objecting to that, Mr. Plouffe?

24 MR. PLOUFFE: I think that's a June article from the
25 Bangor Daily News, is that right?

1 MR. THALER: 2007.

2 MR. PLOUFFE: If he wants to make it part of his
3 case, why hadn't he distributed it earlier and made it part of
4 his prefiled?

5 MR. THALER: I don't think I have to make anything
6 prefiled, everything prefiled, No. 1; and No. 2, the hearing
7 rules provide for -- and as last summer offering new
8 evidence -- dealing with arguments of other parties in their
9 prefiled.

10 MR. PLOUFFE: That was cross-examination.

11 MR. THALER: Yes, it was.

12 MR. PLOUFFE: So you're trying to impeach him with
13 that article?

14 MR. THALER: Cross-examination does not have to be
15 impeachment, Bill, you know that.

16 MR. PLOUFFE: I object.

17 THE CHAIR: Your objection is so noted.

18 MR. THALER: Is it 22-C?

19 MS. SPENCER-FAMOUS: I have it as -B.

20 MR. THALER: All right. Thank you. Thank you
21 Mr. Chairman.

22 THE CHAIR: Go ahead, Peter. Questions, please.

23 MR. DIDISHEIM: Pete Didisheim, Natural Resources
24 Council of Maine. The other intervenors in support, I believe,
25 are not asking any other questions, and I just have five quick

1 questions to ask. We hope to get concluded quickly.

2 My questions are all for Cameron.

3 EXAMINATION OF CAMERON WAKE

4 BY MR. DIDISHEIM:

5 Q. The study that you put together you described a number of
6 teams of scientists.

7 Did it also include some economists?

8 A. Yes, we had two economists. We had Tom Tietenberg from
9 Colby College and Gary Yohe from Wesleyan University.

10 Q. We had some discussion earlier about economic impact
11 analysis of wind power projects, and I want to get a
12 little bit of your thinking.

13 In looking through this study, it appears that
14 there's some very significant economic sectors that pose
15 risks as a result of climate change, and your study
16 mentions the \$3 billion a year regional snowmobiling
17 sector, \$300 million a year skiing sector.

18 Could you tell us on the net positives and negatives
19 how does it come out in terms of economic impact to the
20 state of Maine as a result, let's say, the higher
21 emissions and the lower emissions scenarios.

22 A. If you look at the higher emission scenario, what we see
23 is a reduction in the number of days that are suitable for
24 snowmobiling, so we look at that -- I have those notes
25 here -- the snowmobile industry is \$3 billion across the

1 northern tier. We didn't get the numbers that broke it
2 out just for Maine, but we're looking at sort of a
3 reduction in half in terms of that industry.

4 If we look at skiing, there's going to be a
5 significant reduction -- and that's just Maine, \$300
6 million is what Maine's bringing in.

7 There's likely going to be a reduction because the
8 cost of doing business is going to be much higher because
9 the increased demands for snow making, plus the increase
10 for snow making at warmer temperatures.

11 In addition to that, I know when I come up to the
12 north country, I often will do a couple days of
13 snowshoeing, I might go skating for a day, but those other
14 wintertime options are not going to be really viable.

15 So how much people want to come here just for that,
16 skiing, is a question that we couldn't -- economically
17 it's tough to answer, but at what point do people not want
18 to make the trip to ski on man-made snow is an important
19 question that no one has an answer to.

20 Q. The study suggests that -- or I think it shows in a pie
21 chart -- the electrical sector is 29 percent of the carbon
22 emissions for New England?

23 A. That's in the northeast.

24 Q. That's in the northeast?

25 A. Yes.

1 Q. Do you believe -- I'm just thinking about the wedge
2 approach.

3 Can you achieve the lower emissions scenario without
4 a substantial initiative to lower the carbon emissions of
5 that 29 percent?

6 A. No.

7 Q. It's mandatory moving forward that one has to achieve some
8 other alternatives?

9 A. Actually, just to reemphasize something that Sean said,
10 despite the nature of the hearings and the process that
11 he's been involved in, it is in many ways the easiest
12 because it's an industry that's fixed in place -- it's not
13 mobile -- and it's really sort of a group of power plants
14 that you can work with.

15 The alternative -- that sort of cutting the vehicle
16 miles travelling in half -- or doubling the efficiency of
17 every home in the region, you can begin to see the road
18 block that I think we have to get over.

19 The reason that RGGI is moving forward and we're
20 seeing these projects being suggested is that in fact the
21 electric industry combined with energy efficiencies, are
22 really those areas that we would call low sort of low
23 hanging fruit. They're going to be easy to actually
24 obtain.

25 Q. We've had some testimony about that study.

1 Decreased visibility because of high ozone days here
2 in the western mountain areas, and your study about Maine
3 impacts said that the number of poor air quality days in
4 cities, like Augusta, could go actually quadruple under
5 the higher emissions scenario.

6 I'm assuming, and I'd like your clarification, is the
7 same pollution that would be coming to Augusta also the
8 pollution that might be coming into these mountains, and
9 what would be the likely scenario for decreased visibility
10 days in these mountains?

11 A. I guess my short answer is, enjoy those clear views while
12 you can because the future is one where there is going to
13 be decreased visibility because of increased pollutants.

14 I should say that the visibility is going to be
15 affected much more by fine particles than it is by ozone,
16 but so often when we have bad days ozone days, we have bad
17 days with fine particles as well.

18 What happens in a warmer world, we see that the
19 reactions that generates those fine particles from gaseous
20 pollutants actually occur much more rapidly than the
21 reaction that would take them out of the atmosphere.

22 So as it gets warmer, it's hard to see any scenario
23 whereby our air quality improves unless we dramatically
24 reduce emissions, which is going to reduce the CO₂
25 emissions as well.

1 So really, CO₂ is a good proxy for air pollution as
2 well.
3 That's also going to -- it's not just bad visibility
4 up here, but in the cities that we live in we're looking
5 at a significant increase in bad air quality days, as
6 defined by the Environmental Protection Agency, would
7 affect human health and the ecosystem as well.

8 MR. DIDISHEIM: Final question, Mr. Chairman.
9 BY MR. DIDISHEIM:

10 Q. We've heard a lot about the magnitude of the global
11 problem, and you clearly have distilled that in a
12 compelling and challenging way. Sometimes that can make
13 it seem like the northeast can't do anything to deal with
14 it.

15 Could you put the northeast or New England's
16 aggregate emissions within some larger context so we
17 understand how we fit in the larger picture?

18 A. Certainly. If we look at greenhouse gas emissions from
19 the northeast and we put them on a -- look at them
20 compared to the rest of the countries around the world,
21 the United States is No. 1 and China is quickly
22 approaching the United States, but the northeast itself,
23 if we pulled it out, would be the seventh emitter of
24 greenhouse gases just behind Germany and just ahead of
25 Canada.

1 So we are a huge part of the problem, and because of
2 that, I think we can be a huge part of the solution as
3 well.

4 MR. DIDISHEIM: Thank you, that's all I have.

5 THE CHAIR: Thank you. That concludes everything we
6 had on the schedule for today.

7 I appreciate everybody working to get us through and
8 get us completely done right on time, as a matter of fact, a
9 couple of minutes to spare.

10 That means we will be obviously continuing with this
11 part of the hearing tomorrow morning at 8:30. We'll look
12 forward to seeing you all there.

13 We're going to be here -- we're going to be here
14 tonight for some period of time to hear testimony from the
15 general public. We're coming back at 6 o'clock tonight. I
16 don't know whether you are or not, but we'll be here from 6
17 until whenever.

18 So all of you, I guess, we'll see you tomorrow
19 morning at 8:30, and we'll work to keep on schedule like we did
20 today.

21 Thank you very much.

22 (Whereupon, the hearing was suspended on
23 September 19, 2007 at 5 o'clock p.m. and resumed at 6:08 p.m.)

24 * * * * *

25 THE CHAIR: Folks, if you're going to join us this

1 evening, would you take a seat please and we'll get started.
2 We'd like to be done before midnight if possible.
3 Good evening ladies and gentlemen. My name is Bart
4 Harvey and I am the chairman of the Land Use Regulation
5 Commission and the presiding officer for this hearing.

6 Other members of the Commission with us tonight are
7 Rebecca Kurtz and Gwen Hilton. Commission's counsel, Amy
8 Mills, and LURC staff members, Catherine Carroll, director;
9 Marcia Spencer-Famous, who is the project administrator for
10 this project; and Melissa Macaluso. And our court reporter is
11 Lisa Fitzgerald.

12 This evening's hearing is being held pursuant to
13 provisions of Title 12 MRSA 685-A and will be conducted in
14 accordance with Chapter 5 of the Commissions rules for conduct
15 of public hearings.

16 The hearing is being held to receive public testimony
17 on the matter of Zoning Petition ZP 702 submitted by Maine
18 Mountain Power, LLC, to rezone 487 acres of Redington Township,
19 Franklin County from a mountain area protection subdistrict to
20 a planned development subdistrict to develop a wind power
21 facility.

22 Within the planned district development subdistrict,
23 the wind power facility would include 18 turbines on
24 Black Nubble Mountain, access roads, underground utility lines.
25 The petitioner's adjacent parcel on Redington Pond Range would

1 be restricted from the development as a wind farm.

2 Outside of the planned development subdistrict in
3 Redington Township and Wyman Township, the wind power facility
4 would include access roads, utility lines, a substation, and a
5 maintenance structure.

6 The purpose of this public hearing is to allow the
7 public to present direct testimony and evidence as to whether
8 the development proposal meets the criteria for approval as
9 specified in Title 12 MRSA Section 685-A, Subsection 8-A of the
10 Commission's statutes and the Commission's land use districts
11 and standards.

12 For those who -- some of you have already done it,
13 but if you want to testify, we'd like to have you sign up so I
14 have some way to control who's coming down to see us. I have
15 three sheets now of people that have signed. If you haven't
16 signed one, there are some in the back. You can sign those and
17 Melissa will keep bringing them down to me as we move along.

18 All witnesses must be sworn and will be required
19 before they give testimony to state for the record their name,
20 residence, and business or professional affiliation, the nature
21 of their interest in the hearing, and whether or not they
22 represent another individual, firm, or other legal entity for
23 the purposes of the hearing.

24 In addition to being transcribed by the court
25 reporter, we will be recording the proceedings, so I would

1 request that you speak clearly and come down front and use this
2 microphone that's in front of us here.

3 As a reminder, all the questions and testimony must
4 be relevant to the Commission's criteria for approval of this
5 project. Irrelevant and unduly repetitious material or
6 questions will be excluded.

7 This hearing record will remain open for ten days for
8 written comments until Monday October 1st and for an additional
9 seven days until October 9th for rebuttal testimony.

10 I would just caution you that potentially this could
11 be changed since the hearing is going to go for another day or
12 possibly longer. Sometimes these things get changed. Just
13 keep in mind that the hearing record will remain at least ten
14 days, after we finish here, so if you think of other things
15 that you want us to know about, you can send it -- you can put
16 it in writing and it will be part of the record.

17 After the record closes, which will be probably on
18 October 9th, we are not able to receive any additional
19 testimony. So if you do have additional things you want to
20 tell us after leaving tonight, we would encourage you to get
21 those into us as soon as you can.

22 If you want to be notified about the final action
23 taken by the Commission as a result of this hearing, please
24 leave your name and address with the staff.

25 At this time I would like to swear in any of those

1 who wish to testify tonight. I would just ask you to stand and
2 raise your right hand and repeat the oath.

3 (Witnesses were sworn en masse.)

4 THE CHAIR: Thank you very much. Please be seated.
5 We're going to begin with just a little bit -- I think,
6 Marcia -- are you going to do something -- Marcia is just going
7 to give you a little administrative history of the project and
8 any exhibits that we have, and then the applicant is going to
9 give you a very brief presentation of the project using the
10 screen here so we can all start out from the same place about
11 what we're talking about here tonight.

12 Marcia, if you're ready, I think we can go ahead.
13 After we do that, I'm going to take the list in the order which
14 I received them and ask you to come down front, and I'm going
15 to read a couple of names out so that somebody -- we have one
16 person here and one person waiting so that we kind of cut down
17 on the amount of time people spend walking around. That will
18 save us all a little time tonight.

19 Also, I ask that you try to keep your remarks to
20 around 5 minutes or so because if we get -- we've got -- I've
21 got three sheets full of people here tonight, so that's at
22 least 35 of you who want to talk. That's fine, but talking to
23 us for 10 or 15 minutes probably isn't going to necessarily
24 make your point any better than it would if you told us in 5
25 minutes. I don't know how I can be any more polite about it.

1 Keep that in mind, please. Thank you. Marcia.

2 MS. SPENCER-FAMOUS: This is a continuation of the
3 record that closed on August 21st, 2006. Many of you who are
4 here know that there was a public hearing on a larger proposal.
5 This is a revised proposal for a 54-megawatt wind farm. The
6 original proposal submitted in 2006 for a 90-megawatt wind
7 farm, all materials received by LURC relating to Zoning
8 Petition ZP 702 from the time the record closed in August of
9 2006 until the record was reopened on June 6th are included in
10 the record.

11 So I'm actually going to pick up the reading of the
12 staff statement with reopening of the record.

13 On May 9th, 2007 the petitioner submitted a request
14 to reopen the record to allow a revised proposal for an
15 18-turbine wind farm on Black Nubble Mountain.

16 On June 6, 2007 staff recommended that the record be
17 reopened, and after deliberation the Commission voted to reopen
18 the record. The Commission set June 20th, 2007 as the date for
19 the prehearing conference, and on June 20th a prehearing
20 conference was held. The prehearing conference memorandum and
21 order was sent to the parties on July 17th, 2007.

22 Parties who were previously granted intervenor status
23 in 2006 could continue, but no opportunity for new parties to
24 request intervenor status was provided.

25 In 2006 Central Maine Power and the Coalition to

1 Reduce Dependence on Foreign Oil dropped their intervenor
2 status. They had been granted that status withdrawn.

3 In August of 2007 intervenor Western Mountains
4 Foundation requested its status be changed to an interested
5 party.

6 In 2007 intervenors Natural Resources Council Maine
7 and Conservation Law Foundation expressed support for the
8 revised proposal.

9 On July 12th, 2007 the petitioner submitted a revised
10 proposal to rezone 487 acres on Black Nubble Mountain from
11 mountain area protection subdistrict and soil geology
12 protection subdistrict to a planned develop subdistrict to
13 develop a 54-megawatt Black Nubble wind farm.

14 The proposal also includes a provision to restrict
15 from wind power development the petitioner's 517-acre parcel on
16 Redington Pond Range. The proposed wind farm would include 18
17 3-megawatt turbines, 6.5 miles of new gravel access roads,
18 upgrades of existing land management roads, above- and
19 below-ground 34.5-kV and 115-kV utility lines, a new
20 substation, and a maintenance and operations building, and
21 other associated activities and structures.

22 The turbine towers would be 263 feet in height. The
23 tip of the blade extended upward, the height would be 410 feet.

24 During construction, approximately 63 acres would be
25 cleared above 2700 feet in elevation. Of those 63 acres, 51

1 acres would be disturbed as well as cleared. After
2 construction, approximately 30 acres above 2700 feet in
3 elevation would remain unvegetated. Approximately 423-acres of
4 the petitioner's 487-acre parcel, or 89 percent, would not be
5 affected by the project.

6 On August 22nd, 2007 prefiled testimony was submitted
7 by the parties. An objection to one section of the prefiled
8 testimony submitted by intervenor Appalachian Trail Conservancy
9 was submitted by the petitioner. Intervenor TransCanada did
10 not prefile testimony but sent letters to the Commission about
11 the issue of transmission congestion.

12 Three other procedural orders regarding the hearing
13 and testimony were sent to the parties on August 9th,
14 August 20th, and September 11th, and the final hearing schedule
15 was distributed to the parties on September 13th.

16 The matter being considered at this time is a
17 rezoning of the parcel on Black Nubble Mountain and the
18 associated revised preliminary development plan. A final
19 development plan and the intended permit to construct the
20 facility would be considered only if the rezoning is approved.

21 I have offered the exhibits No. 1 through 27 to the
22 file this morning. So if anybody's interested in a copy of the
23 full staff statement or the exhibit list, I do have copies.

24 THE CHAIR: Is that it, Marcia?

25 MS. SPENCER-FAMOUS: That's it.

1 THE CHAIR: Mr. Lee, are you going to be the
2 presenter?

3 MR. LEE: Yes, sir.

4 My name is Harley Lee and I'm president of Endless
5 Energy Corporation. I began work on this project about a --

6 PARTICIPANTS: We can't hear you.

7 MR. LEE: My name is Harley Lee and I'm from Endless
8 Energy Corporation. I began work on this project many years
9 ago.

10 In summary, what we're proposing is a wind farm on
11 Black Nubble Mountain, which is about 6 miles west of here on
12 the other side of Sugarloaf, and this is a view from the
13 Bigelows. You can see we're right here at the base of
14 Sugarloaf right now.

15 We've got Sugarloaf, the Crockers are here, and
16 Redington, and then Black Nubble is over there. One of the
17 things we learned today is that our visual expert described
18 sort of a good rule of thumb literally for visualizing these
19 turbines, and for most sites from 3 or 4 miles out, which is
20 really where you'd be able to see it. It's equivalent to about
21 a half an inch at arm's length.

22 The project is about a \$110 million 54-megawatt wind
23 farm on Black Nubble. We're using 18 turbines and we're
24 putting in about 6 miles of new roads and 10 miles of upgraded
25 existing roads and less than 8 miles of transmission lines.

1 One of the reasons we chose this site is because there's a
2 substation right up the road here from Sugarloaf.

3 The team we put together is we formed a joint venture
4 with Edison Mission Group to form Maine Mountain Power, and as
5 I said, I'm from Endless Energy. We're using Vestas turbines,
6 which is the largest turbine manufacturer in the world, and
7 Sargent, one of our contractors to build the roads. They built
8 the road up at Mars Hill, and I think they're the biggest civil
9 contractor in the state.

10 This is a picture of the Vestas V90 in a mountain
11 setting similar to what we plan to use. Some folks think it's
12 beautiful, I do, and other people have issues with them.
13 That's what it's going to look like.

14 Why wind energy? It's one of the most cost effective
15 new renewables and it's a very large resource, which is why
16 you're hearing more and more about wind energy over the last
17 several years.

18 How will our project benefit Maine? First and
19 foremost, we're providing quite a bit of clean energy. It's
20 about 140 million kilowatt hours, and most people don't speak
21 million kilowatt hours, so it's about 21,500 Maine homes. It
22 will be used here in Maine.

23 One of the important benefits of this is it will help
24 reduce our overdependence on fossil fuels to produce
25 electricity. There's a very high dependence on natural gas and

1 oil throughout New England.

2 We'll mitigate against price increases and reduce air
3 pollution about 400,000 pounds per day, which is equivalent to
4 taking 12,000 cars off the road, and you need to burn about
5 26,000 gallons of oil per day to produce that much energy. So
6 it's a fair amount of energy produced from this project.

7 Last January the commissioners discussed our
8 two-mountain proposal and pretty decisively said, no, we're not
9 very comfortable with it, so we went back and spent quite a bit
10 of time revising the project, and what we've basically done is
11 moved from two mountains to one mountain.

12 We've eliminated turbines on Redington and agreed to
13 put that into have a -- to have a restriction on it from
14 further development. It's gone, as I said, from 12 turbines
15 [sic] down to 18. But even at 18 it's still a pretty
16 significant project. There's an NRCM display on the way in
17 talking about how that compares to the hundred dams in Maine.
18 It's more power than about 95 out of Maine's hundred dams.

19 This is a summary table, which is not showing up
20 right, but basically going from about 300 acres of total
21 project to about 230, and our total cleared area is actually
22 pretty small.

23 We believe we have selected the best reasonably
24 available site. We looked at many sites around New England,
25 the coast of the New England, and the mountains. The coast

1 simply isn't windy enough to produce a large amount of
 2 commercial grade energy, and we chose this because it's got a
 3 strong wind resource, it's located between these two huge ski
 4 resorts, which are adjacent to existing development.
 5 It's near the power line, and frankly, it's not a lot
 6 of overlap between windy sites and power lines. There is one
 7 nearby.
 8 We looked at some other sites farther from the grid
 9 but it turns out that the power line alone, the footprint of
 10 the power line, would have been twice or more of the footprint
 11 of our entire project. So that was a big driver for us, and we
 12 were able to use the existing logging roads. There are logging
 13 roads that go up to and part way up the mountain, so we're able
 14 to take advantage of those. As I said, it's close to a lot of
 15 existing development.
 16 It's also working in the fringe of the LURC
 17 jurisdiction. One of the key drivers of LURC policy is to try
 18 to put new development near existing development and help
 19 preserve the core of the jurisdiction. We're at the very, very
 20 edge, or fringe, of the jurisdiction.
 21 As I said there's two large ski areas. This here at
 22 Sugarloaf and over at Saddleback, 1800 acres of development,
 23 and we have just a tiny fraction, just over 200.
 24 There's a biomass plant. There's a Navy survival
 25 school adjacent to us. There's a lot of logging going on.

1 This is part of the working forest. As I said before, there's
 2 transmission, and there's 330 miles of roads and 1000 miles of
 3 logging roads within a 15-mile study area of here.
 4 We spent quite a lot of time looking at the various
 5 impacts -- visual and wetland, and so on -- and we've decreased
 6 the number of turbines, reduced impacts. We've designed roads
 7 very, very carefully for erosion control. We had a civil
 8 engineer today describe that at great length. I don't think
 9 anybody got hungry when we talked about rock sandwiches,
 10 though.
 11 Minimized visibility and avoided wetlands. We
 12 started out our project basically on something like 20 acres of
 13 wetlands impacts, and we redesigned it over and over again, and
 14 now we're down to 3/100 of an acre, which is less than some
 15 houses.
 16 We have avoided sensitive habitat, and we're going to
 17 revegetate wherever practical. We've already received permits
 18 from Maine DEP, we received our NRPA permit, and from the Army
 19 Corps of Engineers, and Carrabassett Valley here to give us the
 20 permit for power lines to go through town.
 21 As I said, we've worked very, very hard on soils and
 22 erosion problems. We don't want to save the planet with our
 23 wind turbines and then have problems with erosion, so we've
 24 worked very carefully on that.
 25 We've done a lot of wildlife studies and our

1 biologists, I think, have pretty much got the comfort of the
 2 Maine Fish & Wildlife on their impacts, how small they are.
 3 We've only got 42 acres of clearing after revegetation, so it's
 4 a pretty small footprint.
 5 Another way to look at it is for every acre of
 6 disturbance we have, we produce enough power for 92 homes.
 7 As I mentioned before, the visual impact -- what is
 8 interesting about this site is it's fairly well hidden, so if
 9 you do a 15-mile circle around it, you can only see the project
 10 from something like 5 percent of that area. It's not visible
 11 for 95 percent, so it's a pretty well hidden mountain.
 12 The Appalachian Trail is nearby. There's little over
 13 30 miles of the AT and I think the project is visible from
 14 about 9 percent of that, and the closest views are pretty far
 15 away, about 4 miles. Once, again, the turbines are equivalent
 16 to about half an inch. Hikers who are up there will also be
 17 seeing other man-made development like the ski areas, wood
 18 roads, and towns, and so on.
 19 We believe there are pretty strong economic benefits,
 20 environmental benefits. Economically we talk about 80
 21 construction jobs, five to ten well paying operating jobs, and
 22 we have a preference for local hiring. A lot of people around
 23 here have the skills you need to operate wind turbines, turbine
 24 machinery, and power equipment, and so on.
 25 We'll pay property taxes, at least \$500,000 a year,

1 land lease payments, and purchase of local goods and services,
 2 and most of the site will be untouched.
 3 The entire Redington project will be restricted from
 4 development, 500 acres, and about 90 percent of the other
 5 mountain will be unused as well. It's a lot of protection of
 6 that land.
 7 Of course, we'll have educational tours for school
 8 children and other people who are interested. The Western
 9 Mountains Foundation insisted on putting a trail right through
 10 the middle of our wind farm, so we've offered them that right,
 11 too.
 12 What was encouraging to us is a little over a year
 13 ago we did a poll of Maine residents, and we found that there
 14 was 9:1 support for this project. For every opponent, there
 15 are 9 supporters, which is very nice to hear, and that was
 16 throughout the state among different demographic groups.
 17 We've had over 2000 people who have signed our
 18 petition. We've got more than 20 of Maine's leading
 19 environmental, social, and policy organizations who support the
 20 project, and we have gotten very strong editorial support as
 21 well.
 22 So in summary, we think this part of the state does
 23 have a very good wind resource, and we think Black Nubble is
 24 the ideal location to harvest any wind resources. It's near
 25 the fringe, closer transmission lines, and it would produce

1 quite a lot of clean energy, reduce the dependence on fossil
2 fuels, reduce air pollution by 400,000 pounds a day, provide
3 economic benefits, and recreational benefits.

4 We worked very hard to have a well designed project,
5 and we have a team that we think can put it together properly.
6 Thank you.

7 THE CHAIR: Thank you, Mr. Lee. All right. We'll
8 begin the testimony -- I'm going to read three names off my
9 list here, the first three on list No. 1. I'll just ask you,
10 the first person, to come down and take the mic, and then the
11 other two can be ready to go.

12 Pat DeFilipp, Michael [sic] Caliandro, and Lloyd -- I
13 think it's Griscom. Why don't you guys -- you folks all get
14 ready to go, and we'll start right out. Speak right into that
15 microphone. Your name -- don't forget to give us your name so
16 Lisa can have it.

17 MR. DeFILLIP: My name is Pat DeFilipp. I'm a
18 resident of Auburn, Maine.

19 I work for Reid and Reid. We're a general contractor
20 located in Woolwich, Maine. I was a project manager for
21 construction of the Mars Hill wind farm.

22 We feel that this project should be approved. Aside
23 from the obvious economic benefits and environmental benefits
24 we talked about, it's a real economic shot in the arm for the
25 state.

1 It will generate some significant tax benefits, it
2 will create approximately 80 construction jobs. Now, these
3 construction jobs will be local jobs. On the Mars Hill project
4 everything from the road work to the pad construction to the
5 foundations to the turbine erection, all the underground wiring
6 was all done by local companies, Maine companies, and Maine
7 labor.

8 The only thing that was done from companies out of
9 state was the wiring up in the tower and turbines, because that
10 was a real specialized thing. Still, everything else was done
11 with either local companies and local labor.

12 A lot of the materials for the projects were
13 purchased locally, right up in The County. The concrete was
14 purchased there, the reinforcing steel. That actually came
15 from southern Maine. Structural steel for that project was
16 actually fabricated by ARC right here in Kingfield.

17 When the project was done, it created some really
18 good permanent jobs. General Electric supplied the turbines on
19 that project, and to get the project up and running and
20 on-line, they brought in their own people to get it going, but
21 as soon as it did and they could train some local people, they
22 hired local people to take over.

23 We believe that with the proper design for the
24 roadways, the cuts-and-fills, the tower pads, and the tower
25 foundations, and with the proper construction techniques and

1 monitoring environmental controls, construction impacts will be
2 minimized on this project. Thank you.

3 THE CHAIR: Thank you, Pat. Just a question. Could
4 anybody hear? I didn't get a sense that that microphone was
5 on.

6 You're okay back there? Everybody here except me. I
7 just want to make sure it's on. You just need to speak right
8 up. I'm sorry, it's Michelle. My apologies.

9 MS. CALIANDRO: That's okay, you would have caught on
10 eventually.

11 THE CHAIR: Yes, obviously.

12 MS. CALIANDRO: Good evening. My name is Michelle
13 Caliandro. I'm a resident of South Gardiner, Maine. I'm the
14 public policy assistant for the American Lung Association of
15 New England and Maine. I am here representing our executive
16 director, Ed Miller.

17 On behalf of our organization, I offer testimony in
18 support of the Black Nubble wind farm project. The American
19 Lung Association of Maine is the state's oldest voluntary
20 health organization and is focused on improving the health of
21 Maine people by ensuring access to healthy air.

22 We have 60,000 supporters here in Maine. Air
23 pollution is a significant and increasingly dangerous health
24 threat to Maine, especially for more than 120,000 people in the
25 state with lung disease.

1 Combine that with Maine's unwanted distinction of
2 having one of the highest lung disease rates in the country and
3 you've got a public health crisis that must be addressed
4 promptly and aggressively.

5 A copy of our 2006 Maine Healthy Air Annual Report
6 that further defines what we consider can be the key air
7 quality issues for Maine can be found on our website.

8 We need to do all we can to reduce air pollution
9 emissions through Maine in the nation to the lowest level
10 possible, and what are the sources of these emissions?

11 Air pollution in Maine is primarily a by-product of
12 our fossil fuel-based energy and transportation systems. These
13 are the same sources responsible for global warming.

14 If nothing is done to reduce these harmful emissions,
15 the health risks to Maine people will continue to increase
16 every year.

17 Inaction is not an option. Corrective action will
18 require a sustained and aggressive combination of energy
19 efficiency, conservation, and increasing our clean fuel
20 capacity, including solar, bio fuel, and wind.

21 Is the investment in clean energy worth it? To put
22 in perspective, at least 150 million in health costs are
23 incurred every year in Maine just as a result of lung disease.
24 The costs from heart disease approach half a billion dollars.
25 It is clear that air pollution contributes to these costs, and

1 we cannot afford not to take action.
 2 Wind power is viable, necessary, and yet still
 3 underdeveloped. We are pleased to see the increase in Maine
 4 projects over this past year, but Maine's capacity to host wind
 5 farms is limited.
 6 Our organization was very interested in determining
 7 the potential of community level wind power to meet more of our
 8 energy needs. In 2005, along with Coastal Enterprises
 9 Institute [sic] and the Jebediah Foundation, we commissioned a
 10 study to explore community wind power. Included with my
 11 testimony is a summary of our report, a feasibility study for
 12 community wind projects in Maine.
 13 We have hopes that community windmills might be able
 14 to become as common as community water towers or cell towers;
 15 but we find that even when looking at smaller scale projects,
 16 only about 15 locations in Maine have the right combination of
 17 factors, including wind speed, access to transmission lines to
 18 make wind projects a viable option.
 19 Maine's vast wind resources are located here in the
 20 western mountains and along the coast. Black Nubble is one of
 21 the few opportunities for large-scale significant wind power
 22 production in Maine.
 23 Given this reality, the need for this project as a
 24 key wind resource is magnified.
 25 This is not just a local issue. All Maine people

1 have a stake in the Black Nubble wind farm project because all
 2 of us are affected by air pollution.
 3 Even if you do not have asthma or lung disease, you
 4 probably know someone who does. Those susceptible to the
 5 effects of air pollution include the active, as well as the
 6 sick.
 7 We need to work across the state to improve health
 8 and prevent costly disease. Reducing air pollution by
 9 supporting the Black Nubble wind farm is one important step in
 10 helping Maine people breathe healthy air.
 11 There are those who feel that this project is not
 12 needed here; they claim that these wind farms should be built
 13 somewhere else. While we appreciate their viewpoints, we
 14 respectfully disagree.
 15 Unfortunately, it will take much more than bringing
 16 this one project on-line to break our addiction to fossil fuel.
 17 Our organization will continue to support projects that propose
 18 healthy air alternatives to oil, coal, and natural gas.
 19 We realize that you must take many factors under
 20 consideration in reaching your decision, but Black Nubble is a
 21 healthy air step in the right direction, a show of support for
 22 this technology, and the American Lung Association of Maine
 23 urges you to support it.
 24 THE CHAIR: Thank you. Do you have any questions,
 25 Rebecca or Gwen?

1 Lloyd is next, and following Lloyd we have James
 2 Hutzler.
 3 MR. GRISCOM: I am Lloyd Griscom, resident and
 4 landowner --
 5 THE CHAIR: Lloyd, you're nice and tall. Extend that
 6 microphone up a little bit because you've got to speak right
 7 into it or otherwise we're not going to hear you.
 8 MR. GRISCOM: Lloyd Griscom, resident and landowner
 9 in the Phillips and Madrid area. I'm also the director of the
 10 Maine Appalachian Trail Land Trust.
 11 I have hiked Saddleback Junior yesterday and the day
 12 before going by ATV to where I live to a trail head that I know
 13 of. I ran into six hikers, three of whom were through hikers
 14 from Georgia who started in April.
 15 When I'm in a place like Saddleback Junior -- that is
 16 the Bigelows on the top and Mt. Blue/Tumbledown in green on the
 17 bottom. What strikes me is that if you connected these areas
 18 that are very important -- Maine and beyond Maine -- treasured
 19 resources, you would have a world class nature-based tourism
 20 destination that would be second to none.
 21 This would give us a sustainable boost to our rural
 22 economy that we badly need, and these effects could be widely
 23 shared. This could be accomplished through public and private
 24 cooperation in a multi-use fashion that would make this
 25 spectacular area available to future generations.

1 I would like to think that the hikes I enjoyed this
 2 summer with my grandson could be experienced by he and his
 3 grandchildren.
 4 I have noticed over the last 20 years more moose at
 5 very high elevations, like even 3400 feet -- the top of
 6 Saddleback Junior is around 3600 -- possibly driven there by
 7 encroachment of their territory. This area is important to
 8 wildlife ecology is an unusual transition zone between mixed,
 9 hardwood, and boreal forest. Australia has recently set aside
 10 such an area to aid animal adaptation to the challenges of
 11 global warming.
 12 Please keep this common ground available for the
 13 benefit of many. It is very important to our economy and
 14 ecology. Please do not approve the Black Nubble wind project.
 15 Thank you for listening.
 16 THE CHAIR: Thank you. Following James is Vera
 17 Trafton.
 18 MR. HUTZLER: I'm James Hutzler, and thank you very
 19 much for the opportunity to speak today.
 20 Fourteen months ago when I was standing in this exact
 21 place and testifying on the same subject, I never would have
 22 imagined that I would be back here today as I am.
 23 For the second time I made the trek to Franklin
 24 County, Maine from my primary residence in Alexandria, Virginia
 25 to state that case why 420-foot-tall industrial wind turbines

1 do not belong on the top of Black Nubble Mountain.
 2 I think it appropriate to note to the commissioners
 3 that I am not a stockholder in Endless Energy Corporation,
 4 Edison Mission Industry, Constellation New Energy, or any other
 5 entity that stands to financially benefit from this proposed
 6 installation. I hope that all speakers after me will identify
 7 whether or not they have a financial interest in this project.

8 As some of you may recall from my previous testimony,
 9 my grandparents built a summer camp here on Rangeley Lake in
 10 1922, which remains in our family today. I'm an Appalachian
 11 Trail devoted hiker and trail construction and maintenance
 12 volunteer with the Appalachian Trail Club.

13 At the outset, I would like to say to you that you
 14 are here because of your concern about global warming, I
 15 commend you for your noble activism; the problem, however, is
 16 what we are actively attacking here in this room today is an
 17 important detail that is only a part of a much larger equation.

18 This hearing is entirely about wind turbine
 19 electricity projection and where it should be located and where
 20 it should not be located. The Land Use Regulation Commission
 21 has the unenviable duty of making huge and weighty decisions in
 22 this regard throughout the unorganized territories of this
 23 state.

24 A starkly important question about how we can stem
 25 man-made climate change has been studied and looked at

1 realistically in great detail in a balanced forum where
 2 solutions for these models could be fully debated.

3 There is absolutely no doubt conservation must be the
 4 primary focus of our nations and efforts to mitigate air
 5 pollution and the resulting consequences. This must be done
 6 from the consumption side more than from the generation side.

7 Appropriate and non controversial places for wind
 8 power exist in many parts of the USA, but the sacrifice of
 9 wilderness mountain ridgelines comes at a great cost.

10 The decision to sacrifice these ridgelines, our
 11 protected wilderness, the environment, and the common good to
 12 mostly benefit private financial interests at the expense of
 13 taxpayers, citizens, and the national growth must be looked at
 14 with due fear and trepidation.

15 I would like to quote Section 3, Subsection A of the
 16 Sierra Club's official national wind siting document. I'm not
 17 here in the capacity of the Sierra Club. This is the nation's
 18 No. 1 environmental organization in membership, and this is a
 19 publicly available document.

20 I quote, The Sierra Club opposes development in
 21 protected areas, such as national and state parks, national
 22 monuments, wilderness areas, wildlife refuges, designated
 23 roadless areas, critical habitat, and designated habitat. In
 24 the areas of cultural significance, sacred lands and other
 25 areas that have special scenic, natural, or environmental

1 values. In these areas it is inappropriate to build wind
 2 turbines, roads, transmission lines, or any structure related
 3 to wind development.

4 The Appalachian Trail is administered as a part of
 5 the National Park Service and designated by the National Scenic
 6 Trail back in 1968. These 18 huge wind turbines would be "in
 7 your face" for over 30 miles of the Appalachian Trail, and from
 8 six of Maine's ten mountains that rise over 4000 feet above sea
 9 level: Saddleback, Abraham, Spaulding, Crocker, Redington, and
 10 Bigelow mountains.

11 Among those, only Sugarloaf is nearby. The fact that
 12 your decision will reach far beyond Black Nubble is well known
 13 by industrial developers, as well as the Natural Resources
 14 Council of Maine. NRCM's clean energy project director Dylan
 15 Voorhees' words were posted on the NRCM's website only two
 16 weeks ago on September 4th of this year.

17 I quote, "It might be useful to point out the
 18 implication of denying a permit to any wind project proposed
 19 near the Appalachian Trail. Black Nubble is about 3 miles from
 20 the trail at the closest point. If LURC were to make a
 21 de facto determination that this was a steep cliff, it would to
 22 categorically moving of 1.5 million acres of Maine off limits
 23 to wind power, an area of twice the size of Rhode Island."

24 Despite Mr. Voorhees' inaccuracy in overstating the
 25 land area involved, I think it has to be critical to turn this

1 notion around 180 degrees. I assert that to permit this
 2 project would set the precedent that would dictate the
 3 automatic approval of industrial development throughout the
 4 length of the Appalachian Trail corridor and would irreparably
 5 lower the bar of wilderness preservation in Maine.

6 Indeed, wouldn't such a decision dictate that impacts
 7 from any development proposed along the Appalachian Trail
 8 corridor beyond the 1-mile limit, regardless of its size or
 9 desirability be a meaningful challenge in the debate?

10 Edison Mission Energy, which is one of the huge
 11 corporate partners in this tapestry is based in San Diego,
 12 California and operates 19 fossil fuel power plants in various
 13 parts of the USA.

14 Edison Mission is in the wind business to reap
 15 federal taxpayer and financing incentives. Believe me,
 16 utilitarian, they are not. You will hear from other presenters
 17 who will illustrate this.

18 The bottom line is that the Black Nubble site is
 19 inappropriate for a wind farm. The facts overwhelmingly go
 20 against this project.

21 In 2006 the developer, himself, did a good job
 22 stating one mountain would not be economically feasible. Many
 23 years ago Mr. Lee chose this wilderness ridgeline site, placed
 24 arrogantly adjacent to the Appalachian Trail. He did reach out
 25 at that time to all entities to identify a proper non

1 controversial site for his wind farm.

2 At this time I would like to kindly ask that the LURC
3 commissioners the join me in remembering the conservation
4 legacy of President Theodore Roosevelt, the vision of Arthur
5 Perkins, the hard work of the Civilian Conservation Corps and
6 all of those who have in the conversation community both
7 yesterday and today that contributed their sweat, their time,
8 their money so that they could project the remaining natural
9 world most of us deeply treasure.

10 To the LURC Commission, I would like to thank you for
11 your service, for your courage, and for caring so much about
12 the future of the beautiful state of Maine.

13 THE CHAIR: Thank you. After Vera is Bob Cummings.
14 Vera, go ahead, please.

15 MS. TRAFTON: My name is Vera Trafton. I live in
16 Phillips and I oppose the wind power proposal which we've come
17 here to discuss.

18 As one of the founders of the Friends of the Western
19 Mountains, I thought about this proposal and the change of
20 siting industrial-scale wind towers on these mountains would
21 bring about since 2002 when we became aware of the threat to
22 the western mountains.

23 I've been struck by the deep love that most people
24 and visitors have for this area. The mountains dominate the
25 woods, lakes, streams, and towns, and stand for Maine in many

1 peoples' minds.

2 We treasure the quality of natural beautiful and the
3 rural life, which in many ways seems unchanged from years ago.
4 It is also very important to our economic well being that Maine
5 people seek out this area to enjoy what we are lucky enough to
6 have every day. Now the time has come for us to make sure that
7 the source of our happiness and opportunity for prosperity is
8 not spoiled.

9 It is striking to someone from Maine how cavalier
10 other states are about some of their natural resources. There
11 are states known, for example, for their trout streams, which
12 flow through magnificent countryside. I've walked through sage
13 brush, climbed over at a riverside cattle farm with mountains
14 right in the horizon, but I was never long out of sight of
15 man's changes to nature. Rarely could I enjoy the sense of
16 remoteness that we almost take for granted here in Maine.

17 Lakes and rivers elsewhere don't enjoy the protection
18 that Maine's inland waters do, thanks to our rules governing
19 the setbacks and development of wilderness areas.

20 We may grumble about regulations, but when one sees
21 how hard it is to get away from human interference in nature's
22 finest creation, one understands what prompted people in Maine
23 to take early action to protect our wild places.

24 Our mountains are protected above a certain height,
25 2700 feet, by rules which LURC enforces. The reasons to leave

1 these mountains undeveloped were worked out by people with
2 vision and the same reverence and respect to the mountains that
3 many of us still have today.

4 In April 1972 the first Maine mountain conference was
5 convened. The proceedings make wonderful reading and are a
6 certain reminder of our duty to those who trust us to preserve
7 the wild character of the mountains for future generations.

8 I'll read you some interesting passages which reflect
9 my concerns and feelings and are as moving and current today as
10 they were in 1972.

11 Elmer Violette, who was a senator and chairman of
12 LURC, quoted Wordsworth in the conference notes. "Two voices
13 are there, one is of the sea, one is of the mountains, each a
14 mighty voice."

15 He goes on to say, "our task as a state is to
16 reconcile the use and development of the mountains with our
17 needs and with the environmental needs of the mountains
18 themselves."

19 H. W. Folger, University of Vermont botanist said,
20 the combined factors of low temperatures, short growing season,
21 high precipitation, shallow acid soils, poor nutrients, and
22 steep slopes create a fragile environment at higher elevations.
23 The environmental break occurs at around 2500 feet of
24 elevation, and above this point the environment approaches sub
25 arctic conditions.

1 He goes on to say that the highest land use and great
2 expanses of other mountain land in Maine is a source of
3 abundant clean water, which supplies streams and rivers.

4 Kenneth Stratton, who was in Augusta with the Soil
5 and Water Conservation Commission said, In our mountainous
6 areas we must be concerned about what soil we do have. It is
7 shallow, and because of slopes, subject to rapid erosion. When
8 we lose the soil, we have to plant the associated plant life.
9 This is certainly not desirable.

10 Ronald Davis, a professor of botany and geology at
11 UMO said, With increasing altitude on mountains, the ecosystems
12 become increasingly vulnerable to damage by man and slower to
13 recover from damage. Higher altitudes are more fragile and
14 require more protection.

15 This argument is clearly a major one in the
16 establishment of the regulations by the State of Vermont to
17 place altitudes above 2500 in a special protected zone.

18 I'll end my remarks by quoting Herbert Hartman, Maine
19 Mountain Committee of Natural Resources Council who speaks for
20 me as well.

21 At the very least, the mountains by their distinct
22 elevations dramatically affect upon us their place as an
23 important feature of the natural landscape. The integrity to
24 be seen, with its diversity of natural components, is itself in
25 many instances reason enough for protected consideration.

1 Finally, how many of us here and how many others
2 cherish that experience of the natural world for which the
3 mountains are the setting.

4 The inspiring views and great natural resources and
5 tremendous spans of time, the special companionship created by
6 the sharing of these experiences, which are so different from
7 those of our daily lives.

8 For many, the mountains certainly provide health,
9 enjoyment, enrichment, and new vigor. As stunted as they will
10 be by pressures, many of the mountain studies could become
11 monuments to our own ignorance, apathy, or greed.

12 Thank you very much.

13 THE CHAIR: Bob Cummings is next. And following Bob
14 is Tom Lewis.

15 MR. CUMMINGS: My name is Bob Cummings, I live in
16 Phippsburg. I've been involved with Maine trails for at least
17 40 years. I'm also a founding director and now president of
18 the Maine Appalachian Trail Land Trust that seeks to protect
19 the trail in Maine from incompatible development.

20 I work as a volunteer for the Maine chapter of the
21 Appalachian Mountain Club, for the Maine Appalachian Trail
22 Club, which incidentally voted 110-something to nothing last
23 April to support the opposition to this project, and I also
24 work more hours than I like to think about for two small land
25 trusts along the coast.

1 I am not opposed -- oh, tonight I'm speaking for
2 myself. I haven't talked to anybody about this.

3 I am not opposed to alternative energy, but the plain
4 language of the LURC statute should not be forgotten just to
5 satisfy the popular clammer for wind energy.

6 I believe the global warming threat is both real and
7 serious. Twenty-five years ago I wrote a book extolling the
8 virtues of conservation and how homeowners can reduce their
9 commitment to oil.

10 But I don't believe we need to support every token
11 wind project where developers think they can make a profit. We
12 shouldn't destroy the best of Maine to protect Maine.

13 I have no personal bias in this belief other than a
14 love for the mountains and the opportunities they provide.
15 There are many legitimate reasons for rejecting this project.
16 You will hear about most of them from the testimony of the
17 intervenors tomorrow.

18 I'll just speak of a couple of things you might
19 otherwise not hear emphasized.

20 Most importantly, these high peaks, the cluster of
21 4000-foot summits surrounding this project, are the jewels of
22 inland Maine. Were it not for the beauty of the coast, these
23 mountains would have been protected long ago. Sadly, Maine has
24 lacked to call attention to this unique Maine. Maine still has
25 no concept of the ecological and potential economic importance

1 of this region these developers are proposing to change for us.

2 My wife and I over the past three years have visited
3 most of the wilder places of these United States, from the
4 coast of Maine to near the Arctic Circle in Alaska. As we
5 worked our way west, I began to realize that this high peak
6 region of Maine has equalled or exceeded all the parks we
7 visited. Desecrating this region would be the equivalent of
8 placing wind towers next to Old Faithful or in the high meadows
9 of Yosemite.

10 Maine mountains have a different beauty than the
11 mountains of the west, but not an inferior beauty. I will
12 stand we live in a northern rain forest. There's nothing like
13 Maine anywhere else in this nation.

14 I know this is personal observation. A few years ago
15 I took the train out of Boston to Georgia and then walked home
16 on 2175 miles of the Appalachian Trail.

17 I traversed the Great Smokey Mountain National Park,
18 Shenandoah, all eastern seaport national parks. What I
19 discovered and heard in conversations with other hikers is that
20 Maine is the wildest, most remote and most beautiful section of
21 the entire trail.

22 Approval of this project would change the many miles
23 of Maine -- many miles of Maine trail from one of the wildest
24 and least developed viewsheds along the long footpath to one of
25 the most developed viewsheds.

1 One final thought. You have been shown photo
2 simulations allegedly showing what wind towers would look like
3 to hikers and others passing by. They don't show any such
4 thing. Not because of simulations that are necessarily wrong,
5 but because the camera never sees what the human eye sees. As
6 even those casual photographers quickly learns, the camera sees
7 the whole scene, the eye sees a thousand views almost
8 simultaneously, the brain merges these views and concentrates
9 or whatever is most dramatic and unique. If this project is
10 approved, it will be the wind towers.

11 The impact on the Appalachian Trail will be enormous.
12 The fundamental requirement for LURC is that new developments
13 in this state must fit harmoniously into the natural
14 environment. That is a requirement that is impossible to
15 achieve with 400-foot lighted turbines, twirling blades, and a
16 landscape bulldozed with access roads on what is now a remote
17 and wild mountain.

18 The law, LURC regulations, and protection of a unique
19 wild landscape all require that this project be rejected.
20 Thank you.

21 THE CHAIR: Thank you, Bob. Tom Lewis is next, and
22 then Wendy Glenn. Following Tom is Wendy Glenn.

23 MR. LEWIS: My name is Tom Lewis. I'm a resident of
24 Yarmouth. I'm a long-term Appalachian Trail volunteer. These
25 remarks, though, are my own.

1 Black Nubble-only idea has been rejected in the past
2 by both sides of this issue. A scaled-back project reduces the
3 size impact, it does not reduce the intensity impact on the
4 Maine land.

5 The project still fails to meet the current standards
6 necessary to rezone this mountainous area. The commissioners
7 rejected the application in January. A revised proposal should
8 be rejected as well.

9 It's widely known that that there has been
10 considerable bias by LURC staff favoring this specific project
11 from the beginning, and that has been disturbing to many of us.

12 In the public we expect more open and fair dealing
13 from our State government. In fact, some commissioners
14 speaking at the meeting in January expressed real surprise that
15 staff could have come to the conclusion they did after
16 reviewing all the same facts and testimony.

17 It appears to many of us that this deal was cooked a
18 long time ago and LURC staff and others were blind sided by
19 the Commission's decision. Unfortunately, that has led to some
20 recent political strong arming that has shifted the focus away
21 from some real issues that need to be considered in this
22 proposal.

23 Your decision on this project is too important, and
24 as a member of the public, we expect that you will insist on
25 fair and unbiased process.

1 This remote and undeveloped high mountain region is
2 beautiful and a special place in Maine and is not appropriate
3 for this development.

4 This has been a controversial site from the start.
5 Anyone who has taken a careful and objective look at the
6 proposal has concluded that this is the wrong place for
7 industrial wind development. It would be certain to many that
8 if wind power siting policy had been developed, it would have
9 ruled out this site, which is the most environmentally
10 sensitive of the sites so far. This may explain why the
11 industry has dismissed a need for such a policy.

12 The future of wind power does not hang in the balance
13 of this project. With huge government subsidies and
14 administration, there has been a surge of applications
15 recently, and many projects are ongoing. Even our former
16 governor has gotten into this business.

17 But why some have chosen to jump on the band wagon
18 for this specific project is particularly baffling to me. I
19 can't imagine that we would want this project to serve as a
20 model for wind power development in our state.

21 On aesthetic grounds, there are some suitable places
22 for wind energy farms on a large scale. With a proliferation
23 of proposals on the way, I can only hope that the State can get
24 it right before we seriously damage some unusually beautiful
25 countryside.

1 If you approve this one, I'm not sure there are any
2 that you can't -- that you won't approve.

3 We still have much to learn about using wind power in
4 its current form. Increased enthusiasm for this energy source,
5 combined with politics that attempt to show off our diligence
6 in meeting renewable energy goals can be a dangerous fix.

7 I urge you to reject this application.

8 THE CHAIR: Thank you, Tom. Wendy, are you here?
9 After Wendy is Willy -- I think it's Ritch. I don't know if
10 I've got that right or not.

11 Go ahead, please.

12 MS. GLENN: Good evening. Everybody has all these
13 written-out statements and after listening today, it became
14 very apparent to me that nobody had done the economic impact
15 study on real estate values and our tourism and recreation
16 industry here.

17 I guess I do have a financial stake in this in that I
18 live in Carrabassett Valley and I have since 1983. I also own
19 property on Chase Pond, and as we all know, both of those areas
20 are impacted by the proposed wind project.

21 I guess I was kind of stunned to see that there were
22 no economic impact studies, especially ones that were of a
23 comparable nature of the area other than the one on the Cape,
24 which I don't think we're seeing much credit I guess.

25 So the other thing that was brought to my attention

1 today is one of the presentations had 15 ways to conserve and
2 protect our environment from global warming, and I didn't see
3 solar energy or any other alternative energy sources on that
4 list.

5 The conservation is great, we all need to do that,
6 everybody needs to think about how they do it every day, but
7 there are other alternatives to wind power that aren't being
8 mentioned here.

9 I think Rebecca had asked the question with regard to
10 the impact on our tourism and the economy in the area, and I
11 was around when they built the biomass plant, and we did see a
12 surge in jobs and a surge in the economy here, which was good
13 for everybody. Like this project, jobs will drop off and we
14 weren't -- I don't think there will be a great economic benefit
15 from the ongoing jobs here.

16 The reason people come to Maine, buy property in
17 Maine and help Maine day in and day out, they want to come to
18 this area, is because they want to get away from it all. They
19 want to come to vacationland. They want to get out of the
20 cities, they want to get away from industrialization.

21 My only personal economic impact is there was an
22 industrial project in the Eustis area that never came to
23 fruition because I think people backed out of the contracts as
24 soon as they got word that it was within several miles of where
25 they were buying property.

1 With regard to the global warming, I think that
 2 protecting our mountains as LURC has decided to do in the past
 3 is very important. We saw all the studies on recreation this
 4 afternoon, and I believe that that's all a more important
 5 reason that we should preserve our mountainous areas and our
 6 remote areas. People are flocking north here to access those
 7 areas. Both motorized and non motorized sports will take
 8 advantage of those areas, but they're harder to find and that
 9 is increasing property values here. I'm afraid that
 10 industrialization of our peaks will decrease property values
 11 dramatically. People aren't coming here to see
 12 industrialization.

13 There are tax incentives for solar power that are out
 14 there now. They still don't make it feasible for a lot of
 15 people to put in solar power. We would like to see that become
 16 more feasible for more people. There are a lot tax subsidies
 17 that you see for these large corporations for this wind
 18 project, and it will be used locally. We're not shipping it
 19 through large transmission lines and roads throughout our
 20 countryside.

21 So I do believe in buying locally and supporting
 22 local industry.

23 As far as the housing market goes and everything we
 24 can do, people can build smaller homes, heat smaller spaces,
 25 car pool. And a couple other things. One thing I don't know

1 if the electrical industry has looked at the integrity of the
 2 line with stray voltage and lost voltage. I've dealt recently
 3 with that and CMP was very concerned about it, and I think we
 4 need to look at the integrity of the electrical system with
 5 regard to where the voltage is going or being lost as a way of
 6 conservation.

7 And the bats, I knew there was some studies on bats,
 8 and as you know, many people are scared about the impact on
 9 bats. They're concerned about viruses and other insect-borne
 10 diseases, West Nile virus. So we need to protect our bats and
 11 birds.

12 So I ask that you do not approve development over
 13 2700 feet and that you protect our natural resources, which we
 14 trust you will do. Thank you.

15 THE CHAIR: Thank you, Wendy. Willy. After Willy is
 16 Duluth Wing.

17 MR. RITCH: Thank you very much for the opportunity
 18 to talk to you. My name is Willy Ritch, and I'm the president
 19 of the Back River Alliance in Wiscasset, where we're facing the
 20 prospect of a new coal-fired power -- it's really a coal power
 21 plant and a refinery kind of all rolled into one to produce up
 22 to 9000 barrels of oil, of diesel fuel, a day.

23 The developer and promoters tell us that we need new
 24 power, we need electricity, and they say that their technology,
 25 their clean coal technology, is the best that we can do.

1 I wanted to tell you what this clean coal would mean
 2 for my community. It would mean if everything runs properly
 3 that the plant would release 12 -- actually, 22 pounds of
 4 mercury into the air every year.

5 Just to put that in perspective, that's more than the
 6 combined mercury release of the incinerators in Biddeford
 7 Orrington and Minot all put together.

8 HotraChem, everybody remembers HotraChem. In the old
 9 days of the '90s, according to the Maine DEP, they were
 10 releasing 13 pounds of mercury every year into the water, and
 11 this plant would produce 22 pounds that would be released into
 12 the atmosphere.

13 The coal would come in coal barges. The developers
 14 say five of them a week. They're 400 feet long and they are
 15 pulled by 80- or 100-foot tugboats. I was talking to some
 16 lobstermen and scientists today, and they say if this coal
 17 plant is built, these coal barges come to town, they're out of
 18 business. There's no way that they could survive the damage to
 19 their gear.

20 Imagine the damage to the marine environment if there
 21 were an accident or a spill with one of these barges in the
 22 Pejepscoot and Back rivers where people dig worms and dig clams
 23 and lobster and fish for striped bass.

24 And there's the water that this plant would use, 8 to
 25 10 million gallons of fresh water a day. It would release

1 120,000 gallons back into the municipal system and it would be
 2 discharged in the Pejepscoot River.

3 And I think perhaps most importantly and most
 4 relevant to what you all are talking about, it would pump 5.5
 5 million tons of CO₂ into the atmosphere every year. There's no
 6 one that really believes that that carbon dioxide would be
 7 captured and stored. The technology for the capture isn't
 8 there yet, and the geology here in Maine is never going to be
 9 there to store. So it would be a tremendous contributor to
 10 greenhouse gases.

11 Those are the effects that we would feel in Wiscasset
 12 in my community, in my area. But it doesn't end there. I
 13 mean, coal has got to come from somewhere.

14 THE CHAIR: Excuse me, normally I let people go on,
 15 you know, say basically what they're going to say, but I have
 16 to confess I'm a little lost as where you're taking us.

17 This isn't a hearing about Wiscasset coal plants. I
 18 need to -- I mean, you've got to save those arguments for the
 19 DEP. I don't want to be impolite about it. I need you to
 20 address the wind farm on Black Nubble, not the coal farm in
 21 Wiscasset.

22 Do you see what I'm saying? I guess I confess I'm a
 23 little lost at where you're taking me here -- where you're
 24 taking us.

25 MR. RITCH: Well, I guess my point is that we are all

1 facing these choices, and in my community we're facing some
2 environmental risks that could be with us for the rest of our
3 lives.
4 You guys are facing a choice, and I guess what I'm
5 asking you to do is remember that every time you guys choose
6 wind power, renewable power, and allow that to happen, it makes
7 it much less likely that people in communities like mine will
8 face something that could change the face of our communities
9 for the rest of our lives.

10 Thank you very much.

11 THE CHAIR: Thank you. Duluth. And following Duluth
12 is Carol Haas.

13 MR. WING: Good evening. My name is Duluth Wing.
14 I'm from Eustis. I'm a retired forest ranger, and I, too, am
15 against rezoning any of the mountains to accommodate the wind
16 power.

17 Many that I know believe that the Redington wind
18 power project was not approved because of its proximity to the
19 Appalachian Trail. Assuming this is true, it should not have
20 happened.

21 I feel that LURC should not be as concerned as they
22 are by hikers from away who come occasionally to view our
23 beautiful mountains and then return to their less beautiful
24 habitat.

25 There are many other mountains in Maine other than

1 the Appalachian Trail -- along the Appalachian Trail -- that
2 need protection from development.

3 Instead, I feel LURC should be more concerned with
4 the native Mainers who live here, who work here, who fight
5 forest fires here in these western mountains.

6 I live on Bigelow Mountain for seven months in a fire
7 tower, and many folks passing along the Appalachian Trail, like
8 Bill Schaefer, Grandma Hayworth, and even my neighbor, all
9 great people, but not from Maine.

10 They seem to have a great interest in the mountains
11 that could be seen from the Appalachian Trail. This seems
12 somewhat selfish to me.

13 People who live here and our LURC Commission and
14 Natural Resource Council all know that there are many more
15 great mountains that need protection from any form of
16 development.

17 I guess that less than 1 percent of Maine people have
18 Appalachian Trail affiliation, yet 2000 of our locals have
19 signed a Western Mountain petition against development and many
20 more are here tonight that have a fear that they might sometime
21 see wind power on Black Nubble and maybe after that on many
22 more mountains if the precedent here is set to allow it.

23 My final words here are four if's. No. 1, if the
24 wind blew steadily so that oil and coal and gas plants didn't
25 have to stand by idling all the time that the towers were

1 producing power; No. 2, if we needed electricity here in Maine;
2 and No. 3, if we the people didn't have to pay taxes for the
3 government to support the 1.9-percent subsidy paid to the wind
4 power producers, then and only then should we consider a change
5 in the zoning.

6 So now I urge the LURC Commission to stand fast and
7 continue to protect our western mountains from development.

8 Thank you for the opportunity to speak.

9 THE CHAIR: Thank you, Duluth. Folks, look, we don't
10 need clapping. That doesn't enhance what Duluth had to say at
11 all. It just wastes time. It's not the right thing to do.

12 I would appreciate it if you wouldn't do it. If
13 you're happy with what they said, you can clap them on the back
14 later on tonight, but it's not helping us tonight having all
15 this applause. Thank you.

16 Carol, please.

17 MS. HAAS: My name is Carole Haas, I live in Cape
18 Elizabeth. I am submitting testimony in opposition to the
19 Black Nubble project on behalf of the Maine Appalachian Trail
20 Land Trust.

21 THE CHAIR: Excuse me, Carole, there's so many of
22 these, aren't you an intervenor?

23 MS. HASS: No, that's my first paragraph. We are not
24 an intervenor, we are an organization independent of the
25 Appalachian Trail Conservancy and the Maine Appalachian Trail.

1 We are a land trust with a board of directors of Maine people.

2 But even though we are not intervenors, we do oppose
3 the application to rezone Black Nubble Mountain to allow this
4 wind power, though. We also aren't involved with the
5 Appalachian Mountain Club.

6 The majority of the Appalachian Trail passes from
7 state to state, from Georgia to Katahdin, through a series of
8 national forests and state forests. The land ownership
9 tradition of the Appalachian Trail runs in Maine has been
10 different.

11 Much of the Appalachian Trail in Maine is surrounded
12 by private land. Much of that land is under your jurisdiction
13 in the unorganized territories. You have zoning laws that
14 protect some of these lands from development, recognizing its
15 quality as unique and special.

16 While Black Nubble Mountain is one of those protected
17 places, and for better or worse, you are currently you are the
18 sole protector of it.

19 Black Nubble lies within our land trust highest
20 priority conservation protection area and the high peak areas
21 of western Maine.

22 Defined by us as the land surrounded by the towns of
23 Stratton, Rangeley, Phillips, and Kingfield, this largely
24 undeveloped area is one of the three high mountain regions in
25 Maine and is the only one without significant conservation

1 protection.

2 A series of high mountain ridges characterize the
3 area, including eight of the 14 highest mountains in the state.
4 In fact, this area has 40 percent more land above 2700 feet
5 than Baxter State Park.

6 Our vision for this region is to retain its remote
7 and unbroken character by permanently conserving 80,004 acres
8 for forestry, recreation, and preservation of the unique
9 natural values.

10 To date we have protected two important parcels
11 totalling 2300 acres on Mount Abraham and Saddleback Mountain.
12 The people of Maine already have an additional conservation
13 interest in this region with their Bigelow Preserve, the Mount
14 Abraham Ecological Preserve, and the protected plan of the
15 Appalachian Trail corridor but much more needs to be
16 permanently protected.

17 We have recently completed and published an
18 ecological study of the high peaks region undertaken in large
19 part out of concern that residential and commercial development
20 is being proposed for this region with little understanding of
21 the unique and irreplaceable natural qualities that would
22 forever change and likely be lost if you can be persuaded to
23 weaken and dismantle the regulations that were intended to
24 protect those natural values.

25 Now, it's my understanding that one of the

1 intervening organizations, the Appalachian Mountain Club, gave
2 you copies of this report. If not, I have copies in my car.

3 You are familiar with the various species, some rare
4 and endangered, currently residents on Black Nubble; but that
5 would be directly and negatively affected by wind power
6 development.

7 What I ask you to also consider is the larger
8 ecological context Black Nubble is a part of. The mix of
9 ecosystems, natural communities, and species in the mountainous
10 region vary dramatically with small changes in elevation,
11 provides a conservation opportunity as a whole that should not
12 be sacrificed to development.

13 In the face of changing climatic patterns, large
14 landscapes that derive connections between various habitat
15 would be essential to the wildlife and plant life that would
16 need to follow their habitat to new locations.

17 The country of Australia has embarked on a project to
18 create a 1700-mile wildlife corridor with the purposes of
19 allowing plants and animals to flee the effects of global
20 warming. The Appalachian Mountains, Black Nubble, and the rest
21 of Maine's high peaks region are part of the equivalent
22 wildlife corridor on our own east coast.

23 Relatively small areas like the high peaks region
24 that contain sufficient ecological diversity to allow species
25 to adjust of changing climate are rare, and Maine should do all

1 it can to protect them.

2 Places to locate wind power developments are nowhere
3 near as rare. Improvements in wind turbine design have made it
4 possible to locate them in flat open areas, like farms, that
5 may have lower wind speeds but are already developed and are
6 close to existing roads, transmission lines, and emergency
7 services.

8 You have several wind proposals before you. Many are
9 also proposed for land out of your jurisdiction. The pressure
10 to approve this project is political, meaning that it is being
11 promoted for reasons other than those that relate directly to
12 the project itself.

13 We urge you to be strong and abide by your own
14 regulations. You should not allow development of this or any
15 other project on Black Nubble. Thank you.

16 THE CHAIR: Thank you, Carole. Lloyd Cuttler, then
17 followed by Gail Merrill.

18 Is Mr. Cuttler here?

19 MR. CUTTLER: Long day, huh?

20 THE CHAIR: Very.

21 MR. CUTTLER: It's going to get worse. Lloyd
22 Cuttler, Carrabassett Valley, selectman, business person,
23 concerned citizen, have lived here approximately 35 years and
24 going.

25 You have a tough decision, and it's a decision that

1 nobody wants to hear. I sat here 14 months ago to listen to
2 all the data.

3 I came in and out today and listened to it again, and
4 to watch two grown men that are scientists debate whether an
5 electron can sneak past Kingfield and make it all the way to
6 Ohio is phenomenal. You can see they all have time and look
7 interested.

8 I will tell you, however, that that whole process is
9 important and I know you need that data. I'm going to ask you
10 for a minute to bear with me and let's just assume at this
11 point it's a 50/50 shot.

12 They're opposition, they shared their opinions; and
13 the people that are in favor of building these windmills, they
14 showed the economic benefit. That having been said, I'm going
15 to ask you to look at that 50/50 and say, where do we go from
16 here as a state and as a country.

17 We are in trouble. We cannot deny the fact that oil
18 cannot fuel this country. We -- forget the environment. Let's
19 not have a debate about global warming. I believe in it but
20 let's not use it as an excuse.

21 Let's just look at the reality of the fact that these
22 lights are on but it's not because of something that we're
23 doing, it's something that is happening, it's something that
24 we're killing, it's the oil, it's the coal, it's the
25 environment we are ruining.

1 We need to do something. Wind power is not going to
2 solve our problem but it's a start. We have to accept the fact
3 that there is no solution today. Thirty, 40 years from now we
4 will be out of oil. That's the only thing scientists agree on.
5 We will be out of oil.

6 We are increasing our demand for oil at an amazing
7 rate that we cannot sustain. Thus, I say to you, what is the
8 solution? I don't think we know. I think we do know it's
9 going to take a lot of different projects.

10 The environmental groups, that are so concerned with
11 the environment, and they need to be, should be championing
12 this. They should be saying to you, we need something. Maybe
13 we should look at hydro again. Maybe solar. We need wind
14 power.

15 This is what we need to be doing. Is it perfect, no.
16 Is it going to hurt a little, yes. Sometimes good things have
17 to hurt a little. Nobody will say that a windmill on top of a
18 mountain is as pretty as no windmill; however, I am lucky
19 enough to have travelled around the world and I see windmills
20 everywhere, and I will tell you that when you ride a bicycle up
21 to one and you realize what it is doing, it is a pretty
22 powerful thought.

23 And I have had Maine guides say to me that I can't
24 imagine sitting on top of a mountain looking at a windmill
25 thinking nothing's being destroyed, we are creating the energy,

1 and I'm going back to my car and know that it did do something.

2 All of us are part of this problem. We all have too
3 many cars, too many computers. I am as guilty as everyone.
4 All I'm asking everyone to do is maybe sacrifice a little.

5 It's not an easy thing to do think, it's not easy for
6 you. We'll be seeing you again. Think of this as a 50/50
7 shot. You're going to have to make the tough decision. You're
8 the parent that's going to have to say to the child, this is
9 going to hurt a little but we need to get going and we need to
10 fix the problem.

11 I will add one more point that I think is important.
12 As you look at these projects -- windmills, solar, hydro
13 electricity -- you need to -- one thing we did not build in is
14 the fact that they need to be able to be decommissioned.

15 I know developers might not like that, but I think
16 this will help satisfy a lot of people. As I move around the
17 state and I see fire towers everywhere sitting on top of high
18 mountains and the State has allowed to sit there. We cannot
19 allow it to happen, if, if, wind power is replaced by some
20 dramatic fusion process that we develop over the next 30, 40
21 years.

22 I believe it this country can do it, but I also
23 believe that if this country does not wake up and start to
24 embrace these little fixes, it's going to be too late.

25 Thank you.

1 THE CHAIR: Thank you, Lloyd. Gail Merrill.

2 Following Gail we have Jack McKee.

3 MS. MERRILL: My name is Gail Merrill. I am a
4 resident of this area for 28 years, I'm a business owner, and a
5 worker.

6 I previously expressed how precious these mountains
7 are to all of who have chosen to live here and that they should
8 be preserved for all to enjoy.

9 When Maine Resources Council produced 18 wind
10 turbines on Black Nubble as an alternative plan, Maine Mountain
11 Power said it was not a viable option and wouldn't work. It
12 had to be all 30 or nothing. Now all of a sudden it is okay.

13 This proposal has lacked integrity from the very
14 start and is now riddled with impropriety. It would be a very
15 sad day for all of Maine to lose one of nature's treasures so
16 that the large out-of-state corporations and a very few
17 individuals could greatly profit. This proposal is about
18 money, not saving the planet.

19 It is time we take serious strides for the
20 conservation of energy, not greater production and consumption.

21 Please once again say no to this ill-fated,
22 disastrous plan. Please, once and for all, preserve our
23 mountains and quality of life we so value in Maine.

24 Thank you.

25 THE CHAIR: Thank you, Gail. Does anybody here

1 listen to what I say when I ask you to try to be -- I
2 appreciate your cooperation. I appreciate that some of you are
3 very passionate about this, but as I tell you, clapping doesn't
4 help how I view the testimony. I can tell you that.

5 Jack; and after Jack is Alison Hagerstrom.

6 MR. McKEE: Thank you Mr. Chairman, members of the
7 Commission, Director Carroll, and others, I appreciate your
8 hearing this today again. I was disappointed when we lost last
9 time, but that's okay, we'll try it again. Thank you very much
10 for your willingness to do that.

11 I am Jack McKee and a resident of Kingfield. I'm
12 old, retired, don't work for nobody, don't earn any money doing
13 that either. Let me get on here.

14 I want to read first. I'm going to try to summarize.
15 You have or will have copies of my testimony, so I'm not going
16 to read the whole thing, but I'm going to read a couple of
17 things.

18 This past year the legislature of the State of Maine
19 passed the following resolution. Resolved, that we, the
20 members of the 123rd legislature, now assembled in the regular
21 session on behalf of the people we represent take this
22 opportunity to express our unequivocal support for wind power
23 as a means of producing economical electricity, and we
24 encourage the construction and operation of wind power
25 generating facilities in the State of Maine. That is from the

1 State legislature.
2 Some oppose wind power for a variety of reasons. The
3 main reasons seems to be one of environment. I want to take
4 you to West Virginia. You're going to wonder why the heck is
5 he going to West Virginia. Well, I'll tell you why we're going
6 to West Virginia.

7 We're going to West Virginia because so much of our
8 power is produced by coal-fired generating facilities. That's
9 not a big secret. People in West Virginia -- we worry about
10 our environment -- people in West Virginia are living in what I
11 call an environmental hell. Here's what's going on down there.

12 Coal mining -- coal mining companies in
13 West Virginia -- and this is a strip mining company -- are
14 blasting up to 800 feet off the tops of their mountains to get
15 the little bit of coal that is there.

16 Here's what's happening as a result. Seventy-five
17 percent of West Virginia streams and rivers are polluted by
18 mining and other industries. Three hundred thousand acres of
19 hardwood forests in West Virginia have been destroyed by
20 mountain removal mining. That can be translated into something
21 like 500 square miles of forested mountains and valleys and the
22 beat goes on.

23 The reason I'm bringing this up is because I'm a
24 strong supporter of this particular project, I'm a supporter of
25 wind power generally. My point is this: This is not a Maine

1 problem. We have this notion that the world starts and stops
2 in Kittery and Ft. Kent. Well, that's not true. The
3 United States doesn't even stop there, for Heaven's sake.

4 The people in West Virginia have a terrible problem
5 and we can help. We have a moral responsibility, in my
6 judgment, a moral responsibility to help solve this problem and
7 get rid of coal-powered generator facilities.

8 Here's a story that talks about global warming. You
9 had a very good presentation this afternoon on global warming.
10 It's probably the best I've ever heard.

11 Here's something from our own Waterville Sentinal,
12 but two men from Maine, Gordon Hamilton and Lee Stearns of the
13 University of Maine's Climate Change Institute, researchers
14 studying the arctic ice sheets report that the rate of thaw has
15 been so great this summer that the arctic sea will be entirely
16 ice free in a little more than 20 years, well ahead of
17 projections.

18 That is a frightening thought. We've got to get rid
19 of the oil, we've got to get rid of coal. We've got to do
20 something different.

21 Let me close with just a personal observation. My
22 eldest great grandchild -- great grandchild -- is 12 years old
23 this year. If he's fortunate enough to live as long as I am
24 thus far, when he turns the same age as I am right now, it will
25 be 2077. There are six other great grandchildren along with

1 him.

2 I hope to Heavens this committee -- this Commission
3 and the people of this state and of the United States are smart
4 enough to understand that if they don't do something now, that
5 kid is not going to enjoy the good life that I have enjoyed.

6 Part of the greatest generation you can call that, it
7 may be true or not, I don't know, but I've certainly enjoyed my
8 life. If we don't do something, he's not going to be able to
9 enjoy the balance of his life, and I urge you, please, give
10 this is thumb's up. Thank you very much.

11 THE CHAIR: Thank you, Jack. Alison. And following
12 Alison is Fred Hardy.

13 MS. HAGERSTROM: Good evening. My name is Alison
14 Hagerstrom. I'm a resident of Farmington, and I'm the
15 executive director for Greater Franklin Development. We're
16 also located in Farmington. I'm here on behalf of the board of
17 directors in support of this project.

18 For the past five years it's been my responsibility
19 to create new jobs in the greater Franklin County area. It is
20 the goal of Greater Franklin to be the first in economic
21 development in the region undertaken to replace the more than
22 1000 jobs lost in the last decade from the traditional
23 industries of agriculture and manufacturing of shoes and wood
24 products.

25 Maine Mountain Power's scaled-back wind farm on

1 Black Nubble Mountain will still satisfy an economic need in
2 the local area by providing the potential of five to ten new
3 permanent jobs and 80 construction jobs over the course of one
4 year in Franklin County.

5 It's estimated that the proposed wind farm on
6 Black Nubble will create an average of 80 construction jobs
7 over the course of the year. The construction is expected to
8 last one year with an annual payroll of nearly \$5 million.

9 The Black Nubble wind farm is also expected to
10 generate five permanent jobs to ready the operation of the wind
11 power facility. These jobs are expected to generate \$250,000
12 in payment and benefits. The jobs created by the Black Nubble
13 wind farm would provide a weekly salary well above the average
14 weekly wage for the region.

15 The latest data regarding wages from the fourth
16 quarter of 2006 indicates that the average weekly wage in
17 Franklin County is \$581.

18 The positions created at the Black Nubble wind farm
19 project would pay 900 to \$1000 per week, well above the wages
20 earned at local jobs in the Farmington labor market area, which
21 as of July 2007 has an unemployment rate of 6.4 percent.

22 According to the Maine DOL, the construction sector
23 has a total employment multiplier of 1.95 jobs; therefore, the
24 indirect impact of Black Nubble wind farm creation of 80
25 construction jobs in all the industries is estimated at 76 more

1 jobs in the Maine economy. Therefore the total economic impact
2 of this wind farm during the construction phase would create
3 156 new jobs in the local area.

4 Given that the Black Nubble wind farm will employ
5 five operations personnel, the labor department uses an
6 estimated multiplier of 1.5, which is an average of all
7 industries. It's calculated that the total employment impact
8 would be 70 new jobs in the region. Therefore the presence of
9 Black Nubble will result in an indirect creation of jobs in
10 multiple industries, for example, suppliers, restaurants, gas
11 stations, retail stores, and services.

12 The Black Nubble wind farm is an estimated \$110
13 million project representing a very significant private
14 investment in Franklin County, as well as the state of Maine.
15 Local benefits consist of lease payments to landowners and tax
16 revenue in Maine Mountain Power's commitment to purchase from
17 local suppliers and other Maine existing businesses in Franklin
18 County.

19 Tourism is a leading industry sector in Franklin
20 County. I'm not aware of any study or report indicating that
21 wind farms adversely affect tourism. In fact, the review of
22 literature indicates that wind farms and tourism are
23 compatible.

24 A study performed in November 2003 examining the
25 potential impact of a wind farm and turbines in Vermont found

1 that tourist regions whose primary attraction are nature based
2 also rely on wind farms, along with lodging, restaurants,
3 canoeing, fishing, hunting, wildlife viewing, horseback riding,
4 and skiing, as well as many other activities.

5 Wind farms appear to increase tourism in certain
6 rural destinations by attracting the curious for the turbines
7 themselves. It has been noted that the business has increased
8 in many areas and the wind farm attraction has inspired new
9 business development.

10 The Black Nubble wind farm will facilitate tourism in
11 the area by conducting visitor tours. It will help to promote
12 recreation in a tourism-based economy. Wind projects are known
13 to increase tourism in an area.

14 Natural resource industries have long been the
15 backbone of the economy in the Franklin County area, although
16 forest product companies are in a decline. It is important
17 that we seek new opportunities in renewable natural
18 resource-based industries.

19 The Black Nubble project will strengthen the economy
20 in Franklin County and it can happen without undue adverse
21 impact to others. A stronger economy benefits everyone.

22 The Black Nubble wind farm project offers Franklin
23 County a clean industry using a renewable natural resource with
24 excellent wages and benefits for people in this region. The
25 skills required for these jobs can be filled from the available

1 labor force. This is an important opportunity for Franklin
2 County to keep these people making a living in a place they
3 love to work.

4 I strongly believe there's a great need for the
5 Black Nubble wind farm because of the high paying sustainable
6 jobs and secondary economic benefits in the Franklin County
7 area, while helping to reduce air pollution and reduce reliance
8 on fossil fuel.

9 On behalf of the board of directors of Greater
10 Franklin, we urge the Commission to approve this application.
11 Thank you.

12 THE CHAIR: Thank you, Alison. Fred. After Fred is
13 Tony Marple. What would Franklin County be like without Fred
14 Hardy.

15 MR. HARDY: My name is Fred Hardy. I live in the
16 town of New Sharon -- I lived in the town of New Sharon for 47
17 years. I retired, a retired dairy farmer. We still have a
18 farm my son operates -- he uses the land, we don't have cows
19 anymore.

20 That proves to you and everyone in here that I am an
21 environmentalist. Even though I support this project, I can't
22 see for the life of me the harm that it will do to the
23 environment.

24 I'm also one of three county commissioners. I am
25 testifying, however, tonight on my own behalf. The

1 commissioners all signed a letter, which I believe you received
2 in support of this project.

3 I, like Jack, think we can't continue to put this off
4 I don't think. We've heard here tonight that we're looking to
5 run out of oil possibly inside of 30 years, and so consequently
6 we can't wait 25 years before we do anything about an
7 electricity source.

8 Jack's testimony was very pointed, I thought, on
9 destroying mountains in other parts of the country, and I
10 believe that Franklin County certainly -- I think Franklin
11 County certainly has an abundance of wild lands, there's no
12 question about that, and I understand that the views are great.

13 I just try to visualize -- and I ride this part of
14 Franklin County fairly often throughout the year and appreciate
15 its beauty. But I try to visualize what wind towers might do
16 and I can't for the life of me see the harm that these wind
17 towers can do.

18 I understand -- I understand the environmental
19 aspects. The road issue -- the roads issue I think seems to be
20 one of the big issues; however, I have a lot of respect for
21 Dave Rocque from the department of agriculture.

22 I've worked around Dave for close to -- over many
23 years being associated with Soil and Water Conservation
24 District in Franklin County, which I'm one of the supervisors,
25 and I have great respect for Dave's decisions on this.

1 I know he's been questioned to quite an extent on
2 what they could do to make these roads right, and I only think
3 that we have to make sure that we have to trust him on that and
4 make sure they're built the way they've agreed to build them.
5 That certainly stands out.

6 So I guess that's about what I've got to say. I can
7 answer any questions if you care.

8 THE CHAIR: I think you're off the hook, Fred.

9 MR. HARDY: Thank you.

10 THE CHAIR: Thank you for coming.

11 Tony Marple, and followed by Don Nicolson.

12 MR. MARPLE: Thank you. My name is Tony Marple, I
13 live in Whitefield. I serve as the MaineCare director for the
14 last seven months, and before that I was the CFO of Maine
15 General Health in Augusta and Waterville. I've been a lifelong
16 hiker. These mountains are very important to me. I've also
17 been an AMC member for 30 years, although I'm likely to be
18 excommunicated after my remarks.

19 I've hiked all these mountains many times --
20 Saddleback, Bigelow, Abraham, Crocker -- many, many times.
21 This is my favorite area to hike in the state; however, I'm
22 worried about it. I'm not worried about wind turbines, I'm
23 worried about climate change.

24 I've watched what's happened to these mountains over
25 many years. I'm a winter hiker. Winter hiking, my friends and

1 I who winter hike wait and wait and wait for a time we can put
2 snow shoes on. Two years ago there was no winter hiking.

3 I hiked Little Jackson and I needed crampons all the
4 way up. This is a trend. The ice is out earlier, the snow is
5 not as deep. In my opinion, we created this problem, every one
6 of us in this room, and every one of us in this country have a
7 responsibility to solve it. It's going to mean sacrifice.

8 As far as I'm concerned, these viewsheds are not
9 perfect. When I hike the Bigelows, I'm looking at this
10 complex, which is a much bigger and more imposing complex than
11 this set of wind turbines will ever be.

12 My son is a hiker as well. The year after he
13 graduated from high school, he hiked the entire length of the
14 Appalachian Trail. In my view within his lifetime this entire
15 ecosystem will be at risk.

16 The alpine environment, the subalpine environment,
17 the northern hardwood forests environment, all of this will be
18 at risk. That's not an alarmist's point of view; that is a
19 mainstream point of view in terms of climate forecasting.

20 So I believe we have to act. I think it's
21 everybody's responsibility. I respect the AMC's position but I
22 strongly disagree with it.

23 So I think the Black Nubble project is one of many
24 sacrifices we have to make. We all have to conserve.
25 Conservation is not going to be enough. We need to both

1 conserve and find alternatives to fossil fuels.

2 By the way, when you're up on those mountains, you
3 look at the horizon, how many days -- those are the hikers in
4 the room -- do we not see a brown haze on the horizon from
5 coal-fired plants.

6 Secondly, I've hiked extensively in the Adirondacks.
7 The lakes in the Adirondacks above a certain elevation -- I
8 believe it's about 2000 feet -- are devoid of fish because of
9 acid rain.

10 We have to deal with this problem and I think this is
11 a good compromise project, and I would urge you to support it.

12 Thank you.

13 THE CHAIR: Thank you, Tony. Don Nicolson, is --
14 okay. After Don is Gary McGrane.

15 MR. NICOLSON: I'm Don Nicolson, and I'm here as a
16 resident of Farmington, Maine. I've lived there for the past
17 14 years. My house looks out on the most beautiful 24/7
18 mountains. Mt. Blue is 3000 feet and it never dulls the longer
19 I live there.

20 Maine mountains and woods have been an irreplaceable
21 heritage for centuries. Today I come to speak for all those
22 persons who are here in the spirit of literally thousands of
23 Mainers and hundreds of thousands more from around the world
24 who say no to the destruction of the most pristine mountains
25 and woods in the world.

1 Representative Thomas Saviello of Wilton, Maine
2 impressed me when he told many of us that he obtained a Ph.D.
3 in forestry. When he did his master's thesis, Black Nubble was
4 his mountain to work on. Black Nubble -- what troubles him now
5 was his memory of how fragile the soil was on Black Nubble.

6 How can we forgive ourselves if we commit the
7 outright corrosive destruction of this beautiful mountain? How
8 can we permit the first wind farm in the mountains and woods of
9 Maine when three more projects are waiting in the wings for
10 this approval to go through, and then we will automatically
11 have four wind farms in the most pristine environment in the
12 world.

13 Once we lose our centuries old heritage, it is gone
14 for good. That means forever. If we approve this wind farm,
15 years later the world will say it wasn't worth a candle.

16 People in Maine, people from around the world know
17 all about Henry David Thoreau's tramping around our woods with
18 Injun Joe. He put Maine on the world map. These pristine
19 woods cannot be tampered with, otherwise they are no longer
20 pristine.

21 We are cursed with Plum Creek, that elephant in the
22 room, who does not know they are an elephant. I like the
23 metaphor even better that Plum Creek is an invasive species.

24 Are these wind farm projects another form of an
25 invasive species? Why don't they set up their wind farms in

1 Maine where placement really doesn't matter? We have lots of
2 places in Maine with lots of wind, and sometimes we don't have
3 wind in the mountains either.

4 I've hiked, like many of the people who spoke, I've
5 hiked when I was able. I am no longer able my doctor says and
6 that is sad. But I want my son and his family to hike all over
7 Maine's mountains and woods just like Thoreau did and he did it
8 for years with great pleasure.

9 Our generation has the responsibility to preserve
10 this invaluable place in Maine. The part of Maine that is the
11 end of the Appalachian Trail is the toughest part of the whole
12 trail. Let us preserve that heritage forever. I could speak
13 for hours about the glory of the Maine woods. Thank you.

14 THE CHAIR: Thank you. Gary, are you here somewhere?
15 Okay. And following Gary is David Maxwell.

16 MR. McGRANE: Good evening. I am Gary McGrane, and
17 I'm a resident of the town of Jackson. I am also a county
18 commissioner, and I work hand in hand sometimes, maybe glove,
19 with Fred Hardy doing that.

20 As a county commissioner, I hold near and dear to the
21 fact that the environment is one of my concerns as county
22 commissioner. Another concern of mine is the democratic
23 process and I appreciate both.

24 Tonight I come to you and I speak in one tongue. I'm
25 a Penobscot Native, and as a Penobscot Native I've looked at

1 this project and other projects similar to this since 1992.

2 This project, I think at this point in time, meets
3 with our commitment to the environment. The original project,
4 the support, we did not lend our support at that time because
5 we felt -- even though the Commission may have felt the
6 application was complete -- we did not feel that way.

7 We feel at this time this application is complete and
8 we wholeheartedly support the project.

9 I am presently working at the University of Maine
10 through the Bureau of Labor Education. I have no vested
11 interest in this other than the interest of my constituents.

12 Back in July of last year, knowing full well that
13 projects such as this magnitude were going to be coming on the
14 horizon again, we took the inordinate steps, if you will, to
15 address the issue of endangered species and the environment.

16 By doing so we passed a resolution, and I'll be happy
17 to leave a copy with you. We believe this project and some
18 other projects that are coming up meet with our expectations
19 and our hopes. We would hope that if this project is passed,
20 it is followed through to the letter.

21 As a Native American, I have a long proud tradition
22 for the rest of my life in natural resources. We have a
23 responsibility to our children and the environment. Our
24 environment is inextricably linked to the health of all species
25 and the places they live, including our own.

1 We have a responsibility to ensure to protect our
2 environment, and as a commissioner, we pledge to protect our
3 environment.

4 We believe that this project meets our pledge to
5 protect the flora and the fauna and our interaction with our
6 environment. Thank you.

7 THE CHAIR: Thank you, Gary. David. Following David
8 there's another David Bragdon will be the next speaker.

9 MR. MAXWELL: My name is David Maxwell, and I have no
10 prepared remarks. I'm going to speak sort of off the cuff this
11 evening.

12 I had prepared remarks last year that I presented a
13 little earlier than this -- when was the hearing, in September?

14 THE CHAIR: It was in August of last year.

15 MR. MAXWELL: It was in August. I was opposed to
16 this project at that time for reasons that I think I well
17 enumerated. I have written my opposition in publications here
18 in Maine, in newspapers, and I've spoken on Maine Public Radio
19 giving sort of a rhetorical basis for the reasons that I oppose
20 wind power development in the western mountains of Maine.

21 So I'm not going to spend time this evening dealing
22 with those rhetorical objective facts. I want to speak more
23 subjectively as a person who's been coming to this area since
24 1969 and property owner. I own two properties in this area,
25 one is on Flagstaff Lake and another is on Eustis Ridge, and I

1 enjoy this area greatly. I tend to come here more frequently
2 than in the past due to the fact that I'm sort of in
3 quasi-retirement.

4 I was struck by one remark here in particular that
5 referred to Thoreau. When I was a boy growing up in
6 Illinois -- I don't know if those of you who are here ever
7 visited that state, it's relatively flat with cornfields --
8 there wasn't much sense of mountains that I was able to
9 experience, but I did read Thoreau and I was struck by the
10 literary images that he created of the mountains of Maine.

11 As it turned out, I later moved to Boston where I
12 became a college professor and visited right away this area,
13 and indeed I found that it was just as majestic, if not more
14 so, than Thoreau had indicated in his writings.

15 That's what led me to come to this area, to invest in
16 this area, to spend money in this area -- a lot of money --
17 over many years, more than 30-some years, because of the
18 recreational facilities that this area provides and because of
19 my pleasure in experiencing the beauty of these mountains.

20 Now, that is at risk, and I think it is
21 inappropriately at risk because the data has clearly not been
22 martialed here to make a case for wind power development in a
23 sense that it's going to solve the energy needs, either in
24 Maine, in the United States, or in the world.

25 But I said I would not get into the rhetorical debate

1 here concerning those issues.

2 I do want to make one other remark that pertains to
3 an idea that seems to be quite prevalent, it's been voiced here
4 by many of the speakers, and it concerns the view of the
5 mountains.

6 Many people have referred to the Appalachian Trail as
7 though it was the only view, but there are those of us who go
8 into these woods, who travel around these mountains, who canoe
9 on the rivers, who canoe on the lakes, and who see many, many
10 views other than the ones that have been talked about here that
11 are confined to the Appalachian Trail.

12 So in closing I would just like to say that in
13 general -- and the specifics of the case -- I am opposed to
14 wind power development in the western mountains of Maine.

15 Thank you.

16 THE CHAIR: Thank you, David. David Bragdon. And
17 then after David is Bill Houston.

18 MR. BRAGDON: Good evening. My name is David
19 Bragdon. I am the executive director of a new nonprofit
20 organization in Maine called Energy Matters to Maine. I'm here
21 this evening to testify in support of this project.

22 Our organization advocates for energy policies that
23 lower energy costs, promote greater energy diversity, and
24 reduce energy rates. We believe that a sound energy policy is
25 essential to the State's economic vitality and seeks to provide

1 a voice to the thousands of Maine businesses and consumers who
2 believe that the State's economic future depends upon
3 farsighted policies that lower the price of electricity in
4 Maine relative to other states.

5 Maine's economic development is clearly linked to the
6 availability and cost of energy. Energy, supply, price, and
7 use powerfully affect the creation of quality jobs, our
8 prospects for long-term economic growth, the vitality of our
9 communities, and our ability to protect the environment.

10 Maine's comparative energy circumstance is poor. Our
11 average electricity costs are of the highest in the nation, and
12 these historically high prices have cost Maine jobs. The
13 Baldacci administration in 2003 described the cost of energy as
14 "the common thread in recent mill closures in Maine."

15 The state has lost 30,000 manufacturing jobs in the
16 last decade in significant part due to the energy supply and
17 price disadvantage. Many high quality jobs were of main
18 interest to the energy crisis.

19 In recent years the State has sought to strengthen
20 economic growth by investing in research and development. But
21 these targeted R and D intensive industries -- like
22 biotechnology, information technology, precision manufacturing,
23 and composites -- often are significant electricity consumers.

24 We can and we must diversify Maine's economic face,
25 but we cannot escape the conclusion that electricity costs will

1 continue to play a major role in the locational and the
2 investment decisions of many businesses in the new economy just
3 as they have in Maine's traditional industries.

4 Your decision on this project occurs at a time when
5 policy decisions occurring outside the state by ISO New England
6 and the Federal Energy Regulatory Commission will increase the
7 cost of electricity substantially, 25 percent above the current
8 level over the next three years.

9 These increased costs will harm the ability of Maine
10 companies to compete each of these firms outside regions. But
11 your decision on this project can move Maine's energy policy in
12 the right direction. Approval of this wind project will
13 support efforts to lower energy costs, enhance energy security,
14 and ensure energy diversity.

15 Opponents of Black Nubble argue that the project is
16 not needed because Maine already generates more electricity
17 than it consumes. The argument is faulty and neglects a key
18 aspect of Maine's electricity market.

19 Maine has one price advantage compared to other New
20 England states, and it is due to the bottleneck effect.
21 Existing limitations in electricity transmission restrict the
22 amount of electricity that Maine can export to more power
23 hungry southern New England states.

24 While some consider this bottleneck an obstacle and a
25 reason not to build this wind project, we think that this

1 bottleneck is an advantage that provides a modest, but
2 significant, advantage for Maine consumers.

3 As long as the bottleneck exists, the Maine rate
4 payers will enjoy a comparative price advantage. Additional
5 generation, particularly wind generation which diversifies our
6 supply and utilizes an emission-free renewable resource, makes
7 good sense. Permitting this project to go forward is in the
8 interest of Maine consumers and Maine's economy.

9 There are many additional reasons for supporting this
10 project. The applicant and other testifiers have identified
11 many of these. As you've already heard tonight, there are
12 local economic development benefits both in the construction
13 phase and the operation phase.

14 Compared to other forms of electricity generation,
15 wind power has the added benefit of not incurring highly
16 volatile operating costs. It is not subject to the price
17 volatility of fossils fuels, particularly natural gas.

18 On a day in which today, which oil reached a new high
19 of \$84 per barrel, and at a time when natural gas prices are
20 particularly volatile due to the threat of hurricanes, this
21 benefit from the project is clearly welcomed.

22 The price volatility poses a special threat to the
23 State's economic interests because fuel costs are by far the
24 largest single component of the total cost of natural gas
25 electricity generation.

1 In conclusion let me just say that our organization,
2 Energy Matters to Maine, strongly encourages you to approve
3 this project. We're disappointed that the original project did
4 not receive your endorsement.

5 We believe that the economic environmental benefits
6 of the project clearly merit its approval. Now, more than
7 ever, the state of Maine needs to support indigenous, cost
8 effective, and environmentally sound energy investment.

9 Your vote of approval of this project will help
10 promote the state's energy self sufficiency and support
11 long-term economic growth in the state.

12 Thank you.

13 THE CHAIR: Lisa, how are you doing? Five minutes?
14 Okay, folks, we need to take five minutes here to let the court
15 reporter rest her hands.

16 (There was a break in the hearing at 8:09 p.m. and
17 the hearing resumed at 8:22 p.m.)

18 THE CHAIR: We left off with David Bragdon. The next
19 person is Bill Houston. The next person following Bill is
20 Richard Jennings. If Bill is here, he may proceed.

21 MR. HOUSTON: Thank you. I first want to start out
22 this evening thanking you guys for your public service. As a
23 former planning board member in the Town of Kingfield, I
24 recognize the significant service you're making in the State,
25 especially in the times of Plum Creek and significant wind

1 power projects.

2 I certainly know you're not doing it for the money.
3 I would like to thank Commissioner Wright especially for his
4 years of service.

5 So from there, I'm Bill Houston, I live in the town
6 of Kingfield. I am an environmentalist, I am a wilderness
7 guide, and for these reasons I do support this project.

8 I totally agree with the posters as we walked in that
9 we need to protect our mountains. I think the last time we met
10 14 months ago on the Redington project, I was the only one, a
11 member of the public, who spoke in favor of this compromise
12 agreement.

13 I certainly appreciate you listening to me and the
14 developer. I guess you can blame me for getting you in this
15 mess, but I really do appreciate you reopening the hearing and
16 taking the testimony.

17 Clearly this is the right proposal, and the site is
18 right. It will provide for permanent protection to Redington
19 Mountain, it will provide clean and renewable energy for the
20 state, and take significant steps to address global warming.

21 It will also provide what you're charged with is this
22 real protection that our mountains, our children, and our birds
23 deserve.

24 Clearly the landscape in the world has changed. Your
25 job as commissioners in protecting our mountains is different

1 than it was 20 years ago. One of my other claims of fame, I
2 guess -- although I've never heard myself and I'm certainly not
3 credited -- is that I am a star of talk radio in Bangor.

4 Last winter I was asked by a number of environmental
5 groups to do a press conference to speak to the concerns of
6 global warming for the winter recreation industries in the
7 state of Maine and to support the regional greenhouse gas
8 initiatives.

9 In that press conference, in my 5-minute speech where
10 I spoke a lot about how currently global warming is already
11 threatening our industries, how I have friends who are being
12 laid off because of the winters -- or the lack thereof -- how
13 the businesses in this area are already being affected, I said,
14 we all know that global warming is real and dangerous.

15 A friend of mine tells me that at least weekly now,
16 whenever there's an occasion to, especially last winter, my
17 friend George on talk radio uses my voice and says, plays the
18 tape that says, We all know that global warming is real and
19 dangerous, and then George says, and the temperature is 20
20 below. Very funny.

21 I guess that is the part of what bothers me a lot
22 about the opposition to this project. When I said we all know,
23 there was an article in our recent paper saying global warming
24 hysteria.

25 I should have known that even though it's well

1 documented that the oil and coal industry has funded to the
2 tune of hundreds of millions of dollars the few scientists in
3 the world that try to present doubt of global warming, that
4 there would be a few individuals cling to that hope, and I can
5 only figure in their hope of taking no action.

6 Obviously what also bother me is the short-term and
7 nearsightedness view of the world that when we say global
8 warming is real and dangerous but it's 20 below here, that we
9 can't look beyond Bangor, that we can't look beyond the state.

10 I think that is part of your charge that is now
11 different. Protecting the mountains here in western Maine is
12 also protecting the mountains throughout the world. We need to
13 take steps. As environmentalists and citizens of the state, we
14 need to take steps to protect our mountains.

15 What are we going to say to the environmentalist at
16 the Great Barrier Reef where warm seas are killing coral at
17 rapid rates? What are we going to say to our children as we
18 visit Glacier National Park? Oh, yes, there used to be
19 glaciers here.

20 So with that, I urge you to protect the mountains of
21 Maine by approving this project. Thank you.

22 THE CHAIR: Thank you, Bill. Richard Jennings
23 followed by Michael Bobish.

24 MR. JENNINGS: Thank you and good evening. I'm
25 Richard Jennings. I grew up in Belfast, I live now in Fayette,

1 which no one has ever heard of but it's near Augusta. I've
2 been there for quite a few years. I'm a life member of Sierra,
3 I'm a member of AMC, Audubon.

4 I first saw Katahdin probably about 60 years ago, and
5 I can assure you, I've seen it lately, it doesn't look the same
6 now as it did back then.

7 I'm here to support the planet and also our
8 grandchildren, not just mine but all of ours. You've heard
9 that already tonight.

10 I do apologize for this non technical thing that I'm
11 going to say, but climate change -- or global warming --
12 climate change is perhaps a little more accurate because of the
13 reasons we just heard. It can be global warming and 20 below
14 in Bangor, but climate change means the climate is changing.
15 It isn't always getting warmer, but it's changing from where it
16 used to be.

17 As a result of that we heard an excellent
18 presentation earlier today about the effects of climate change
19 and how we're losing habitats. It's like we're on an escalator
20 and the warm habitats are going up, up, up, but the cold
21 habitats are getting knocked and going away.

22 For centuries we have had climate change, but now for
23 the past 2- or 300 years, however, we have ourselves
24 accelerated it. We've dug ourselves a hole and we are left
25 with no good choices. We have choices. The good ones are

1 gone. We have to make less bad ones.

2 Conservation obviously is the No. 1 thing we all have
3 to do. As we heard earlier, it's not easy to get us to do
4 that. Driving our ATVs, me out with my power lawn mower. We
5 all have to make changes.

6 As was said in a very excellent presentation, there
7 is no silver bullet and wind power certainly is not the silver
8 bullet, but it may in time be the silver bullet or something
9 that would be more effective.

10 We, meaning you, you've got to make some hard
11 decisions and face the very really sad reality that sacrifices
12 are going to happen in Maine. It's as though the doctor comes
13 in and tells the parent, well, your child will live if I cut
14 off his leg, but it's not a very happy thing. But the planet
15 needs to live, and we need to make the decision to let it do
16 that.

17 We heard a whole lot this morning about visual
18 impact. That obviously is important. I've hiked just a little
19 tiny pieces of the AT and I certainly appreciate the idea of
20 views, but I also appreciate what was said earlier by Dr. Wake
21 that that view is going to change anyhow, and if we do
22 something to ameliorate fossil fuel use, we may slow down that
23 change.

24 I'm very concerned about what our grandchildren will
25 see. There will be climate change, it will cause changes that

1 we may need to moderate that.

2 What our grandchildren see will change with the
3 presence of wind turbines, I would like to think and hope that
4 it will. If we want to keep it the way it is now, are we being
5 selfish? If I want to go out there and not see wind turbines,
6 am I being selfish to prevent that and thus destroy that view
7 that my grandchildren might otherwise have seen?

8 It was said earlier today about people who go to Cape
9 Elizabeth, Ft. Williams, and they go there to see Portland
10 Headlight. That's a tourist attraction. A lighthouse is a
11 tourist attraction.

12 But I wonder, when that lighthouse first went up,
13 what did people think then? Did they like it? Did they not?
14 I don't know. I wonder if 100 years from now wind turbines
15 might be a tourist attraction. We heard tonight that they are.

16 Finally, we do have Friends of the Mountains that
17 speak on their behalf, we have Audubon that speaks for the
18 thrush; but who do we have that speak for the planet?

19 Thank you.

20 THE CHAIR: Thank you, Richard. Michael [sic]
21 Bobish, please, followed by Bob Dunfey.

22 MR. BOBISH: I'm Bob Bobish, I'm a resident of
23 Eustis, Maine. I actually became a resident last summer.

24 I was first introduced to the western mountains of
25 Maine in 1990 and fell in love with them immediately.

1 I've heard a lot of people talk about their opinions,
2 I've heard a lot of people talk about statistics that are
3 perhaps very valid. I hope to keep this as short as possible.

4 I'd like to talk about values. I grew up for the
5 most part and spent most of my life in south Florida, and I saw
6 the instant gratification of land that was developed that was
7 not supposed to be developed in the manner that it was.

8 Some people look at it as a positive change, and
9 others look at it as destruction of what was there. South
10 Florida used to be a tropical utopia; it's no longer that.

11 I've seen it happen in other states. I've been on
12 the down east coast. I was attracted to this area because
13 Maine's western mountains are one of a kind. There's nothing
14 on the east coast from Florida to Canada that match what the
15 western mountains offer.

16 I'm very much -- I'm very much -- my values are very
17 much in line with those that LURC wrote into their conservation
18 guidelines 32 years ago, not to develop above a certain
19 elevation, to protect our environment, to protect our wildlife,
20 and that's what I stand for. That's what my values are.
21 That's what brought me to Maine, that's what will keep me here.

22 If those guidelines were good 32 years ago, I would
23 think and hope that they would stand to be just as strong and
24 valuable today.

25 I believe that the six employees of LURC that will

1 vote on this project -- by the way, I'm very much against this
2 project if I didn't say that earlier on -- I believe the six
3 people who will vote for or against this project are perhaps
4 six of the most important people that are employed by the State
5 of Maine, and I hope that you can go by those guidelines that
6 were written 32 years ago and protect this region and not let
7 anything change the pristine beauty of what we have here and
8 what we have to offer.

9 Instant gratification is not the answer, and I know
10 that we're in trouble as a nation, we're in trouble with energy
11 as it's been said here by many people. I think anyone that's
12 in this room today and people who come in the next few days
13 will say the same thing; but I don't think the answer is in the
14 form of instant gratification.

15 There's answers out there, I don't know what they
16 are, I'll be honest with you. But I like Maine the way it is
17 and I hope that you do, too, and you keep it there to protect
18 it.

19 Thank you for your time.

20 THE CHAIR: Thank you, Michael. Just for the record,
21 we six are not employees. We're volunteers.

22 MR. BOBISH: I got the point. Thank you.

23 THE CHAIR: Following Bob is, I believe it's Claudia
24 King. Go ahead, please, Bob.

25 MR. DUNFEY: Good evening. I am Bob Dunfey, a

1 resident of York, Maine and an abutter to and great frequent
2 user of the 30,000 acres of beautiful conservation land, the
3 five undeveloped lakes in Maine, and tallest peaks along the
4 southern coast assembled by the York Land Trust and nine other
5 environmental groups. I'm a member of the Mt. Agamenticus to
6 the Sea Conservation Initiative. My credentials, beyond my
7 career in hotels, real estate development, government and
8 politics, which many know me by. I'm a trail runner, ultra
9 marathoner, and I'm a trail maintenance volunteer as well as an
10 outdoors person. I cover many miles of trails a week, 50
11 miles, plus the training. I compete in trail and road races
12 around the country and events as much as 100 miles. I also
13 enjoy the slower pace of hiking, backpacking, skiing, and
14 snowboarding.

15 I am member of the board of directors of Earth Share
16 of New England, which conducts workplace giving campaigns for
17 the benefit of 400 environmental charities, including famous
18 names like Conservation Law Foundation, Appalachian Mountain
19 Club, Sierra Club, and the National Audubon Society. The
20 testimony today represents my personal viewpoints.

21 Perhaps a prerequisite credential for this hearing,
22 I've done the AT from Saddleback to Sugarloaf and enjoyed the
23 many vistas from that section of the trail. Also, I have no
24 financial interest in this project.

25 I have supported the Redington, now Black Nubble,

1 wind farm project as it was first proposed, as well as the
2 current version. I appreciate and respect concerns of the
3 opponents and ideally wish we could avoid many of the negative
4 consequences which may occur when the wind farm is built or
5 operating.

6 I love the outdoors, and I wish we could more easily
7 achieve the goals of greater dependence on green power while
8 minimizing the adverse impact on our environment.

9 Unfortunately it's not easy to reach these
10 conflicting goals, and we seek that middle ground and create a
11 compromise that we can accept. It is my opinion that this
12 unusual situation with environmental groups opposing each other
13 on the merits of this project is a result of general
14 complacency of most citizens and elected leaders in this state
15 and the country regarding our dependence on foreign sources of
16 oil and the general lack of a loss regarding global warming.

17 This complacency is apparent within certain
18 environmental groups when they place commendable goals above
19 the dependence on imported oil and globe warming. This country
20 today has relied on the assumption that we always have adequate
21 supplies of fossil fuels. Our lifestyles reflect that
22 assumption.

23 In 2007, 34 years after the oil embargo gas lines,
24 gas guzzling SUVs and mini vans are common in many family
25 driveways. Those of us who around 1973 personally got the

1 message that reliance on imported sources of oil can be risky,
2 when we had to wait in long gas lines during the oil embargo
3 against western nations.

4 Back then this country consumed 1.2 billion barrels
5 of oil and imported only 20 percent. Now we consume three
6 times as much, 3.6 billion barrels of oil, and import over 60
7 percent. Obviously this is a reflection of our complacency,
8 priorities, and lack of real action.

9 You are familiar with the Honda Accord, a very
10 popular car now built in the United States. It was introduced
11 in 1976 as an economy car with memories of gas lines still
12 fresh. The car got 46 miles per gallon, it weighed only 2000
13 pounds.

14 Over the years Honda revised the car to suit American
15 buyers' tastes and to maximize its sales of Accords. This fall
16 that same car is now rated as a large car, as opposed to an
17 economy car, and gets only half as many miles per gallon,
18 weighs over 1200 pounds more, and is almost 3 feet longer.

19 There are many more examples as Honda has proved,
20 that we are not truly serious about reducing our dependence on
21 imported oil and reducing the consumption of fossil fuels.

22 Alternative green sources of energy has not been
23 seriously pursued by this state or this country. It is mostly
24 talk and very little action. There are some progressive
25 countries, for example, Denmark, which generates more than 20

1 percent of its power from wind. We have grown secure with the
 2 assumption that there will always be abundant oil to heat our
 3 homes and gas to operate our vehicles over the years.
 4 We have lost over 3700 young American lives in the
 5 Iraq war to protect our interests in Middle East oil so that we
 6 can continue to enjoy our relatively luxurious lifestyle
 7 compared to that of most of our global neighbors. These deaths
 8 could have been avoided. How many more young Americans should
 9 die? How many more wars will we enter to protect our secluded
 10 interests?

11 We have choices: Continue status quo, reduce our
 12 dependence on imported oil and our fossil fuels which will
 13 accelerate global warming. Choosing a new course for energy
 14 independence is not easy. It means change. We naturally
 15 resist change.

16 In the case of wind power, we must locate turbines
 17 where the wind speed is adequate and transmission lines are
 18 nearby. Most of the times it's going to be a rural location,
 19 which are typically a beautiful setting, and perhaps have some
 20 other environmental issues.

21 The wind turbine structures erected on these sites
 22 will alter the beauty of that whole vista and hopefully cause
 23 minimal negative impacts to the environment. We must accept
 24 these compromises at many locations throughout this state with
 25 very few exceptions.

1 The State policy should reflect the bias to encourage
 2 the development of wind power. Maine should lead the nation in
 3 the generation of wind power.

4 I encourage each member of the Commission and staff
 5 to support the proposed Black Nubble wind farm project and
 6 facilitate and encourage other developers of wind power to
 7 build projects throughout the state.

8 Thank you.

9 THE CHAIR: Thank you, Bob. Claudia. And she's
 10 followed by Christina [sic] McNeil.

11 MS. KING: My name is Claudia King, and I live in
 12 Falmouth, Maine, and I'm here this evening with my husband and
 13 two teenage sons.

14 We're very concerned about climate change, and I'm
 15 here to urge you to support this wind project. We all have to
 16 do what we can to address the affects of climate change. The
 17 problem is global, hence, it is local, too.

18 In 1999, wanting to support alternative energy, my
 19 husband and I put some money into this project. Since then,
 20 we've done other things to address climate change locally.
 21 We've changed light bulbs, we've gotten an efficient car, I and
 22 others have convinced the Town of Falmouth to sign the Mayors'
 23 Climate Protection Agreement, reducing greenhouse gases, and we
 24 bought energy, among other things.

25 We are told that as a civilization we need to

1 decrease greenhouse gases by 85 percent by 2050 to avert rapid
 2 changes in the world -- that's Maine, too -- and in
 3 civilization as we know it today. It's 2007, that's a daunting
 4 task.

5 Cleaning up our energy supply is extremely important.
 6 As you probably know, about 60 percent of Maine's energy comes
 7 from coal-fired plants, a pretty filthy source.

8 We support this modified project because it is a good
 9 compromise of reasonable property. It will provide a
 10 significant source of clean power, it will disrupt a small
 11 number of acres, producing less environmental and visual impact
 12 than the logging that has been done locally over the last three
 13 decades. It will bring jobs, reduce taxes, and will encourage
 14 wind development in Maine, and most Mainers support wind
 15 development in Maine.

16 So for our family and all of yours, I hope that you
 17 will allow this project to go through. It will just be a small
 18 beginning to the large task that we have before us.

19 Thank you.

20 THE CHAIR: Thank you, Claudia. Christina [sic], is
 21 she here?

22 MR. McNEIL: Yes.

23 THE CHAIR: Did I read this name wrong?

24 MR. McNEIL: Yes.

25 THE CHAIR: Oh, I'm sorry. It's Christian, right?

1 MR. McNEIL: It is Christian. My name Christian
 2 McNeil. I live at 64 Winter Street in Portland, Maine. I'm
 3 also an employee of GrowSmart Maine, a nonprofit nonpartisan
 4 group; however, these words I'm going to express are not
 5 necessarily those of my employer.

6 I should also mention that for three years between
 7 2003 and the fall of last year, 2006, I worked for the
 8 Appalachian Mountain Club in New Hampshire.

9 So I would like to sort of take that as a jumping off
 10 point in my capacity as hike crew and caretaker, sort of
 11 naturalist, sort of helping guests interpret the alpine
 12 environment, and over the course of three years I've witnessed,
 13 you know, over the seasons and also over the three years I've
 14 witnessed considerable changes to the alpine environment.

15 First I would like to pass this around. This is a
 16 cube of solid graphite. It's 1 pound of graphite. This is the
 17 amount of carbon dioxide -- it represents the amount of weight
 18 of 1 pound of carbon dioxide, which is approximately the amount
 19 of carbon dioxide that every time we drive 1 mile in an
 20 automobile or every time we consume 1 kilowatt hour of
 21 electricity.

22 So this is kind of a good way for us to visualize --
 23 obviously carbon is invisible -- this is the weight, it's
 24 tangible, it's certainly hefty. We have to visualize the
 25 impacts of our electricity use, so I'm going to pass it around.

1 So according to the presentation we heard at the
2 beginning of the evening, this project would save us from
3 400,000 of those going up into the atmosphere every day. Try
4 to wrap your mind around that. That's just the greenhouse gas
5 emissions.

6 This project would also offset electricity produced
7 from natural gas and coal-powered plants. Those fossil fuel
8 plants also produce other pollutants, things like sulfur
9 dioxide, which causes acid rain, mercury, which is a highly
10 toxic poison. That's the reason we can't -- pregnant women
11 can't eat fish these days because of mercury. And because
12 mountain weather sort of squeezes out and condenses these
13 pollutants from upwind, mountain alpine zones are extremely
14 susceptible because they receive higher doses of these
15 pollutants than other places.

16 So the fact is, a lot of people have talked about
17 preserving mountaintops, and as LURC, you have to protect
18 mountaintops and it's an important natural resource. But the
19 fact is, if you fail to approve this project, then all the
20 Maine mountaintops -- not just one -- but all of the
21 mountaintops are going to be put into tremendous jeopardy.

22 Our mountaintops are going to be subjected to 400,000
23 of those a day in greenhouse gas pollution alone, not to
24 mention hundreds of pounds of mercury pollution. Mercury is
25 killing Bicknell's thrush, for example, in alpine zones, as

1 well as trap streams, creating havoc in fishing streams. Acid
2 rain, it's killing off spruce trees and other sensitive alpine
3 areas. This is happening all over the state of Maine in all of
4 our alpine zones, not just Black Nubble, but everywhere, okay.

5 So that's a tremendous effect I want you keep in
6 mind.

7 Secondly, I'd like to talk about climate change
8 specifically. As I noted before, for three years I was with
9 the Appalachian Mountain Club. I was able to notice visibly
10 growth, new growth, of lower altitude spruce trees and birches
11 basically moving up the mountain, just in three years I was
12 there.

13 Okay, so you can say arguably, say, well maybe that
14 was a just a flip, but the Appalachian Mountain Club's own
15 research, extensive research, which I know they probably they
16 have probably brought to you folks for this issue, but their
17 own research shows that this is happening. Our alpine zones
18 are shrinking because of greenhouse gases and climate change.

19 I can't -- it seems just so narrow -- such a narrow
20 focus to say that we have to preserve this one mountain, the
21 small footprint on this one mountain, which isn't even a
22 pristine mountain. It's the site of extensive logging in the
23 past.

24 It's already got logging roads on it. It's not
25 pristine. This is not going to be some paradise lost, all

1 right. It's been a working forest for decades now. By
2 approving this project, we can avoid disasters affected by the
3 change on our alpine zones.

4 Finally, I just want to say that this -- these wind
5 turbines will not preclude nature tourism in the area, in fact,
6 just the opposite. I mean, we have a huge visual impact right
7 behind me at Sugarloaf USA. Does that, you know, preclude
8 nature tourism in this area? Sugarloaf is a huge driver of the
9 tourism development in this valley. It's still a huge visual
10 impact and it's a huge environmental impact on local watersheds
11 and the local sewer system and so forth, but still, it's a huge
12 development and huge attraction for tourists.

13 Similarly, ecotourism development, I mean, you can't
14 build an ecotourism resort without featuring a small scaled
15 wind turbine in your brochure. It goes hand in hand. People
16 have an obvious association with wind turbines and sustainable
17 development, and this would promote activities for Carrabasset
18 Valley.

19 As far as hikers go, I think the hiker comes to the
20 mountaintop and sees some wind turbines off in the distance and
21 can't think of all of the pollution that's being prevented and
22 can't think of how much clearer his view is, how much further
23 he can see out into the horizon because of those wind turbines
24 creating clean energy and can't think of all the effective
25 climate change, and can't think of all of the 20th century

1 legacy of fossil fuel combustion, and instead only sees an
2 eyesore or some imagined paradise lost. If that's the case,
3 then environmentalism is in a pretty sad state of affairs, and
4 what hope do we have for the future of the environmental epic
5 or for the world at large.

6 So that's all I have to say. Thank you very much for
7 listening. I hope you'll make the right decision for all of
8 Maine's mountaintops.

9 THE CHAIR: Thank you, Christian. Basil Powers. Is
10 he still there?

11 MS. CARROLL: No. I ran into Basil in the parking
12 lot, and he said he was tired and had to go home but he would
13 be here tomorrow and sign up to testify.

14 THE CHAIR: Okay, I didn't figure we'd get away
15 without hearing from Basil.

16 Dudley Greeley, then.

17 MR. GREELEY: Good evening. My name is Dudley
18 Greeley. I am an adjunct professor at the University of
19 Southern Maine. I'm currently teaching two courses in the
20 business school on Triple Bottom Line Marketing, co-teaching
21 those courses.

22 I'm here to speak specifically on the topic of
23 whether or not this project fits -- I believe I'm paraphrasing
24 some of the criteria that you're asked to consider -- will this
25 project fit harmoniously with the landscape.

1 You've heard more than an earful about the ecological
2 landscape. You've heard quite a bit about the economic
3 landscape. I'm going to talk particularly about the social,
4 the human landscape here.

5 That landscape is changing, as are the ecological and
6 economic ones in this area. Part of the landscape that you're
7 perhaps not aware of is that all the presidents of the
8 universities of the University of Maine System recently signed
9 the Association for the Advancement of Sustainability in Higher
10 Education President's Climate Commitment, pledging their
11 institutions to create institutional structures to determine
12 how these institutions in Maine can become climate neutral and
13 operate without burning fossil fuels and set a date for doing
14 so. The now chancellor signed this document also.

15 These presidents are part of what most important
16 landscape elements in Maine -- that's the human landscape --
17 and they need your help. Without economically viable,
18 financially affordable clean power choices, these presidents
19 will fail. Their students have asked them to power their
20 campuses using cleaner power. Many of them are already doing
21 this to a small degree. The University of Southern Maine is
22 doing this. This needs to happen. They need your help, they
23 need your help desperately.

24 The chancellor of the institution of the University
25 of Maine System has it now as the No. 3, kind of, what do you

1 call it, action item. He wants to position the University of
2 Maine System as a university system of choice for those not
3 only in the New England region but across the country to select
4 this institution because of its concern for not just economic
5 and social issues, but ecological issues. He wants the
6 University of Maine System to be seen as an institution of
7 choice by people all over the country for those who care about
8 not just finances, not just their neighbors, but also the
9 planet that supports the whole system.

10 Without your support, as I said, the universities
11 will fail. Perhaps the most important landscape element that I
12 see here are those people that live not just immediately in the
13 area but those people in Wiscasset who without small partial
14 solutions to the problems that the western mountains face, and
15 they do need your protection. They do need your protection
16 dramatically in many dimensions.

17 Without small projects like this -- and this is not a
18 huge dramatic project -- if it is successful for 25 or 40 years
19 and we figure out a better way to power our needs, those
20 turbines can be removed. And the viewshed, that one small
21 element of this landscape, this very important landscape, will
22 be returned. It will be returned better than it would have
23 been without this project.

24 My daughter, who's now at college, would be here
25 tonight if she could be, and she has hiked most of the

1 Appalachian Trail in Maine. I have hiked these mountains for
2 40 years, even more, and I implore you, please protect the
3 mountains. Meet the -- pay attention and meet the criteria to
4 make sure that this project fits in harmoniously with the
5 landscape, but remember that the landscape is very different
6 than it was 25 or 50 years, and the landscape includes
7 ecological, financial, and most importantly, human elements in
8 very, very well thought out elements of that human landscape.

9 The presidents of the University of Maine System
10 institutions, all of them, need your help to make sure that we
11 can power our institutions with clean power. We may -- we may
12 have enough power in Maine to export it, but we do not have
13 enough wind power. Currently, I am forced, through largely
14 economic reasons, to buy clean power to power my home in
15 Cumberland because the options in Maine are very expensive.

16 My university cannot buy clean power in Maine because
17 it's simply too expensive. The taxpayers would be up in arms.

18 We need every small project of this sort that we can
19 possibly get going, and we need them as quickly as possible.

20 Thank you very much.

21 THE CHAIR: Thank you. All right. Jan Collins, is
22 she here? Waiting patiently.

23 MS. COLLINS: I think you are the ones who are
24 waiting patiently and I appreciate it. I know you're a
25 volunteer board and I know this is a very long process and you

1 have a lot on your plate here. Thank you very much for being
2 here.

3 My name is Jan Collins. I am a resident of Maine,
4 and I have been a resident of Maine all my life, approaching 50
5 years, and most of that time I have been a resident of Franklin
6 County.

7 I grew up here hiking in these mountains and
8 appreciate them deeply. In fact, I believe the mountains are
9 probably my heart song, which, as members of LURC I believe is
10 probably part of your heart song, too, because you wouldn't go
11 through this long interminable process if you didn't really
12 care deeply about the undeveloped lands of Maine and I do
13 appreciate that.

14 As a hiker and also as a scientist, I have often
15 wondered what it is that attracts people to mountains and to
16 the ocean. I have thought that perhaps my reason was because I
17 have lived here so long and because of my ancestry brings me
18 back thousands of years in Maine.

19 A few years back I read a passage from a book called
20 A Naturalist's Year, in which the author tries to describe some
21 of the ways that birds migrate. He talked about using the
22 stars and the sun and the gravitational pull of the earth, but
23 the one thing that struck me about what he said was that birds
24 also navigate by large geologic features: The ocean and the
25 mountains. They do that because they can hear low frequency

1 sounds that are emitted by the oceans and the mountains.
 2 I was shocked because it got one line. Where did
 3 that come from? Is it possible that we, too, not hear but feel
 4 those low frequency vibrations and that in fact the mountains
 5 sing to us in a way that we feel but don't hear? Could that
 6 account for the attraction that we feel to the mountains and
 7 the spiritual nature of mountains that Native Americans have
 8 always felt as sacred places and that cultures around the world
 9 view the same thing, whether you're in Staten Island or you're
 10 in the mountains of Maine. Mountains are considered sacred.

11 I understand that your process here is to make sure
 12 that the mountains are protected. I believe that the foresight
 13 that went into this legislation that created a protected zone
 14 was as far reaching as Governor Baxter's when he protected
 15 Baxter State Park.

16 His is a permanent legacy. I'm hoping that yours is,
 17 too. When I stood on Tumbledown Mountain as a teenager and
 18 looked over the landscape, the mountain peaks were endless in
 19 all directions, and I imagine that I saw what my ancestors saw
 20 hundreds of years ago before Europeans came here because I
 21 could not at that time see any development from those peaks.

22 It is a gift that I would like to give to my children
 23 and grandchildren, this sense of wilderness, of an undisturbed
 24 landscape.

25 Over the past summer I visited with my family

1 relatives in Prince Edward Island. A recent wind power
 2 development there was very apparent. The towers that I saw
 3 were the same size towers as you will see should this mountain
 4 be developed. They were 400 feet tall, twice the size of the
 5 tallest building in Maine. Twice the size of the tallest
 6 building in Maine. I want to repeat that. That's what we're
 7 proposing on this mountaintop.

8 When I talked to our relatives there on Prince Edward
 9 Island, they told us that it took 17 tractor trailer trucks to
 10 bring in the parts to the crane that had to be built on site to
 11 lift the parts to this wind turbine, that one track for the
 12 crane weighed 35 tons.

13 It is hard to imagine that a fragile pristine
 14 environment on a mountaintop can sustain that kind of an
 15 impact.

16 Another thing that has struck me in reading about
 17 this project is the developers say they will only, only,
 18 disturb 230 acres of land. The farm that I live on is 100
 19 acres.

20 When I walk the boundary line from my property, it's
 21 a half a mile in four directions, it's a 2-mile walk around the
 22 property. Two hundred thirty-three acres, if you don't know
 23 what an acre is, doesn't seem all that big, but it's more than
 24 a mile square.

25 A mile on the top of a mountaintop is huge. Most

1 mountaintops that I've been on, including those that are
 2 protected by the AMC, have signs up asking people to stay on
 3 the trail so that they will not kill the fragile alpine
 4 environment.

5 What we're saying is, we're going to completely
 6 remove the top of this mountain. Can we really say that that's
 7 not going to have an impact on the environment?

8 I had an opportunity to view the film that was put
 9 out recently by the Mars Hill residents, and in it a woman
 10 became very emotional when she spoke of the blasting that
 11 occurred on Mars Hill because she had grown up there and her
 12 heart song was attached to that mountain, and it felt like a
 13 part of her was being destroyed. I feel that way, too.

14 Some other things that I learned in Prince Edward
 15 Island was, one, that the wind towers had not attracted any
 16 more tourist visitors. In fact, tourism went down on Prince
 17 Edward Island, probably not because of the wind towers, but
 18 because that's the trend.

19 I also found that it did not in fact increase --
 20 bring in jobs. Yes, it did increase the number of jobs during
 21 the construction phase, however, most of the jobs that were
 22 long term had to go to people who were trained and experienced
 23 with wind power, and therefore they went to people that
 24 belonged to the company who actually provided the towers, not
 25 to local people.

1 I also wanted to note that many of the other comments
 2 made by supporters are either selective or greatly exaggerated.
 3 The development of this project will not in fact bring down the
 4 cost of electricity in Maine. As you know, maybe the audience
 5 does, too, those are set by NEPOOL and in fact there's a suit
 6 by the State right now asking that those criteria used to set
 7 those prices be changed because Maine is unfairly penalized.
 8 We are being asked to support southern New England states, and
 9 our rates are inflated as a result.

10 In addition, you're being asked to carry a very heavy
 11 burden. From what I have heard from people supporting this
 12 project, if we don't build these turbines, our troops will be
 13 stuck in Iraq, that -- the universities will fail, et cetera.
 14 Oh, and the mountaintops in West Virginia will continue to be
 15 destroyed.

16 I don't believe that building this will save any
 17 mountaintops in West Virginia. I am saddened by the thought,
 18 but I believe it is true that if we continue to every day
 19 increase our consumption of fossil fuel and energy, that
 20 building wind towers will just allow us to continue to increase
 21 our consumption of energy.

22 The only way to save those mountaintops in
 23 West Virginia, the only way to save the mountaintops in
 24 Maine -- and I believe the mountaintops in Maine are just as
 25 important as those in West Virginia and I am shocked that

1 people believe we should destroy ours here in hopes of saving
2 there.

3 Unfortunately, this project has no quid pro quo. No
4 mountain in West Virginia will be saved, the university will
5 not in fact be saved, and the troops in Iraq will not come home
6 if we build this.

7 The reality is, we will destroy a mountaintop in
8 Maine. Mountaintops in West Virginia will continue to be
9 destroyed. The troops in Iraq are there for political
10 processes that are beyond our control. The university can save
11 energy. Theo Kalikow at the University of Maine at Farmington
12 has done an incredible job building their most recent building
13 on campus. They're using geothermal energy, pumping cool air
14 up in the summertime from underground, and that already warmer
15 air is heated in the wintertime, saving them probably -- you
16 would have to ask them -- but up to 50 percent of their energy.

17 The only way we are going to save mountaintops in
18 Maine, the only way we're going to save mountaintops in
19 West Virginia, the only way we're going to address the energy
20 crisis in the United States is to start taking personal
21 responsibility.

22 I drive a hybrid car, I hang my clothes out on the
23 line. Every light bulb in my house is a compact fluorescent.
24 I care about global warming. When we all do, we will save
25 mountaintops everywhere and we will also address the energy

1 crisis. Thank you.

2 THE CHAIR: Thank you, Jan. Irv Faunce.

3 PARTICIPANT: He had to go home.

4 THE CHAIR: Okay, thank you. Suzanne Sayer, is she
5 here?

6 MS. SAYER: I'm here but I'm not speaking tonight.

7 THE CHAIR: Oh, you're not. Okay. Susan Stowell,
8 did she go home?

9 MS. STOWELL: No, she hasn't.

10 THE CHAIR: I'm sorry. I didn't see you.

11 MS. STOWELL: I'm Susan Stowell, and I'm a resident
12 of Wells, Maine and also up here at Sugarloaf. Thank you very
13 much. You folks have a thankless job, particularly on this. I
14 don't envy you but I appreciate what you're doing. First of
15 all, staying awake tonight. I won't be long.

16 I do not think this is the right thing to do for this
17 place at this time. I'm going to speak in reference to using
18 common sense and economic sense. I don't disagree with needing
19 to conserve but I question the way we might be attempting it.

20 I think that destroying, changing a mountaintop to
21 put up something that's only 25 to 30 percent efficient doesn't
22 seem to make sense. I can't believe there's a person in this
23 room that would start a business that's only going to have 25
24 to 30 percent efficiency, and that's what I have read and heard
25 stated. I could stand very well corrected on that.

1 I think that from what I've read also that there
2 might be -- the cost of electricity could go up because of
3 using this power. It's expensive to generate.

4 I am quoting some things from the Wall Street Journal
5 on July 9th of this year, and to give you a variety of the
6 costs, now, this is from the International Energy Agency in
7 Paris, they state that wind farms cost between .04 and .14
8 cents to generate a kilowatt hour. That's a big range there.
9 I think we're at the high end. Just for comparison, a
10 coal-fired plant costs between 2.5 cents and .06 cents just so
11 you'll have some information.

12 One thing to think about for the wind power is the
13 incentives from the government as far as taxes go. I'm going
14 to read this, a few sentences. The lack of a stable long-term
15 regulatory environment has created a wind power roller coaster.
16 Developers were never sure their projects would make economic
17 sense if, a few years down the road, if the regulatory climate
18 changed.

19 So we could get these windmills up, wind turbines up,
20 and things could change for the tax incentives. Where would
21 the owner be? Where would we be? That is something to think
22 about.

23 Another thing that's already been brought up is the
24 shortage of wind turbine components. There are about 8,000
25 parts, I gather, and they're hard to come by. If this group

1 that proposes this hasn't ordered their parts, they are going
2 to be many, many years down the road in order to get their
3 parts. Again, there's an article. If you take this at face
4 value, I don't have knowledge to disagree with it or to agree
5 with it, I'm just stating it.

6 So it's something to think about and maybe ask the
7 company if they put in their order or have they aligned
8 themselves with somebody in Spain where they get their parts.
9 Otherwise they may have a long wait.

10 I also am concerned about what it might do to
11 tourism. I was on the tourism commission and I know the impact
12 of tourism. We can't deny in Maine, some people may not like
13 it, it's a fact of life, it brings in more money than anything
14 else.

15 We in this part of the state of Maine cannot afford
16 to lose tourism. Just drive through on your way out up through
17 Jay, Livermore, Wilton you see all the empty storefronts. We
18 cannot have anything that is going to deter our tourism.

19 A lot of people who have spoken for this project are
20 from the southern part of the state where there are a lot of
21 jobs. We don't have that opportunity to turn away potential
22 income. Yes, it may offer five permanent jobs but at what cost
23 of what we're going to do to the area.

24 I think people think that we're so lucky to live
25 where we are close to nature and away from civilization. I do

1 agree with a lot of the earlier statements that it has changed
2 a lot. In the almost 30 years I've been here I still see woods
3 everywhere and I want to continue that.

4 Just two corrections. One gentleman spoke about the
5 ice going out earlier than usual. It has not on West Lake.
6 It's been the same thing since the 1800s. It doesn't vary
7 within two weeks. So rest your mind at least for that one lake
8 at the moment.

9 And Bicknell's thrush is alive and well in Wells. I
10 haven't seen them, but I've heard them flying around when I've
11 been out on bird walks, so that's a good sign for us at this
12 point.

13 I suggest you consider all the options. You have no
14 choice, but I wish you would consider voting against wind
15 power. I don't think it's going to do what it's tooted out to
16 be.

17 THE CHAIR: Thank you. Thank you, Sue. Maxine
18 Collins.

19 MS. COLLINS: I hope to make this short and I do
20 appreciate your waiting so long.

21 My concern is something we haven't heard about, and
22 that is what's going to happen 30, 40 years down the road when
23 these turbines are no longer working? Are you going to make
24 sure that they're going to be dismantled, and if so, how are
25 you going to put the mountaintop back on them?

1 They're really going to destroy a lot of land. On
2 top of that, the roads are still going to be there. If the
3 roads are there, if it isn't the wind turbines there, it will
4 be subdivisions because they can get there.

5 So you, know you, you can have mountaintop or you can
6 have the wind power, and I think as far as everybody worrying
7 about the carbon dioxide, well, a few less miles being driven
8 down the road with everybody's car would save a lot more than
9 these wind turbines are going to. Thank you.

10 THE CHAIR: Thank you, Maxine.

11 MS. COLLINS: You're welcome.

12 THE CHAIR: Phil Coffin, is he still here?

13 MR. COFFIN: I'm still here. I think I'm last,
14 right?

15 THE CHAIR: You are last unless somebody pops up and
16 decides that they want to speak.

17 THE COFFIN: My name is Phil Coffin, I'm a resident
18 of Carrabassett Valley. I have been visiting this area since
19 the 1960s and I've been living here since 2000 with my wife and
20 three daughters.

21 We are hikers, I'm an AMC member, I'm an active
22 Nordic alpine skier, a hunter, a fisher. I truly enjoy the
23 surrounding woods, the environment, and I'm here to speak
24 strongly in favor of this wind power project.

25 I do so for a lot of the reasons already articulated

1 probably much better than I can do tonight by others. I'm not
2 going to go into any great detail.

3 I think this is a good project, particularly as it
4 has been formulated. I think it serves the economic needs of
5 this region, which are in fact very important, and it provides
6 a method for developing energy that is cleaner than other
7 methods of energy production that are currently available in
8 this state.

9 In an ideal world we wouldn't have the need for wind
10 turbines in the western mountains of Maine, but this is not an
11 ideal world. We're living in a global economy. In fact
12 today's New York Times had an opinion of a columnist, Tom
13 Friedman, talked about having recently visited Qatar and China
14 and having been back to those regions to visit the area and
15 noticing the amount of economic development that's gone on
16 there, but also the amount of energy that they are consuming in
17 vast quantities.

18 We need today take small steps to reduce our
19 dependence on carbon producing fuels. This is one step in the
20 right direction. For that reason I strongly urge you all to
21 support it. Thank you.

22 THE CHAIR: Thank you, Phil. Well, I guess if
23 there's nobody else here that wants to speak, we'll close
24 tonight's proceeding with a reminder that we're going to
25 continue this tomorrow morning at 8:30.

1 We'll be here with continuing testimony from the
2 intervenors and the cross-examination of the witnesses. We
3 will -- also we will be hearing from government agencies
4 tomorrow as well. And we'll remind you that we will be here
5 tomorrow night at 6 o'clock to take additional public testimony
6 if there is any.

7 I guess at least we know of one person who will be
8 here tomorrow night. We will be here at 6 o'clock tomorrow
9 night if there is additional public testimony.

10 So with that, we will adjourn until 8:30 tomorrow
11 morning. Thank you very much.

12 * * * * *

13 (The hearing was adjourned on September 19, 2007 at
14 9:22 p.m.)

15 * * * * *

16 (The hearing resumed on September 20, 2007 at
17 8:38 a.m.)

18 * * * * *

19 THE CHAIR: Good morning everyone. Is everybody
20 ready to go? I don't see any dissenters.

21 Good morning, we're resuming a public hearing on
22 Zoning Petition ZP 702, and I'm not going to read the rest of
23 that stuff into the record, we've done it once already, that's
24 enough. Just for the record, though, we'll indicate that we
25 have with us this morning Commissioners Hilton, Kurtz, and

1 Harvey; LURC staff, Amy Mills, Catherine Carroll, Melissa
2 Macaluso, and Marcia Spencer-Famous; and our court reporter,
3 Lisa.

4 This morning -- today -- oh, additionally we will be
5 joined later today by Commissioners Nadeau and Schaefer.

6 Today we're going to continue with the testimony of
7 the intervenors and the cross-examination of those people. And
8 I think we've got a full day unless a lot of you give up time.
9 So today -- the length of today is entirely in your control.
10 We're here until 10 o'clock tonight or however long it takes.

11 Now, the first thing this morning on the schedule is
12 that we're going to do the questioning of the State soil
13 scientist, the Maine Public Utilities Commission, the Maine
14 Department of Inland Fisheries & Wildlife, I believe the three
15 representatives are here of those agencies, if they would come
16 up front, that would be helpful.

17 I guess I would ask, the other thing we need to do is
18 we should swear in all of the witnesses that will appear today.
19 Hopefully they're all here. So you folks, if you'll remain
20 standing, and I'll ask the other folks who plan to testify
21 today if you will rise and we will swear you all in at the same
22 time.

23 (Witnesses were sworn en masse.)

24 THE CHAIR: Would you gentlemen please be seated. I
25 notice that the agenda calls for the Commission to ask the

1 questions first, but I think I'm going to let the intervenors
2 ask the questions first, and we'll conclude the questions, so I
3 have, I guess, the applicant has the first crack here.

4 Mr. Thaler, is that your -- are you going to do this?

5 MR. THALER: I'm going to do one or two of them and
6 Attorney Tracy is going to do the third.

7 THE CHAIR: Okay.

8 MR. THALER: Do you want us to come over to the
9 microphone?

10 THE CHAIR: Yes, please. I see that we allotted
11 about an hour for this whole process. Hopefully we can -- 15,
12 20 minutes, is that going to be enough?

13 MR. THALER: Less than that.

14 THE CHAIR: All right. Thank you.

15 MR. THALER: Good morning. I'm Jeff Thaler, attorney
16 for the applicant, and with me is Sarah Tracy. I just have a
17 couple questions for, I guess, Mr. Timpano.

18 MR. THALER: I was going to ask for the record,
19 Mr. Timpano, maybe you could introduce yourself and the
20 gentleman with you?

21 MR. TIMPANO: Good morning, I'm Steve Timpano,
22 environmental coordinator with the Maine Department of Inland
23 Fisheries & Wildlife, and I work out of the Augusta office.

24 We have Robert Cordes, assistant regional wildlife
25 biologist for this region, who has been principal in pulling

1 together the comments on this permit proposal.

2 MR. THALER: Thank you. And last summer we heard, I
3 think, from several members of IF & W.

4 In terms of the terms of the materials that were just
5 submitted into the record by LURC staff, which was August 28,
6 2007, Mr. Cordes, I guess I just have a question or two for
7 you.

8 EXAMINATION OF ROBERT CORDES

9 BY MR. THALER:

10 Q. There's a memo from you to Marcia Spencer-Famous of
11 August 22nd, and you indicated that IF & W had finished
12 reviewing the revised application for Black Nubble, most
13 of the comments IF & W submitted last year for the
14 original petition will still be applicable, and you
15 attached those comments.

16 You then wrote, the revised petition addresses most
17 of the items that we asked to have clarified. A couple
18 comments specific to the Redington Range no longer apply,
19 i.e., the northern bog lemming habitat.

20 Is it IF & W's opinion that there is no northern bog
21 lemming habitat on Black Nubble?

22 A. Yes, as we understand it.

23 Q. And you also indicated that there were a couple things
24 that you would want to see in either the final development
25 plan or post construction.

1 Is that generally correct?

2 A. Correct.

3 Q. In terms of what's being proposed in the preliminary
4 development plan rezoning petition that's currently
5 pending before LURC, is IF & W generally satisfied with
6 the nature of the studies and assessment of impacts that
7 have been done by the applicant's consultants?

8 A. Yes, to this point. We didn't request any further
9 studies. It's important to note that the
10 post-construction monitoring is as important as the
11 pre-construction.

12 Q. Right. We understand and agree with that.

13 MR. THALER: I don't have anything further for
14 IF & W. I guess just one or two questions for Mr. Rocque.
15 Mr. Rocque, I'm going to ask you a question and move back to my
16 table just to grab the most recent copy of your comments.

17 EXAMINATION OF DAVE ROCQUE

18 BY MR. THALER:

19 Q. You sent -- you wrote a letter to Mr. Frick dated
20 August 31, 2007 responding to some questions and some
21 general testimony that Mr. Kimball, I believe, had given;
22 is that correct?

23 A. That's correct.

24 Q. As you sit here today, roughly three weeks since
25 August 31, are the views that you expressed in your

1 August 21, 2007 letter still your opinions?

2 A. They are.

3 MR. THALER: Mr. Chairman, I don't have anything
4 further for Mr. Rocque. And Attorney Tracy will have a few
5 questions for Mr. Tannenbaum. Thank you.

6 MS. TRACY: Thank you, good morning. My name is
7 Sarah Tracy. I'm one of the attorneys for Maine Mountain
8 Power.

9 EXAMINATION OF MITCH TANNENBAUM

10 BY MS. TRACY:

11 Q. There was some confusion yesterday over whether -- about
12 the effect of wind farms on electricity prices of Maine
13 going back and forth, and I wanted to try and see if I
14 could set the record straight this morning.

15 Could you please clarify whether the addition of new
16 renewable energy and generation, such as the Black Nubble
17 wind farm, will have the effect of reducing electricity
18 prices in Maine?

19 A. Well, it should. As we indicated in our review comments,
20 the more generation that is built in Maine and throughout
21 New England would have the effect of displacing more
22 expensive generation, and if you displace more expensive
23 generation, you're going to lower wholesale rates which
24 translate into retail rates.

25 Q. The other question that was raised yesterday in

1 yesterday's testimony was whether the Black Nubble wind
2 farm would displace other renewable energy generation
3 sources in the transmission area, and I wanted to draw
4 your attention to the August 1st -- the MPUC's responses
5 to the questions posed by LURC dated August 1st, 2007 in
6 which you stated the following: The question was, will
7 wind power displace other clean energy source (like
8 hydro), and the answer was, because wind and other clean
9 generation sources like hydro facilities have no fuel
10 costs, both should generally operate to their full
11 capacity. One resource may displace another if there's a
12 transmission constraint in the region, in which the
13 resources are located.

14 Is that your opinion today?

15 A. Yes, that's the opinion of the Public Utilities
16 Commission.

17 Q. I'd like to draw your attention to the comments the MPUC
18 submitted following last year's hearing, so it's related
19 to the 90-megawatt facility, wind power facility, which
20 you also incorporated in the MPUC's 2007 review comments.

21 Specifically I would like to point you to -- these
22 are the August 11, 2006 responses to LURC questions, and
23 the first question is, is transmission congestion a
24 serious concern for this particular project?

25 At that time the subject was the Redington Mountain

1 wind power project. As you know that's been down-sized in
2 the current proposal.

3 Your answer was in -- the transmission congestion was
4 not a serious concern for the Maine Mountain Power
5 project.

6 Is that still your testimony today?

7 A. Yes, with the project being reduced, the transmission
8 congestion concerns would also be reduced.

9 MS. TRACY: Thank you very much, I have no further --
10 oh, actually, I have one more question.

11 BY MS. TRACY:

12 Q. There's also been some information that the pollution
13 avoidance figures, specifically the Black Nubble wind farm
14 will displace 400,000 pounds of pollution on average per
15 day, there's been some information that the process by
16 which Maine Mountain Power arrived at that figure may not
17 be appropriate.

18 I wanted to get your opinion on whether -- let me
19 back up.

20 Since you weren't present at the hearing, if I may,
21 just summarize, John Hanisch testified for Maine Mountain
22 Power that that pollution avoidance figure was calculated
23 by multiplying the output of the wind farm by the most
24 recently published ISO New England marginal emissions
25 rate.

1 In your opinion, is that an appropriate methodology
2 for estimating the average amount of pollution avoided
3 from a particular wind farm?

4 A. Yes, it's certainly "a" appropriate way of looking at the
5 displaced emissions, and it's precisely the way the
6 Commission looked at it in its 2005 report to the
7 legislature on the viability of wind power.

8 There's certainly other ways to look at it, but it's
9 certainly one reasonable approach.

10 Q. This is really my last question. There was, as you know,
11 the legislature recently passed an act to stimulate demand
12 for renewable energy, which requires that Maine increase
13 the supply of new renewable energy generation sources by
14 10 percent by the year 2017.

15 Is the Black Nubble wind farm the type of new
16 renewable energy generation that LD 1920 was intended to
17 promote?

18 A. Yes, that's a reasonable presumption because by passing
19 the law it requires suppliers to have a certain percentage
20 of their supply come from new renewables, and the likely
21 candidate for new renewables -- economics and other
22 issues -- would be wind power, at least in most part, so
23 it's reasonable to assume that the legislature had in mind
24 promoting wind power.

25 MS. TRACY: Thank you very much. I have no further

1 questions.

2 MR. THALER: Thank you, Mr. Chairman.

3 MR. PLOUFFE: I'm Bill Plouffe, and I'm the attorney
4 representing some of the intervenors here, the Appalachian
5 Mountain Club, Maine Audubon Society, the Maine Appalachian
6 Trail Club, and the Appalachian Trail Conservancy, and I have
7 some questions for Dave Rocque and then more for Mitch
8 Tannenbaum. I don't have any questions for the IF & W people.

9 So David, if I could ask you some questions.

10 EXAMINATION OF DAVID ROCQUE

11 BY MR. PLOUFFE:

12 Q. I don't know if you have your memos with you or not, your
13 e-mails that you sent?

14 A. The latest ones I do have.

15 Q. Okay. Well, I'm going to ask you some questions about
16 your e-mail to Marcia Spencer-Famous of August 24th, which
17 seems to be one of the later e-mails in a string of
18 e-mails explaining your position over the past year or so.

19 You say in the third sentence, the soils and slopes
20 are not -- all capitals -- appropriate for road building,
21 but I did recognize there was no alternative for accessing
22 the mountaintops with the turbines and equipment necessary
23 to erect the towers.

24 Then two sentences later you said, I have serious
25 reservations about the impacts of such roads on the

1 mountain and the integrity of those roads.

2 And the next paragraph, bottom line, I and DEP have
3 reservations, particularly if the work takes place in the
4 winter, but we agree that the applicant will use the best
5 of road building techniques we can think of.

6 So I would like to clarify this morning, if I can
7 bring anymore clarity to it, what your position is with
8 respect to advising this agency and let me see if I can --
9 if I have it right -- that first, the soils in this area
10 and the slopes in this area make it in an objective view
11 not appropriate for road building?

12 A. There are significant limitations that must be overcome.

13 Q. Okay. And to overcome those limitations, the applicant
14 has to use advanced engineering techniques?

15 A. I don't know if I would say advanced, but they have to go
16 above and beyond what would normally be required because
17 of the unique situations.

18 Q. Let's go to the site. How long have you been in your
19 current role?

20 A. Almost 20 years.

21 Q. And you regularly review projects for Maine DEP and LURC?

22 A. Mostly for LURC; I don't review as many for DEP.

23 Q. In your 20 years, have you reviewed any projects that
24 involved constructing roads that are capable of carrying
25 heavy loads at elevations over 3500 feet?

1 A. Not that I can recall.

2 Q. Are the conditions over 3500 feet -- in terms of weather,
3 shallow soils, erosion potential, snow pack -- different
4 from what they would be at 2000 feet?

5 A. They may but not -- the soils and slopes aren't so
6 important; the weather conditions probably are different.
7 You can find the same kind of soils and slopes at low
8 elevations.

9 Q. How about at 1000 feet?

10 A. You can still find steep slopes and shallow soils
11 anywhere.

12 Q. Are they susceptible to the same type of erosion threats
13 as on a mountaintop?

14 A. The climate is a factor in the erosion threat, which is
15 different as you go up in elevation.

16 Q. Is it -- again, going back to your e-mail about serious
17 reservations, what message -- I'm going to ask you -- what
18 message are you trying to give to this Commission
19 regarding building these kinds of roads at these
20 elevations?

21 A. I'm trying very carefully not to tell them exactly how
22 they should review this, but I want them to be aware of
23 the issues that we don't have a lot of experience in
24 building the kinds of roads that are proposed in the types
25 of environments and locations that these are going to be

1 in.

2 It's going to be very, very difficult, not
3 necessarily impossible, but difficult.

4 Q. I appreciate your candor in that. You've been up to the
5 site on more than one occasion, I think, haven't you?

6 A. Yes.

7 Q. Have you calculated how many feet of roadway are on very
8 steep slopes above 3000 feet?

9 A. No, I haven't.

10 Q. Have you seen very steep slopes?

11 A. I have walked in and seen some very steep slopes, yes.

12 Q. Where the roads are going to go?

13 A. Yes.

14 Q. Would you say that they exceeded 30 percent?

15 A. I didn't measure them, but there were some instances where
16 I guess that that would probably be the case.

17 Q. So it's going to be very difficult to build these.

18 I'm going to -- I've got a copy of your memo to Aga
19 Pinette in the Plum Creek case dated August 24th, 2007.

20 Do you remember writing that?

21 A. Was that my final comments on the project? I think they
22 are, yes, it's like five or six or seven pages or
23 something.

24 Q. Yes.

25 A. Yes.

1 Q. I'm going to read to you what you wrote regarding the
 2 Plum Creek proposal with respect to soils. This is part
 3 of what you wrote.
 4 It is my professional opinion that "the test" for
 5 rezoning should be the natural suitability of the area for
 6 the intended use, not whether or not soils and slope
 7 limitations can be "overcome" by engineering regardless of
 8 the degree of engineering required.
 9 That is because the greater the degree of engineering
 10 techniques required, the more careful and vigilant the
 11 maintenance is needed or those engineering techniques may
 12 fail. Also, those engineering techniques many times
 13 unintentionally interfere with the natural hydrology of
 14 the area, which is vital to wetlands, streams, ponds,
 15 other natural resources.
 16 Do you remember writing that?
 17 A. Yes, I do.
 18 Q. So applying your opinion of Plum Creek as embodied by that
 19 statement to the top of Black Nubble, don't we also have
 20 very difficult engineering issues there which would make
 21 this Commission very skeptical about allowing this
 22 rezoning?
 23 A. If you look at my March 10th comments on the project,
 24 2006, I was right upfront in stating that that was my
 25 primary concern and that under -- because I considered the

1 tops of the mountains suitable locations for wind power,
 2 this is kind of unique. Beginning there has always been,
 3 every since Kenetech, my biggest concern, not the towers
 4 themselves as much as getting there.
 5 So I try to make it obvious that that was considered.
 6 Q. We can engineer a road to almost anywhere?
 7 A. Yes.
 8 MR. PLOUFFE: Okay. Thank you, David. I appreciate
 9 that. Oh, one other question.
 10 BY MR. PLOUFFE:
 11 Q. On the winter construction versus not winter construction,
 12 I had thought in the application for Black Nubble that
 13 they were proposing winter construction. I heard
 14 yesterday that they apparently can do it either winter or
 15 some other time of year.
 16 If this were approved, would you recommend winter or
 17 summer?
 18 A. I would much prefer summer.
 19 MR. PLOUFFE: Okay, thank you. I have some questions
 20 for Mitch.
 21 EXAMINATION OF MITCH TANNENBAUM
 22 BY MR. PLOUFFE:
 23 Q. Mitch, I read through your comments last year and this
 24 year, and as I understand your statement, you are not here
 25 to offer any advice with respect to the proposed site

1 itself for this wind power project?
 2 A. That's correct.
 3 Q. And the Maine Public Utilities Commission really does not
 4 have expertise in that area?
 5 A. That's correct.
 6 Q. And your comments could be the same comments if this were
 7 a hydro project or a solar project?
 8 A. That's correct.
 9 Q. Because those would help fulfill the renewable portfolio
 10 standards that we have in Maine?
 11 A. Right. And generally the point of our comments is that
 12 Maine and the New England region needs new power plants
 13 that are not gas fired, diverse power plants.
 14 We don't take a position on any particular land use
 15 environmental issues relating to any project.
 16 Q. Thank you, I appreciate that.
 17 On this issue of new power plants, it is not the --
 18 there was a fellow here last night during the public
 19 session -- I'm sure you weren't here -- he was from the
 20 Town of Wiscasset where, as you know, there's a proposal
 21 to build a 700-plus megawatt power plant.
 22 It's not the position of the State of Maine to oppose
 23 non renewable power plants, is it?
 24 A. I'm here on behalf of the Public Utilities Commission, and
 25 I can say it's not the position of the Public Utilities

1 Commission to oppose non renewable --
 2 Q. Non renewable, fossil fuel-fired plants?
 3 A. Right. We do not have a position that we would, a general
 4 position, of opposing such plants.
 5 Again it's important -- diversity is important is the
 6 PUC's position.
 7 Q. All of the State policies that you cite, as far as I'm
 8 aware, in some way or other have a caveat in them
 9 regarding the renewable generation plant being
 10 appropriately sited.
 11 Some of them say in accordance with existing laws,
 12 some of them say appropriate places.
 13 Am I right about that?
 14 A. Yes, the provisions in the Wind Energy Power Act do have
 15 those caveats.
 16 Q. In terms of electric capacity, I've been dying to ask
 17 this, I often hear that generates more power than it uses,
 18 electric power, is that right --
 19 A. Yes.
 20 Q. -- on an annual basis?
 21 A. We --
 22 Q. What are the percentages?
 23 A. I brought my cheat sheet. Maine has about 3500-megawatt
 24 capacity and its needs are about roughly 2200 megawatts.
 25 Q. So 3500 megawatts --

- 1 A. 50 percent more capacity than we use.
- 2 Q. In fact, some of the capacity, such as the gas-fired
3 plants, don't run at 100 percent all the time because they
4 can't sell the power in Maine or outside of Maine; isn't
5 that right?
- 6 A. There are times where power plants are not dispatched or
7 not run because of congestion out of the state of Maine.
- 8 Q. That's the congestion identified by the Federal Energy
9 Regulatory Commission congestion study at the
10 Maine/New Hampshire border?
- 11 A. I'm not aware of the study you're referring to, but it is
12 accepted that there is congestion at certain times of the
13 year, certain hours of the year.
- 14 Q. You're not familiar with the National Electric
15 Transmission Study, August 2006, US Department of Energy?
- 16 A. I have not read that study, no.
- 17 Q. I believe that Kurt Adams testified before Congress on
18 this. You had no role in that?
- 19 A. No, Kirk reads a lot more stuff than I ever can.
- 20 Q. We had testimony yesterday on the power mix in Maine by
21 generating source, and the numbers seem to stop at 2002,
22 and I get this thing in the mail as a CMP customer,
23 Residential and Small Consumer Standard Offer and Consumer
24 Information about your electricity supply, which I think
25 is mandated by you guys; is that right?

- 1 A. Yes, it is, at the direction of the legislature.
- 2 Q. As I this read this thing for the CMP district, this is
3 for June 2007 -- I can give you a copy if you want --
- 4 A. I'm familiar with those.
- 5 Q. I'm sure you are. I just wanted to confirm, it tells me
6 that my power comes from 25 percent nuclear, 25.7 percent
7 gas, 24.9 percent hydro, and then I have a number of other
8 smaller sources, including biomass, municipal waste,
9 fossil fuel cogeneration, and 6.2 percent of oil, and 9.3
10 percent of coal.
- 11 Do those numbers sound right to you?
- 12 A. They generally sound right and I certainly accept that
13 that's what the disclosure label means.
- 14 Q. It says that -- they also have a section here on air
15 emissions, it says that CO₂, CMP district, this is 22.5
16 percent less than the New England average.
- 17 We're doing okay? We're less than the New England
18 average?
- 19 A. I guess I would say being less is better than more. It's
20 probably important to point out that that's not the
21 resource mix within the state. That's the mix of
22 resources that serve CMP's residential and small
23 commercial customers, not the larger customers; and the
24 energy customers may come from all throughout New England.
- 25 Q. Okay. So that brings me to my last area of questioning.

- 1 I've been reading in the newspaper about Governor
2 Baldacci and the Premier of New Brunswick entering into,
3 not personally, but on behalf of their governments,
4 entering into an agreement to jointly pursue further
5 energy development in transportation.
- 6 Are you familiar with that?
- 7 A. Generally.
- 8 Q. That's my familiarity, too, generally.
- 9 I read that New Brunswick's Premier talks about
10 perhaps building a new nuclear power plant, and his idea
11 to be that shipping power, electrical power, through Maine
12 to southern New England and that Maine would join in that.
- 13 Is that your general understanding of the direction
14 this is going?
- 15 A. I'm not sure what you mean Maine would join with that.
- 16 Q. I think there's a joint agreement to explore ways to
17 further produce energy, especially nonpolluting energy --
18 and transmit that to where the real need for this is,
19 which I believe is southern New England?
- 20 A. That's right, but there's very serious questions about
21 essentially what's in it for Maine.
- 22 I think the idea would be -- Maine, I don't believe,
23 is interested in just being a highway for power going from
24 Canada to southern New England. So there would have to be
25 a benefit in it for Maine's rate payers.

- 1 Q. If there were a benefit for Maine rate payers, then would
2 it be along with New Brunswick producing large amounts of
3 power, more than we need here in Maine and shipping it off
4 to Massachusetts, Connecticut, and Rhode Island?
- 5 A. I'm not sure I understand that question.
- 6 Q. We'd be -- you already testified that we produce about
7 50 percent more power in terms of capacity than we use in
8 Maine, so if we're going to generate more, I assume that's
9 for export.
- 10 We may get a benefit from lower prices, but I assume
11 most of that is for export. We don't need it here in
12 Maine?
- 13 A. Again, it sort of depends what you mean by needing it in
14 Maine. I think we try to emphasize in our review
15 comments -- at least from the perspective of the Public
16 Utilities Commission -- the level of electricity rates are
17 very important, a lot of reasons.
- 18 Even though there's more generating capacity in Maine
19 than Maine needs, more generation should have a result of
20 lowering rates and minimizing volatility in making the
21 system more secure and more reliable. To define need, I
22 suppose anybody they choose but in the Public Utilities
23 Commission's view, there is a need for more diverse
24 generating resources.
- 25 Q. Just a final question. If more wind power comes on-line,

1 particularly this Black Nubble project, Maine Mountain
2 Power has testified that the reason -- one of the reasons
3 that they are back here for this scaled-back project --
4 they were here last year for 90 megawatts on two mountains
5 and now it's one mountain -- was that they see a change
6 coming down the road in terms of the economic return on
7 this so-called RECs and other things like that, carbon
8 offsets and so forth, which means more revenue to them.

9 How does that square with the position that some
10 people take that more wind could lower the price of
11 electricity to the consumer?

12 A. Well, the fact that a wind project in Maine or elsewhere
13 in New England gets the value of RECs, it adds to the
14 economics of the wind project wind. It will make a wind
15 project more viable than it might otherwise be, although
16 I'm not testifying necessarily to that fact.

17 It is the existence of wind projects or other
18 generating resources that essentially have no fuel costs
19 once they're built and operating, so they're going to run
20 for the most part. When they run, something else will be
21 displaced because there's a fixed amount of need in every
22 moment throughout the day.

23 So if a wind power project is running, something else
24 is not going to run, and that something is likely to be
25 gas or some fossil-fuel plant.

1 Q. That's because gas is the highest price on the stack of
2 load?

3 A. Yes, for the most hours.

4 Q. Where's coal usually on that stack load, towards the
5 bottom, towards the bottom?

6 A. Towards the bottom. And certainly there's a fuel cost to
7 coal plants; there is not for hydro, generally, there is
8 not for wind. It's small for nuclear, so those tend to be
9 the ones that will run when the wind is blowing or when
10 the water is flowing.

11 So by taking more expensive power off the margin, or
12 displacing that, you end up with lower wholesale rates,
13 realtime wholesale rates.

14 The realtime wholesale rates is what people look at
15 for lumber wholesale contracts, and those wholesale
16 contracts obviously translate into retail contracts.

17 The fact that a wind plant is getting the benefit of
18 RECs does not mean that the wind plant will not have the
19 effect of lowering or stabilizing electricity rates.

20 Again, any individual small project, I'm not saying
21 it's going to have a significant affect on rates, but what
22 we need is diverse projects of varying sizes throughout
23 the region.

24 MR. PLOUFFE: Thank you, Mitch. Appreciate your
25 time.

1 That's all I have.

2 THE CHAIR: Thank you. Do any of the other
3 intervenors have questions?

4 MR. TRAFTON: I'm Dain Trafton. I represent the
5 Friends of the Western Mountains, and I have a couple of
6 questions for Mitch, only for you, Mitch.

7 EXAMINATION OF MITCH TANNENBAUM

8 BY MR. TRAFTON:

9 Q. The first one is, has the Maine Public Utilities
10 Commission seen the wind data that was collected by Maine
11 Mountain Power for this project?

12 Have you seen that wind data?

13 A. I have not and I'm not aware of that anybody else has seen
14 it.

15 Q. Therefore, you -- I'm going to say you but I mean
16 generally the PUC -- therefore, you don't know exactly
17 when this plant will produce electricity and how much it
18 will produce at any particular time and for how long.

19 We're talking here obviously about likelihoods based
20 on that wind data.

21 A. No, I do not.

22 Q. Has -- I want to ask you a question about this claim that
23 the operation of the Black Nubble plant will reduce the
24 cost of electricity for consumers in Maine, and that first
25 question is background to this question.

1 Has the MPUC conducted a study to determine exactly
2 how often the output of the Black Nubble plant would
3 actually knock off a top bid from the bid stack and thus
4 have some effect on reducing the wholesale costs, as
5 you've just put it, and if you know how often that's
6 likely to happen, have you determined exactly what the
7 effect would be?

8 And notice, I'm talking about the Black Nubble wind
9 plant, not a collection of plants. I would like to know,
10 have you conducted that study?

11 A. No, we have not, and we have not said that the
12 Black Nubble plant by itself is going to have a
13 significant impact on rates or rate volatility.

14 Q. Thank you. One more question. Two more. Have you
15 conducted a study to determine -- this has to do with the
16 claims about displaced emissions -- have you conducted a
17 study to determine which emitting plants in the area will
18 actually be forced to cut back by the output of the
19 Black Nubble wind plant, when that will happen, what the
20 plans are, and how much cutback will occur?

21 Have you conducted that study?

22 A. We have not conducted a study like that, no.

23 Q. Final question. Is there anything in LD 1920 that would
24 compel the LURC commissioners -- I'll stick with that
25 word -- compel the LURC to approve the rezoning of

1 Black Nubble for the sake of this wind plant even if their
 2 rules and regulations would lead them not to approve it?
 3 A. No.
 4 MR. TRAFTON: Thank you very much.
 5 THE CHAIR: Mr. Wilby.
 6 MR. WILBY: Good morning. Dave Wilby, Independent
 7 Energy Producers of Maine for the supporting intervenors'
 8 group.
 9 Mr. Plouffe raised a few issues. I just wanted to
 10 clarify with Mitch.
 11 EXAMINATION OF MITCH TANNENBAUM
 12 BY MR. WILBY:
 13 Q. Mr. Plouffe raised the MOU in discussions with
 14 New Brunswick. Have you read or looked through the
 15 Phase 1 study that was produced a month or two ago?
 16 In the context of that MOU discussion, I think the
 17 Public Advocate's office was involved in drafting that?
 18 A. No, I was not.
 19 Q. Thank you. Since some congestion issues have been raised
 20 and discussed a little bit this morning, I just want to
 21 ask you to clarify.
 22 Does congestion reduce costs for Maine consumers?
 23 A. Generally, yes.
 24 Q. The units that are not dispatched, the fossil units, is
 25 there -- is the fact that they are sometimes not

1 dispatched tend to occur more as a result of congestion or
 2 more as a result of economics?
 3 In other words, are they not dispatched -- the days
 4 that they're not dispatched, is it because they're
 5 economic units to run or because of congestion issues?
 6 A. If I understand the question, even if there's no
 7 congestion, these fossil units will be displaced when
 8 these wind units are generating power.
 9 If there is congestion, more of it will be displaced.
 10 Q. In the course of a year, let's say, do you agree those
 11 facilities are not dispatched, does it tend to be more due
 12 to congestion or more due to the economics?
 13 A. Are you talking about the congestion out of Maine?
 14 Q. Yes.
 15 A. I think it's probably more economics, but I have not done
 16 a study of that nature.
 17 Q. Thank you. This issue of the degree to which Maine may or
 18 not have excess generation, does Maine -- the 25 percent
 19 that Mr. Plouffe referred to in the CMP Residential
 20 Consumer Standard Offer, 25 percent nuclear power, where
 21 does that come from?
 22 A. From a power plant.
 23 Q. Does it come from a nuclear power plant in Maine?
 24 A. Absolutely not.
 25 Q. So Maine imports a fair amount of power, certainly nuclear

1 power, and from time to time other resources?
 2 A. That's correct. That's the point I was trying to make
 3 before is what serves customers in Maine comes from all
 4 over the region, and power in Maine serves customers
 5 outside of Maine.
 6 Q. And there are periods of time, for instance, I would say
 7 the first half of 2006 -- maybe all of 2006, I haven't
 8 checked the data -- in which Maine is a net importer of
 9 power; but there are periods, substantial periods, in your
 10 understanding, in which Maine isn't a net importer.
 11 Is that a fair statement?
 12 A. That's my understanding, yes.
 13 Q. And it wasn't so many years ago -- I don't know off the
 14 top of my head -- but within the past decade Maine was a
 15 substantial importer of power on a multi-year basis,
 16 particularly when Maine Yankee first went down.
 17 Is that an accurate summary of history?
 18 A. It is certainly true that over the decades Maine has
 19 needed power and has imported a significant amount of
 20 power.
 21 Q. A large percentage of Maine's current capacity is natural
 22 gas facilities -- stop me if you think that's incorrect.
 23 A. That's correct.
 24 Q. And a number of those gas plants, specifically the Calpine
 25 facility -- has had substantial economic problems,

1 bankruptcy, frankly -- it's not unreasonable to be
 2 concerned about the future of these natural gas
 3 facilities.
 4 Is that a fair statement?
 5 A. Run that by me again.
 6 THE CHAIR: Ask a question, Dave.
 7 BY MR. WILBY:
 8 Q. You were at Greenville on the 1st, I think, for the
 9 briefing. Did I understand Chairman Adams to say that
 10 these fossil and natural gas plants could be moved out of
 11 Maine?
 12 A. Yes, he said that.
 13 Q. In so doing, we could lose capacity, and so the point
 14 being that the degree to which Maine has excess capacity
 15 is not necessarily a permanent condition?
 16 A. Yes, that's correct.
 17 MR. WILBY: Thank you.
 18 THE CHAIR: Ms. Browne.
 19 MS. BROWNE: Good morning. Juliet Browne for
 20 TransCanada. I have just a few questions for Mr. Tannenbaum.
 21 EXAMINATION OF MITCH TANNENBAUM
 22 BY MS. BROWNE:
 23 Q. Mr. Tannenbaum, you were asked by Attorney Tracy about
 24 your comments last year on what was then a 90-megawatt
 25 Redington project and your statement that transmission

- 1 congestion was not a serious concern.
 2 Do you recall those comments?
 3 A. Yes, I do.
 4 Q. Now, one of the things that has changed since your
 5 comments last year on the Redington project is that there
 6 is now a Kibby wind project that would interconnect at
 7 that same Bigelow substation; is that correct?
 8 A. That's correct.
 9 Q. That project is actually pending before the Commission now
 10 and is scheduled for a public hearing I think in less than
 11 two weeks?
 12 A. That's my understanding.
 13 Q. I just want to make sure, because there tends to be some
 14 confusion on some of these issues, that we are clear on a
 15 couple of things.
 16 Neither project has priority to access the
 17 transmission capacity; right?
 18 A. That's correct.
 19 Q. In fact, the ability of any particular -- just let me back
 20 up for a minute -- when we talk about congestion, there is
 21 something called system congestion, correct, and that
 22 would refer to the ability basically to get the power out
 23 of the state of Maine?
 24 A. That's -- I'm not sure I've heard that definition but I'll
 25 accept.

- 1 Q. This is not my area of expertise and I'm sure the
 2 Commission would appreciate your expertise and not my
 3 attempt to characterize it.
 4 But there's also what we call localized congestion;
 5 right?
 6 A. Yes.
 7 Q. So that the two projects interconnect at the Bigelow
 8 substation and the ability for either project -- or any
 9 generator -- to access the existing transmission capacity
 10 from Bigelow to Wyman is governed by a set of rules
 11 through FERC and ISO; correct?
 12 A. Yes.
 13 Q. And they effectively hour-by-hour, day-by-day to access
 14 any of that transmission capacity?
 15 A. Yes, to the extent there is congestion.
 16 Q. So in the event there were congestion, it would be fair to
 17 say that congestion would be -- and to the extent that
 18 congestion were an issue or a concern -- it would be fair
 19 to say that it would be a concern equally for any
 20 generator that is interconnecting to the Bigelow
 21 substation?
 22 A. Yes, that's correct.
 23 MS. BROWNE: Thank you, I have nothing further.
 24 THE CHAIR: Thank you. Have we covered all the
 25 intervenors? That being the case -- Mr. Mahoney.

- 1 MR. MAHONEY: We don't have any questions.
 2 THE CHAIR: Okay, thank you.
 3 Gwen or Rebecca, any questions from our panel here?
 4 MS. HILTON: My questions are for Dave.
 5 EXAMINATION OF DAVE ROCQUE
 6 BY MS. HILTON:
 7 Q. In the letter to Mr. Frick, the last -- I think it's the
 8 very last comment that you made -- the problem is getting
 9 equipment to the mountaintops, which must be by road.
 10 I do believe that the construction techniques agreed
 11 to for both wind farm projects are the most appropriate
 12 available and should work but they are not proven, at
 13 least on such large-scale projects in Maine. So there is
 14 potential for problems.
 15 I guess a couple things I'm wondering, have there
 16 been situations perhaps in other states where these types
 17 of roads have been constructed to wind power projects?
 18 A. I haven't done any such research, so I don't know, but it
 19 would have to be also the same kind of soils and slopes
 20 and climate to be applicable. It couldn't be like out in
 21 the Midwest where it's dry and they have all different
 22 soils.
 23 Q. I see. So it would have to be at a location where
 24 soils --
 25 A. It would have to be the same conditions that we have --

- 1 the soils, the slopes, the hydrology, the amount of
 2 rainfall, snow.
 3 All those factors would have to be applied because --
 4 and the temperatures would all be factors.
 5 Q. I guess that being the case, are there certain conditions
 6 that you would like to see put on this to be assured that
 7 it is constructed so it's not going to cause any
 8 environmental harm?
 9 A. The point I'm trying to make is we don't have a lot of
 10 history to look back at -- and I've done a lot of soul
 11 searching on this ever since Kenetech, it's been quite a
 12 few years -- and all of the ideas that I had and have
 13 gathered from talking with others, the applicant has been
 14 agreeable to incorporate into the techniques used to build
 15 the roads, so they are willing to use all the techniques
 16 that I think would be the most appropriate to do this
 17 work.
 18 Of course, this is in the zoning phase, we haven't
 19 got the specific plans; but they have agreed that that
 20 would be appropriate and all of the techniques that I
 21 suggested, they agreed to use.
 22 Q. I see. And winter construction.
 23 A. That just is -- you've very cold temperatures and the snow
 24 to deal with and the frozen material, so it makes it
 25 really, really difficult because you can't compact fill

1 properly if it's frozen. If it's frozen, when it thaws it
 2 shrinks and moves and there's water in it.
 3 We did discuss that at length when they were
 4 proposing the original project some of the techniques that
 5 might be used -- heated truck bodies and removing the
 6 frozen surface, et cetera. Of course there's still the
 7 snow and those conditions, but they did agree to use
 8 whatever techniques would be appropriate to do it that
 9 time of year, so technically it would be possible to do
 10 it. It's very expensive and very slow but technically
 11 possible.
 12 Q. Would you have any particular concerns, though, when the
 13 snow starts to melt and the spring rains come?
 14 A. Well, that would be an issue regardless of when you build
 15 roads because -- even if they build them in the winter,
 16 they shouldn't be up there actively working during a
 17 snowstorm, and if you get a heavy rainstorm in the summer,
 18 you shouldn't be working.
 19 So you have to work around the climate. So if you
 20 get heavy rain and snow melt and everything is soft, you
 21 have to stop. It's just like logging, you know, when
 22 they're logging, they have to have a season where they
 23 don't work.
 24 You would even have to do that regardless of the time
 25 of year. Even the summer is not a great time of year in

1 the mountains because they get heavy thunder storms.
 2 There's no great time of year in the mountains compared to
 3 lower elevations.
 4 Q. Don't you get more water infiltration when the ground is
 5 not frozen? If it's frozen, the water's just running off?
 6 A. A lot of those soils you have to understand are very
 7 shallow, either bedrock or hardpan, so there isn't much
 8 that infiltrates anyway. That's one of the issues.
 9 It's a very thin layer of receiving material before
 10 it starts running off, and that's why one of my biggest
 11 issues has been the hydrology, how to handle all of that
 12 water that you don't see because it goes into the organic
 13 depth and then rides along the hardpan just below where
 14 you can see.
 15 You put a road in with the septic, so now you're
 16 going to have to get that water to the other side so not
 17 to upset the hydrology below where that road is going.
 18 Then if you collect that water and put in somewhere else,
 19 then you have to deal with it as a problem.
 20 If you collect it and spread it on the other side, a
 21 similar manner in which we see, that's the best technique
 22 possible and requires some of the techniques that I
 23 proposed and they accepted to use.
 24 MS. HILTON: I see. Okay.
 25 I think that's all that I have.

1 THE CHAIR: Thank you. Rebecca.
 2 MS. KURTZ: Gwen asked one of the questions that I
 3 was going to ask, but the other one is for Mr. Rocque.
 4 EXAMINATION OF DAVE ROCQUE
 5 BY MS. KURTZ:
 6 Q. You said the last time you were up there walking around
 7 with the engineers and the road folks that you had seen
 8 some very steep slopes where the roads are supposed to go
 9 and some of them may be in excess of 30. Was that 30
 10 degrees?
 11 A. Yes, 30 percent.
 12 Q. Did you -- while you were up there, did you see any
 13 alternatives to those slopes where they could put those
 14 roads? Or is that they've got to work with what they've
 15 got?
 16 A. I didn't really hike around the mountain to figure out
 17 which was the best path. I had assumed that they had
 18 chosen the best path because there wouldn't be much of a
 19 logical reason to not do so.
 20 The two issues you face when you try to go up a
 21 mountainside is you can go up a really steep slope, but it
 22 may be a short distance, or you can kind of circle around
 23 the mountain, you know, and put miles of road in, but it's
 24 less slope.
 25 Each of them have pretty significant impacts on the

1 mountain. Sometimes a short distance on a very steep
 2 slope is better than going a longer way on a less steep
 3 slope because you have less road.
 4 Each site is unique and different, and there are
 5 techniques that can be used. There was one that I
 6 suggested in Elliottsville Township where they crossed a
 7 very steep slope and they used boulders for fill and
 8 embedded the boulders into the ground so there's no fill
 9 extension and the water can -- the hydrology can pass
 10 through the boulders.
 11 This road was built -- I think it was in the winter
 12 of 2006/2007 -- and I looked at it a couple of times,
 13 including this summer, and it is holding up very well and
 14 doing nicely.
 15 So there are techniques, and you have to balance
 16 between which is the best alternative.
 17 Q. Thank you. If I recall correctly from the hearings in
 18 2006, there was testimony or it was brought out that the
 19 roads that were drawn on the Redington/Black Nubble
 20 project were sort of drawn on as being those as being the
 21 least visible, it was more of a visibility issue than --.
 22 Instead of placing them where they would be most
 23 appropriate, given the soils, have you gotten that sense,
 24 that maybe that what -- the placement of the roads on this
 25 project, it's been about visibility as opposed to

1 appropriateness?
2 A. No. Because this is a zoning application and it's not the
3 actual development permit, I understand that they have
4 given more information than they need to; but I know the
5 general conditions of the mountains include all the range
6 of significant slopes and soils and wetlands that have to
7 be overcome.

8 So I haven't really keyed in on the exact location
9 because I figured it could be changed some. In the
10 toolbox approach, which I mentioned earlier, it would be
11 appropriate to me as you're constructing -- some of the
12 features that I'm concerned about, you can't even tell
13 they're there until you actually start working on the site
14 because of the unique boulder and organic covered areas.

15 So you may actually have to relocate pieces of road
16 that you didn't think you had to because you can't
17 anticipate the conditions.

18 In normal -- if you were doing soil mapping in lower
19 elevations, you can anticipate conditions knowing
20 vegetation and other factors pretty well. You get up into
21 the mountains and it becomes much more difficult to
22 anticipate exactly what's what.

23 So there needs to be flexibility, so I wasn't so
24 focused in this zoning application exactly where the roads
25 were going, but I just assumed that the path they chose

1 was the best mix between all the issues that were out
2 there. And then I would take -- later on if this got
3 approved -- and review the subdivision application to see
4 if the appropriate measures were being used in the
5 appropriate locations.

6 MS. KURTZ: I just have one more question, to Dave
7 anyway, and one to Mitch also.

8 EXAMINATION OF DAVE WILBY

9 BY MS. KURTZ:

10 Q. I guess -- well, last spring there was a significant
11 erosion problem on a project in Rangeley Plantation that I
12 understand was one of the worse ones you had ever seen in
13 your 20 years' experience?

14 A. Yes.

15 Q. Can you tell me what it was about that project, without
16 saying where it was or anything, but what was it, the
17 factors, that gave rise to that significant erosion issue?

18 A. Okay, it was very close to Rangeley Lake, it was on a
19 very, very steep slope, and there was a cut of probably 30
20 or 40 feet deep where the water table was probably about 2
21 feet.

22 It was done in the March/April time, which is the
23 worst time of year you can actually work on the soil
24 because the ground had been frozen, and as the frost
25 thaws, because it expands, when the frost melts then the

1 ground tries to compress.

2 But if you have a vertical cut that froze and sticks
3 out and then it thaws and it just sloughs off, and this
4 was happening. Every night it would freeze and then every
5 morning it would slough off.

6 All this stuff was just oozing down to the lake, and
7 it was very difficult to install erosion control measures
8 because the ground's frozen, so you can't embed and
9 entrench and that sort of thing, there's no buffer area,
10 so that was what -- it was done at the absolute worse time
11 of year.

12 If they had done it in July and August or
13 September and stabilized the site and put in the
14 appropriate measures, it probably wouldn't have been as
15 big a deal.

16 Q. Would those similar issues arise if these roads were
17 built --

18 A. Yes.

19 Q. -- in March or April on Black Nubble?

20 A. It would depend on the exact techniques they used, because
21 if you didn't have to do -- if you're going to do a lot of
22 cutting into the ground and have a lot of groundwater
23 seeping out, that would have to be dealt with because that
24 would make a very difficult condition.

25 But they proposed such things as uphill diversions to

1 get rid of the water so when they're going to work would
2 be okay, temporary diversions, then they would put the
3 hydrology back to go across the road. So these were all
4 taken into consideration.

5 Again, this is a zoning application, so they gave
6 general ideas of what they're going to do, but not
7 specifically of what/where because those details had to be
8 worked out.

9 It's kind of a conceptual thing, but they were taken
10 into consideration. That was a big concern of mine.

11 MS. KURTZ: Thank you very much. Mitch -- this
12 question keeps coming back, and I don't want to write it in my
13 notes and have it be wrong and reflect that in my notes later.

14 EXAMINATION OF MITCH TANNENBAUM

15 BY MS. KURTZ:

16 Q. Mr. Plouffe asked you about -- I'm going to try to read it
17 as I wrote it verbatim.

18 If a wind power plant is running, something else will
19 be displaced, I think this is what you said, usually
20 natural gas.

21 Is natural gas more expensive than coal?

22 A. Yes.

23 Q. So the most expensive thing gets displaced?

24 A. That's right.

25 Q. So when wind power is running, natural gas would get

1 displaced but coal will continue to be used?
 2 A. Yes; unless coal is on the margin, which is the most
 3 expensive plant operating at a particular point in time.
 4 Most hours what's on the margin is gas and oil.
 5 Q. So most often --
 6 A. It will be gas or oil that will be displaced.
 7 Q. And coal will continue to -- coal-fired will continue to
 8 operate?
 9 A. Yes.
 10 Q. They won't be displaced?
 11 A. They will not be displaced by wind.
 12 MS. KURTZ: So in my notes I recorded it correctly.
 13 Thank you very much.
 14 MS. HILTON: These are questions for Dave.
 15 EXAMINATION OF DAVE WILBY
 16 BY MS. HILTON:
 17 Q. When you talk about using the toolbox approach, who makes
 18 the decision which technique to use? Is it the applicant,
 19 the folks that are involved in construction? Are you
 20 involved in that at all?
 21 A. I did discuss with the applicant about the techniques that
 22 I thought should be used in the various different
 23 situations they would encounter, so those are known.
 24 What you don't know as you're going up the mountain,
 25 as I said, because of the unique conditions, you don't

1 know when they're going to get one of these things. It's
 2 basically a screen that's been filled with boulders in the
 3 past by erosion and then organic over the surface.
 4 So you walk across, you have no clue, but all of a
 5 sudden you're digging a trench and you find it. So when
 6 you find that "thing," this is what you should use. When
 7 you find these other conditions, this is what you should
 8 use.
 9 So that concept has been agreed to that each of these
 10 conditions require special techniques to use, but just not
 11 where they're going to be used. That's what I mean by the
 12 toolbox is that they're going along and they encounter
 13 them.
 14 It isn't like it's a random thing, we don't know
 15 which technique to use under which condition. That should
 16 have been already decided and would certainly be decided
 17 when they did the development application.
 18 Q. I see. So you think that you pretty much identified those
 19 conditions that you may run into?
 20 A. Yes, the different kind of scenarios that could be
 21 envisioned have already been addressed with various
 22 techniques, and I'm reasonably comfortable with what
 23 they've proposed.
 24 Q. In this kind of a situation, would you or maybe anybody on
 25 the LURC staff be going out and inspecting it on occasion?

1 A. That would be my recommendation. It's not my role or
 2 authority to do that, but I would offer my service and
 3 would hope that that would be utilized to go up there on
 4 occasion and see what techniques are being used and how
 5 well they're working, because some of these have not been
 6 tried and proven. There might be some adjustment that is
 7 necessary just to make sure that those are being applied
 8 properly, yes.
 9 And there should be an engineer. One of the things
 10 that I suggested was somebody who is knowledgeable about
 11 such techniques be present at all times, and that person
 12 should be in contact with me that if they're encountering
 13 a situation that's a little different or something isn't
 14 working or they have another idea, can they do that.
 15 So hopefully that's how this project would be handled
 16 so that I would be -- because I have a cell phone as well
 17 as -- I'm not in the office much of the summer.
 18 We could discuss these things and I could go up and
 19 look. That would be my suggestion.
 20 Q. Are you saying that this engineer would be sort of
 21 independent of the applicant?
 22 A. That would be my recommendation. It would have to be
 23 somebody of that nature, yes.
 24 MS. HILTON: Good. Thank you.
 25 THE CHAIR: Going back to the fish and wildlife issue

1 just for a minute, and I'm going to ask you what is probably a
 2 bit unfair, but I don't know if you've read any of the prefiled
 3 testimony in this case, but we have, it appears, differing
 4 opinions about the Bicknell's thrush, we have competing experts
 5 kept telling us two different things.
 6 The answer you can give me is either no or we'll
 7 think about it.
 8 Have you read that testimony?
 9 MR. CORDES: We have.
 10 THE CHAIR: You have?
 11 MR. CORDES: Yes.
 12 THE CHAIR: Do you want to authorize any opinion on
 13 how I might balance those two kind of competing views?
 14 MR. CORDES: I guess it was the department's opinion
 15 that overall Bicknell's habitat won't be affected severely
 16 adversely.
 17 There would be limited permanent construction. I
 18 think it's 42 or 35 acres, something like that. There's plenty
 19 of habitat on the surrounding landscape, and the Bicknell's are
 20 likely to reoccupy the site after the construction is started.
 21 What limited mortality would be from displaying
 22 males. Males outnumber females 2:1 is the current thought --
 23 research indicates that, and that the limiting factor on the
 24 species is female mortality, and the range is not in their
 25 breeder range.

1 THE CHAIR: Thank you very much. Appreciate that.
2 MS. SPENCER-FAMOUS: Excuse me, Bart, I have a
3 follow-up question.

4 THE CHAIR: Go ahead, Marcia.

5 EXAMINATION OF ROBERT CORDES

6 BY MS. SPENCER-FAMOUS:

7 Q. It just occurred to me as you were answering the question
8 about the displaying males, how long a period does that
9 display go on in days?

10 A. That's something I don't have expertise on. I would have
11 to ask Tom and he could get back to you on that.

12 Q. I was wondering about that, and I wondered about there
13 being specific locations where there's been identification
14 of a breeding pair, could there be potential for -- again,
15 you don't have to answer -- could there be potential for a
16 limited time of not having certain turbines operate during
17 the displaying period?

18 A. I think that would be an appropriate mitigation to that.

19 Q. So you could get back to Tom with that.

20 A. I also think -- I would have to talk to Tom a little bit
21 about this as well -- the likelihood of a male striking
22 through the cleared pad would be limited to, as they come
23 up from where they're in in the forest canopy, the pad
24 will be cleared and won't have that preferred vegetation.

25 There's still a potential for strike. It's not our

1 opinion that it's not undue.

2 MS. SPENCER-FAMOUS: Thank you, that's interesting.

3 EXAMINATION OF MR. CORDES

4 BY MS. KURTZ:

5 Q. It just occurred to me, you said that the birds at risk
6 would be the males. Do the males help the females rear
7 the young?

8 A. Again, that's not something that I have expertise on.

9 Q. So you -- so at this point we don't know if the male or
10 males were killed, whether that would impact the
11 reproductive success of the female and the chicks.

12 A. That's one concern that Tom Hodgman had relayed in earlier
13 communication and earlier comments.

14 MS. KURTZ: Thank you.

15 THE CHAIR: Thank you. Just maybe a couple of
16 questions for Mitch. These electrical questions are all very
17 interesting.

18 EXAMINATION OF MITCH TANNENBAUM

19 BY MR. HARVEY:

20 Q. Just to you help us understand a little bit, in the
21 testimony in prefiled there's been all of the information
22 Mr. Adams gave us in Greenville is part of this record,
23 okay, just so that's clear.

24 Mr. Plouffe has introduced into evidence which is a
25 particular mix of fuels for CMP, which all of us get, but

1 Mr. Adams basically said that about 39 percent of all the
2 fuel was natural gas, and CMP said it's 25 percent.

3 Apparently there's a difference between what the
4 State of Maine utilizes and what the New England grid
5 utilizes. I guess that his testimony related to the
6 New England grid is not specifically to that of the State
7 of Maine.

8 Is that a fair way to interpret the information? I'm
9 trying -- in fact, it says, New England Generating
10 Capacity by Fuel Type is the title of the chart. It was
11 in his presentation to us in Greenville.

12 A. Right, I have that before me. It shows that in the
13 region, 40 percent of the generating capacity is natural
14 gas.

15 Q. Right. So his chart is regional, the CMP numbers
16 apparently reflect only state of Maine numbers?

17 A. No. The chart you referred to is generating capacity.
18 It's what's available in the region as opposed to what's
19 generated and used.

20 In Maine -- in Maine, and this is based on 2004
21 natural gas -- generating capacity is about 60 percent of
22 the mix within Maine.

23 Again, that's the capacity, that's what's available
24 for use, that's a different --

25 Q. Of the 3500 megawatts of capacity in Maine, you said that

1 60 percent of that is natural gas?

2 A. That's correct. And the disclosure label refers to the
3 energy that's being used by Maine consumers, or more
4 specifically small consumers in CMP's territory, and that
5 could come from anywhere within the region.

6 Q. Okay. The question of transmission congestion seems to be
7 of concern to everybody here.

8 We were told yesterday that -- and probably these are
9 two different issues -- but to maintain their place in the
10 queue, the applicant was going to upgrade the transmission
11 line as he had originally proposed for the original
12 proposal.

13 Of course what that implied to us -- I thought
14 anyway -- I interpreted that meaning that they had
15 priority on all their transmission capacity.

16 Now we're saying that -- Ms. Browne's questions seem
17 to indicate that everybody had to share that line and
18 there was a mechanism of sorting out how the sharing
19 occurred so that in effect there was no congestion, I
20 guess.

21 That seems to be a major issue in this whole hearing.
22 One of the issues is whether or not any of this power --
23 we're all trying to make sure that if this thing goes, the
24 power gets used effectively.

25 I think these are two different issues. Maybe you

1 can help me.
2 A. I haven't read the testimony and I'm not too familiar with
3 the issue of maintaining a place in the queue.

4 There are at least two categories of transmission
5 that might be of relevance, and when a project like this
6 is built or the Kibby project is built, there will be need
7 for transmission to connect the project into the grid.

8 That's generally referred to as a generator lead. A
9 generator lead is really the responsibility of the
10 facility, the generating facility, to pay for. And there
11 may be issues of sharing a generation lead.

12 I'm really not sure what that issue might be or
13 whether I'm even correct if that's the issue.

14 But it is true that as far as the greatest concern,
15 no generator has the rights to use that transmission by
16 virtue of being first, second, or third in line. Once
17 you're built and operating, everybody has equal access to
18 the transmission grid, and if there's a congestion issue,
19 the cheaper generating facility will essentially get the
20 access by virtue of being cheaper.

21 Q. So assuming that both of the prices are zero, then how do
22 we decide, I guess? We made a lot of claims that there's
23 zero fuel costs here.

24 A. Right. I'm not familiar with exactly how that would work.
25 My assumption -- and I probably shouldn't talk about

1 assumptions -- is that there would be some kind of
2 allocation of the existing transmission for projects that
3 both aim at zero fuel costs.

4 But I think that -- and our comments have indicated
5 that for these projects to be economic, they need to run,
6 and they need to run in order to get the production tax
7 credits, the federal protection tax credits.

8 They need to run in order to get the value of the
9 RECs, both of which are very likely to be necessary to
10 make these plants economic.

11 So there is good reason to assume that the congestion
12 issues will be resolved one way or another and the system
13 builds in incentives for these congestion issues to be
14 resolved. At least in my view, it's unlikely that these
15 wind facilities could be built and then not operate.

16 To the extent there is congestion here and there,
17 that would act to lower electricity rates in Maine, and
18 that's not a bad thing.

19 THE CHAIR: This is a fascinating subject but I guess
20 I had better not go any further, because sometimes I wonder
21 about some of the relevance of some of this.

22 I think it's instructive for all of us, at least in a
23 bigger context, to understand some of these issues.

24 I guess the bottom line is -- and I think obviously
25 you'll have an opportunity to respond in written comments

1 here -- that you get a sense of some the things that we'd like
2 to hear about, I guess, making sure -- I think the Commission
3 certainly wants to make sure that if this thing is created that
4 it actually does what it says what it says it's going to do.

5 MR. TANNENBAUM: The PUC would certainly be happy to
6 respond to any particular issue. Like I said, I'm not sure
7 what came up yesterday or what that issue is, but if we were
8 pointed to it, we could respond in writing if that's the
9 pleasure of the Commission.

10 THE CHAIR: Okay. I think -- like I said, I could
11 ask a lot more questions but I think I'm going to forego that
12 opportunity because we've got a lot of other folks to hear from
13 today and we're behind schedule a little bit.

14 I want to thank all of you for being here to make
15 yourself available. I know you had to rearrange your schedules
16 to do that. I think that your comments were very important to
17 this proceeding, so we thank you for being here.

18 Our next order of business is we're going to hear
19 testimony from the National Park Service, and we've allotted 20
20 minutes for that and then there will be obviously the questions
21 by ourselves and the various intervenors.

22 MS. UNDERHILL: Good morning Mr. Chairman and members
23 of the Commission. Thank you for the opportunity to be here
24 today.

25 It seems we have had incidents and accidents and some

1 allegations since we were all gathered here together last
2 August in this room. In that regard, I would like to assure
3 the Commission, Ms. Carroll, and Mr. Thaler that I am
4 authorized to wear this uniform, and I am authorized to testify
5 here today on behalf of the National Park Service and the
6 Appalachian National Scenic Trail.

7 I do not need to go on at any great length because
8 you have my prefiled testimony, and the National Park Service
9 and others who have testified on behalf of the Appalachian
10 National Scenic Trail to date have been extremely consistent in
11 their testimony.

12 I care deeply about the Appalachian Trail, having
13 devoted almost 30 years of my life to its care and protection.
14 I have a 32-year-old daughter and a 19-year-old son, and I
15 often refer to the Appalachian Trail as my middle child.

16 The applicant has inundated you with information
17 about energy replacement and displacement in their effort to
18 reduce impact to the extent practicable to all kinds of
19 resources, including scenic. You've had witnesses try to put
20 the fear of God in you about global warming and the necessity
21 of approving this project so as to avert local disaster.
22 You've been given all kinds of cute little sound bite
23 statistics about what this project would do to make the world
24 better.

25 But all this information, it seems to me, is

1 essentially irrelevant and begs the question: You are Land Use
 2 Regulation Commission, and you are guided by legislation,
 3 policy, and the standards and criteria in your Comprehensive
 4 Land Use Plan. Your job, I think, is to determine if this
 5 project in this location can legitimately be approved under
 6 your existing guidance.

7 We have consistently stated that we recognize the
 8 benefits associated with the development of renewable forms of
 9 energy, and we believe that wind power is an important
 10 component of energy generation in this country.

11 We also have consistently maintained since the first
 12 time Harley Lee ever approached us about developing a wind farm
 13 in this location that it is not a good location in terms of the
 14 negative impacts it would have on the Appalachian Trail.

15 I do not know why the Natural Resource Council of
 16 Maine decided to toss the Appalachian Trail under the bus on
 17 this one, but it is not something we will forget any time soon.

18 Mr. Thaler has presented his own supply of sound
 19 bites like this project over 20 years being the equivalent of
 20 replacing 3 million traditional incandescent light bulbs. I
 21 wonder why we don't just do that instead of building this
 22 project. I'm surprised at how little advocacy there has been
 23 for conservation.

24 The mountaintop removal in my home state of
 25 West Virginia is heartbreaking, but to think that approval of

1 this project and desecration of your beautiful western Maine
 2 mountains would do anything to reduce or eliminate that
 3 activity seems rather naive to me.

4 The sound bite that is particularly irksome to me and
 5 false besides is the assertion that our concern about this
 6 project in this location is tantamount to zoning nearly 1.5
 7 million acres of Maine off limits for wind power.

8 This statement is hyperbole and just plain
 9 misleading. All sections of the Appalachian Trail do not have
 10 the same scenic values. The section at stake here is one of
 11 the most remote and scenic of the entire 2175-mile foot path.
 12 It is considered by many to be one of the absolute jewels of
 13 the entire trail.

14 Portions of the Appalachian Trail in Maine, such as
 15 within Baxter State Park, are already off limits to wind power.
 16 Beyond that, we evaluate proposed projects on an individual
 17 basis taking into consideration the value at stake at any given
 18 location.

19 I'm going to stop there and let Erik Crews, my
 20 companion and landscape architect with the forest service,
 21 elaborate on his testimony and conclusions that this project
 22 represents an unacceptable modification of the landscape.

23 Thank you for letting me share information with you
 24 about the Appalachian Trail and how significant we believe it
 25 is to the people of Maine and to the people of this country.

1 Thank you.

2 MR. CREWS: Good morning. My name is Erik Crews, and
 3 I'm a landscape architect with the US Forest Service. I've
 4 been with the agency about 16 years, and over that period of
 5 time have conducted scenery impact analyses for over 150
 6 projects. I specialize in this area and have since the
 7 beginning of my career.

8 I prepared a scenery impact assessment of the
 9 Black Nubble wind farm as a consultant to the National Park
 10 Service, Appalachian Trail Unit. I based my analysis on
 11 components of the USDA Forest Service Management System and
 12 Scenery Management System. Both systems are currently in use
 13 by the Forest Service. These are the covers of those two
 14 manuals.

15 These systems use three basic components to assess
 16 desired Scenery Management objectives and to determine
 17 potential impacts associated with proposed activities.

18 These three elements are: Viewer concern level,
 19 viewing distance, and landscape character.

20 The visual management system's approach is the
 21 sensitivity level, distance zone, and variety class,
 22 respectively.

23 Black Nubble as seen from the Appalachian National
 24 Scenic Trail is considered sensitivity level a Level 1
 25 individual management system because of its national

1 significance. It's a congressionally designated National
 2 Scenic Trail and managed as a unit of the National Park
 3 Service.

4 The area also has regional significance because of
 5 Mount Abraham is a State preserve. Another reason to support
 6 the classification is the high visual sensitivity is that
 7 research shows that the majority of recreation users have a
 8 high expectation to experience quality scenery.

9 The viewing distance or distance zone is determined
 10 in the scenery inventory process by identifying a measured
 11 distance from the viewer to an object or land form. And a
 12 project level analysis, more specific information, is obtained
 13 through site visits, and distance zone is determined by the
 14 amount of perceived detail in the landscape.

15 All views analyzed for this project are middle ground
 16 and background views. Middle ground views extend 3 to 5 miles
 17 away from the viewer where the viewer can still see details
 18 such as vegetation, masses, or rock outcrops.

19 Background views are those beyond the middle ground
 20 and extend to the horizon. Generally background views reveal
 21 only land forms, which are often obscured by atmospheric haze.
 22 Some patterns may be visible in the landscape; the details are
 23 not.

24 Landscape character refers to the physical features
 25 of the land: Water bodies, vegetation, rock outcrops, and

1 human modifications. It also refers to the uniqueness of the
 2 landscape as compared to other landscapes in the area or
 3 region.

4 Black Nubble is seen from the Appalachian Trail and
 5 side trails. It has a predominantly naturally appearing
 6 landscape character. The logging activities, the military
 7 base, and two ski areas are in the vicinity. They represent
 8 minor intrusions into the scenic landscape along the National
 9 Scenic Trail.

10 The striking and beautiful mountain, Black Nubble
 11 would be considered in the digital management system as a
 12 Class B common landscape. Bigelow Mountain, with its jagged
 13 rocky ridgeline and steep slopes would be considered a Class A
 14 landscape.

15 To determine the visual quality objective best suited
 16 for managing the scenery of Black Nubble, the Visual Management
 17 System considers components: Sensitivity level, distance zone,
 18 and variety class. As stated, Black Nubble would be
 19 inventoried as sensitivity Level 1, variety Class B, and is
 20 seen in both middle ground and background views.

21 This matrix, which comes from the Visual Management
 22 System handbook shows that middle ground and background
 23 landscapes in variety Class B, sensitivity Level 1 views should
 24 match the partial retention visual quality objective. This is
 25 consistent with how the scenery visible from the Appalachian

1 Trail is managed on National Forest lands.

2 This just creates a baseline reference of how lands
 3 with this level of scenic sensitivity and character and at
 4 these distances would be managed. You can see I've drawn a
 5 little box around the two categories that would apply in this
 6 situation.

7 Partial retention visual quality objective requires
 8 all proposed activities to remain subordinate when in the
 9 context of the characteristic landscape and barred from
 10 naturally occurring form, line, color, and texture.

11 This photograph shows the natural appearing character
 12 of Black Nubble, the views from the Appalachian Trail, and
 13 Saddleback Junior. Black Nubble is seen in the middle ground
 14 at a distance of 4.1 miles. Details of vegetation masses are
 15 visible, and those are rock outcrops. Note the distant
 16 mountains behind Black Nubble. These are considered the
 17 background, the blue hazed-covered mountains just beyond the
 18 ridge.

19 The Appalachian Trail and side trail viewpoints
 20 considered in this analysis were Saddleback Mountain, The Horn,
 21 Saddleback Junior, Mount Abraham, Spaulding Mountain, Sugarloaf
 22 Summit, and Crocker Mountain.

23 Computer simulations were produced for each of these
 24 viewpoints. To accurately replicate real-world scale, these
 25 images must be viewed at a distance of 1.4 times the image

1 width. For example, an image projected at 10 feet wide must be
 2 viewed at 14 feet away to replicate that real-world scale.

3 This is a view from Saddleback Mountain.

4 Black Nubble is seen at 5.6 miles away, 18 turbines would be
 5 visible, as well as associated roads and landings.

6 This is a simulation of the view from The Horn.

7 Eighteen turbines, roads, and landings would be visible at 4.6
 8 miles away.

9 Exhibit C simulation is a view from Saddleback
 10 Junior. Sixteen turbines would be visible at a distance of 4.1
 11 miles, as will roads and landings.

12 This is a view from Mount Abraham summit, 6.3 miles.
 13 18 turbines would be visible. The view from Spaulding Mountain
 14 at 5.1 miles; Sugarloaf summit at 6; and Crocker Mountain at
 15 3.2 miles.

16 To determine whether the proposed development would
 17 meet the inventoried partial retention visual quality
 18 objective, I look at a degree of contrast between the turbines,
 19 roads, and landings and the elements of form, line, color, and
 20 texture in the surrounding landscape. I also look at the scale
 21 of the entire project and of the individual turbines within the
 22 context of that landscape and the land forms.

23 As was demonstrated in the computer simulations, the
 24 overall scale of this project will be excessive, encompassing
 25 the entire mountaintop, and the scale of individual turbines is

1 totally unrelated to anything else in the landscape.

2 Contrast in form, line, and color are extreme,
 3 barring from no other landscape elements. These impacts will
 4 be long term, if not permanent. The partial retention visual
 5 quality objective cannot be met with this level of scenic
 6 impact.

7 The Visual Management System categorizes this type of
 8 impact as unacceptable modification. Unacceptable modification
 9 is used to describe activities of a scale or size which are
 10 excessive or poorly related to surrounding land forms where the
 11 overall extent of activities is excessive or where contrast,
 12 and form, line, color, and texture are excessive. Unacceptable
 13 modification includes those impacts which exceed ten years'
 14 duration.

15 The Visual Management System was designed for use on
 16 National Forest lands; however, it's the most widely utilized
 17 scenery inventory impact assessment tool available. It's been
 18 used by the other government agencies, private organizations,
 19 and has been taught in universities throughout the United
 20 States and Canada.

21 How does this scenery analysis relate to LURC
 22 permitting regulations?

23 Under LURC standards, Chapter 10.25-E, Item B, it
 24 states that proposed structures and other visual and intrusive
 25 development shall be placed on locations least likely to block

1 or interrupt scenic views.

2 In the previous hearing Dr. Palmer indicated the
3 views would not be interrupted because there was not scenery
4 behind Black Nubble and Redington. But the photo simulations
5 and photographs show that scenic background mountains are
6 visible.

7 Construction of 18 turbines along the ridgeline would
8 most certainly interrupt scenic views of these background
9 mountains.

10 Chapter 10.25-E, Item C states that development shall
11 preserve the natural character of the ridgeline. The natural
12 character of the ridgeline cannot be preserved with
13 construction of this wind farm. It will be drastically and
14 permanently altered.

15 This photo is of a similar project at Mars Hill, I'm
16 sure you're all familiar with this. The Black Nubble proposal
17 would construct the roads and landings for each of 18 turbines.
18 These landings would create a terraced effect across the ridge.
19 Black Nubble landings would be rectangular. The appearance of
20 roads and terracing would not retain the natural character of
21 the ridgeline.

22 Maine Mountain Power engineers plan to construct
23 roads with a toolbox approach. Currently the site specifics of
24 cut-and-fill is not known, therefore, scenery impacts cannot be
25 fully analyzed and compliance with the LURC standards 10.24 and

1 10.25 cannot be determined.

2 I might add that none of the simulations in mine or
3 Mr. DeWan's accurately depict the road and landing and
4 cut-and-fill because the information is simply not available.

5 Chapter 10.24 requires the proposed activities create
6 no undue adverse effect on existing uses, scenic character, and
7 natural and historic resources in the area.

8 I looked at three different web dictionaries for a
9 definition of the word "undue." Dictionary.com defines it as
10 unwarranted or excessive; American Heritage dictionary defines
11 undue as exceeding what is appropriate or excessive;
12 Merriam-Webster's says, exceeding fitness or excessive.

13 Undue adverse effect means the same thing as Visual
14 Management System classification of unacceptable modification.
15 The scale of this project is excessive, the contrast in form,
16 line, and color is excessive and the duration of impacts is
17 excessive.

18 Chapter 10.24 requirements cannot be met with the
19 Black Nubble wind farm proposal.

20 One might ask why two landscape architects can come
21 up with such different conclusions. Individual management
22 systems, there are the three components that I described
23 before, and I've addressed each of those three components and
24 my analysis differs from Mr. DeWan's. Under viewer concern,
25 Mr. DeWan based his user concern levels on a hiker survey which

1 used flawed simulations that he originally prepared.

2 In the simulations he has displayed today, he has
3 included information about how far away the simulations must be
4 viewed to accurately depict real-world scale. The simulations
5 used in his hiker survey did not contain that information.

6 The fact that he's included that in the hearing this
7 year to me indicates that he's recognized the flaws in the
8 simulations at this point that was inherent last year.

9 I basically used the concern levels on the
10 viewer-type recreation, which research has shown have a higher
11 expectation for quality scenery, the national significance of
12 the Appalachian Trail and the regional significance of
13 Mount Abraham.

14 The second component, the view distance, Mr. DeWan
15 bases his analysis on measured view distances to determine the
16 middle ground and background, which is a component of both the
17 Scenery Management and Visual Management System, but that type
18 of view distance determination is more appropriate for a
19 landscape scale inventory.

20 The Visual Management System says that to the extent
21 the middle ground is 3 to 5 miles, whereas the Scenery
22 Management System says 4 miles. The reason that that change
23 was made in the system was to simplify the process of inventory
24 mapping on a large-scale scenery inventory. When a National
25 Forest landscape architect might be inventorying a million

1 acres of land, in a map exercise, it's difficult to determine
2 if the middle ground is going to be 3 or 5 miles.

3 That's a site-specific determination that is made
4 during a project level scenery analysis such as this. That's
5 where our views differ on this. I based my analysis on the
6 amount of detail that is perceived in the landscape from
7 specific viewpoints.

8 The third component is landscape character.
9 Everything that I've read from Mr. DeWan, he continually
10 describes the visibility of all the human modifications in the
11 landscape -- the Navy base, the logging activities, the ski
12 areas -- when in fact there's only two locations on the trail
13 in this area where these ski areas are visible, and they're
14 minor intrusions compared to the overall landscape character.

15 The Navy base is barely noticeable, you see the
16 roads, and you see some of the logging activities; but the
17 overall character of the landscape is that of a naturally
18 occurring landscape. That's what I based my analysis on.

19 When looking at a map, yes, ski area developments are
20 in very close proximity to the trail. You just don't see them.
21 The don't play a role in the overall context of the experience
22 of what the hikers have out there.

23 The fourth item, which is from the LURC standards,
24 Chapter 10.24, Mr. DeWan defines the term undue in your
25 standard of no undue adverse effect as no more than necessary.

1 An example, a statement such as the construction of
2 Black Nubble wind farm would create no more adverse effect than
3 necessary. This is a very low threshold to me. That means
4 that the applicant would have to actually deliberately create
5 adverse effects.

6 I define the word undue as excessive, as do the three
7 dictionary references that I showed, and I believe that the
8 construction of Black Nubble wind farm will create excessive
9 adverse effects.

10 Thank you.

11 MS. HILTON: I have just a couple of questions. I
12 think I know the answer to one of them.

13 EXAMINATION OF ERIK CREWS

14 BY MS. HILTON:

15 Q. You mentioned that the ski slopes were minor intrusions
16 early on in your presentation here.

17 Is that because you can only see them from two
18 locations from the AT?

19 A. The two locations they are visible from in between
20 Saddleback Mountain and The Horn, and then over on Crocker
21 Mountain.

22 The duration of views and the overall experience that
23 one has, they don't represent a major intrusion visually.

24 From the other views, such as Saddleback Junior or
25 Mount Abraham, or Spaulding Mountain, they're not visible

1 at all.

2 Q. So what would it take for them to become a major
3 intrusion?

4 A. Significant contrasts and form, color, line, texture of
5 the surrounding landscape, and the longer the duration of
6 the viewer, the greater the contrast.

7 Q. So if you were, say, driving at the entrance or driving
8 along the public road out here and you looked over and you
9 saw Sugarloaf from the mountain, what would that be?

10 A. From down here, that would be a significant impact. But
11 you have to put that in context of the viewer concern
12 level and the surrounding landscape.

13 Within the content and the character of this
14 development and the viewers that would be using the area,
15 they may perceive that as fitting within the context of
16 this area.

17 Q. One other question. How far away would this wind farm
18 have to be such that it would not be considered excessive?

19 A. In the Visual Management System, the terminology that I
20 described, the undue -- excuse me, the unacceptable
21 modification is not dependent on viewing distance at any
22 viewing -- for that classification in the Visual
23 Management System it specifically says regardless of
24 distance, viewing distance.

25 Q. So it wouldn't matter how large they are?

1 A. It's all -- when you do this type of analysis, it is all
2 based on how they appear in the landscape from specific
3 viewpoints, so trying to come up with a hypothetical
4 situation takes away from the process, the methodology of
5 assessing scenery impacts.

6 EXAMINATION OF ERIK CREWS

7 BY MS. KURTZ:

8 Q. The testimony that we got from you -- or your testimony
9 that's in black and white, that diagram, the dqo matrix,
10 it doesn't show it in color, so I couldn't tell on here
11 what you had outlined. Could you go back to that slide.

12 A. If you follow the chart, the Class B landscape, the middle
13 ground sensitivity Level 1 in the background, sensitivity
14 Level 1 down to the two blocks that say PR, which stands
15 for partial retention, in the Scenery Management or Visual
16 Management Inventory process, that would be the desired
17 management based on the conditions of these three
18 components: Distance, sensitivity level, and landscape
19 character classification under the Forest Service Visual
20 Management System.

21 Q. So partial retention of the view --

22 A. No, a partial retention is terminology specific to the
23 Visual Management System that is defined as impacts. It
24 remains subordinate to the character of the landscape, and
25 it borrows from the form, line, color, and texture of the

1 surrounding natural landscape.

2 As I said before, this is the objective -- at my
3 National Forest in North Carolina, it's the minimal level
4 of scenic protection offered to the Appalachian Scenic
5 Trail, the Blue Ridge Parkway, and other areas of high
6 visual concern.

7 Q. The length of the trail has been described as somewhere
8 around 30 miles, and I'm not sure if that goes from
9 Bigelow or how far back it goes. That's a number we'll be
10 hearing somewhere else.

11 How much of that ridgeline -- or how much of that
12 trail is ridgeline and how much of that ridgeline -- how
13 often are you at the top looking out seeing a 360-degree
14 view opposed to down in the valley or in the woods where
15 you can't see, you know, more than 20 feet into the woods?

16 How much of that 32-mile length is panoramic, 360
17 view?

18 A. I don't know how to answer that specifically. I did a GIS
19 analysis using aerial imagery and overlaid it with other
20 data, scenery analysis from the turbines back across the
21 landscape.

22 In that analysis, picking out areas of deciduous
23 forests or open alpine areas that passes through, I
24 determine at about 9 percent of that 34 miles, I believe
25 it is, that you would have views over to this area.

1 When conducting a scenery analysis, you use the
2 worst-case scenario. When I conduct a scenery analysis,
3 if it's in a deciduous forest, I always do it leaf off.

4 You consider it for average, good visibility. If you
5 have in a section of a trail, for example, if you have two
6 or three prominent viewpoints or vistas, those are the
7 areas that you analyze impacts for.

8 Those types of areas would also be used by day
9 hikers, possibly, and they may go up to say Saddleback
10 Junior and sit for a half hour or longer.

11 So your duration of view from the user could be
12 highly variable. So you want to consider the impacts in
13 the worst-case scenario from the most open viewpoints.

14 Q. I think that's sort of where I'm trying to go. I'm just
15 wondering, how much -- when I hike, I like to hike but I'm
16 generally looking for a view. I run a day camp and the
17 kids always want to go to the mountains where they can see
18 something at the top.

19 I'm just wondering how much of that 32 miles -- 9
20 percent would be 3.5 miles -- when you get -- how much of
21 that experience, that ridgeline experience, are you going
22 to be able to see the turbines?

23 A. Of that 9 percent, I don't have the figures at hand of how
24 much of that is ridgeline and how much of it may be from
25 mid elevation location such as Poplar Ridge or some of the

1 other locations. I didn't break it out like that.

2 Q. Okay. I was listening -- trying to figure out, sort of
3 synthesizing some of the language.

4 Is it safe to say -- not safe to say -- as you
5 describe form, line, and color and seeing something within
6 a landscape that you're looking at whatever you're seeing
7 is within an aggregate or within a larger picture? Are
8 you seeing something within a larger picture?

9 I guess the metaphor that I keep coming up with was
10 Stonehenge. When you see Stonehenge, you see all the
11 individual blocks but you see the whole thing.

12 Would this be comparable -- would the turbines be
13 comparable to maybe painting one of those rocks bright
14 pink, the Stonehenge rocks, bright pink or purple or
15 something that we see a broad field that you recognize as
16 a landscape but then there's something that is out of
17 place.

18 Is that an accurate metaphor?

19 A. I would say that's a fair analogy because what you're
20 looking at in a scenery analysis is the contrast between
21 introduced elements and the landscape character.

22 The fact that this -- the predominant landscape
23 character is that of a natural appearing landscape, a
24 forested landscape, and you introduce these large white
25 linear features that are moving, that will create an

1 extreme contrast between those introduced human-created
2 elements and the natural landscape that is being viewed
3 within.

4 So yes, when you look at Stonehenge and you see the
5 gray of all those rocks and the form of the overall
6 structure and one of them is bright pink, then there's an
7 extreme contrast there.

8 I would say that that is a good analogy.

9 MS. KURTZ: Thank you.

10 EXAMINATION OF ERIK CREWS

11 BY MR. HARVEY:

12 Q. Just to question you on these computer simulations because
13 applicants, I think, were all photographs that tried to
14 demonstrate views.

15 How do you -- in terms of accuracy, because the
16 views -- many of the views that they presented in their
17 testimony tried to illustrate there were filtered views,
18 and most of your computer simulation kind of look to me
19 like we're standing on a fire tower looking from each one
20 of these viewpoints looking across. I'm sure that's not
21 what you intended.

22 How do you give us kind of the immediate foreground
23 that we're looking at in terms of the filtering effect,
24 because pretty clearly when you're walking through most of
25 the woods around here, there aren't that many cases there

1 are open vistas.

2 I know that's not true everywhere. I'm just trying
3 to make sure that we're looking at the same thing here. A
4 view is a view, and it shouldn't look a whole lot
5 different depending on whether you took the picture or
6 somebody else did.

7 A. Right, right, I understand your question. The viewpoints
8 that I analyzed, with the exception of the Crocker
9 Mountain viewpoint, are all open vistas. They are not
10 filtered-through foreground vegetation.

11 At Mount Spaulding the viewpoint is standing above
12 the tree line, and Saddleback, The Horn, Saddleback Junior
13 are an alpine area with low vegetation. The foreground
14 vegetation and terrain is depicted in these simulations as
15 this one, the land drops away from you in front there, so
16 you don't see it as much.

17 But in these other areas you see some of the land
18 there in front of you and some of the low growing
19 vegetation.

20 These are the open viewpoints, the exception being
21 Mount Crocker. The reason I included the Crocker
22 viewpoint is because it's the closest, and in this
23 environment a single weather event could destroy the
24 foreground screening vegetation.

25 When I do scenery analysis for a timber sale, for

1 example, I consider vegetative screening. When I do a
2 scenery analysis for something such as a broadcast tower,
3 a federal highway project, anything that is a long-term or
4 permanent modification to the landscape, I do not consider
5 that as screen.

6 The vegetation could be eliminated through disease or
7 a weather event but the highway or the broadcast tower or
8 the wind turbines are still going to be there.

9 Q. I'll let the applicant, perhaps he may ask you some about
10 some of these views. I'm looking at the Crocker Mountain
11 one. It doesn't look like the one I saw before. Anyway.

12 Just tell me why would you use -- why would you use a
13 computer simulator as opposed to a real-time view?

14 There's the ones you took with a digital camera. Why do
15 you think these are better than the other?

16 A. With the computer simulator view, all of the viewpoints
17 that are analyzed, the atmospheric conditions can be set
18 to the same settings.

19 If you use a photograph, for one example, each time
20 you get out there and take the photograph, your
21 atmospheric conditions are going to change.

22 So you can't compare the impacts from Viewpoint 1 to
23 the impacts of Viewpoint 2 because conditions change when
24 you move from one viewpoint to another.

25 With a computer simulation, the atmospheric

1 conditions are set at a linear gradient across back into
2 the distance.

3 So it's the same for each simulation. If you look at
4 the simulation that the turbines are 4 miles away and you
5 look a simulation where they're 6 miles away, the effect
6 of that haze is relative to the distance that's being
7 viewed and can be compared from one simulation to the
8 next.

9 That's one of the advantages.

10 Q. So should -- I assume when I'm looking at these that I'm
11 looking at the best case scenario in terms of the view
12 opportunity, from a weather perspective, I guess?

13 A. It's obviously -- you know, these are produced where
14 there's not a heavy fog or anything obscuring the view.
15 The haze distance setting is an average for summer
16 obscurity but there may be days when it's clear.

17 Another advantage that I might mention is that with
18 the simulations with this computer program, it actually
19 has the ability to show cut-and-fill across the terrain.
20 Had that information been provided, I would be able to
21 model what that would look like, the cut-and-fill of the
22 roads and landings, but that is not depicted in these
23 simulations because the information was not provided.

24 But that's a huge advantage of a computer simulation
25 as well.

1 THE CHAIR: I can appreciate that.

2 EXAMINATION OF PAM UNDERHILL

3 BY MS. HILTON:

4 Q. Two things, one question for Pam Underhill. You may have
5 already mentioned this and I missed it.

6 When you talk about this portion of the AT being the
7 most remote and scenic of the AT and jewel, does that
8 wording, or that identification, show up in any kind of
9 comprehensive plan for the AT or any kind of document that
10 looks at that AT?

11 A. I think I said it's some of the most remote and scenic.

12 In my prefiled testimony I identified several other sites,
13 like within the Smokey Mountains National Park, the White
14 Mountains of New Hampshire, the Roan Mountains of
15 Virginia, so there are several places.

16 In our Comprehensive Plan for the Appalachian Scenic
17 Trail, we do talk about managing areas, preserving the
18 remote areas of the trail. Obviously in its over
19 2000-mile trek from Maine to Georgia, it goes through a
20 variety of landscapes. It comes down through the
21 mountains, crosses valleys and rivers. It even goes
22 through some small trail towns.

23 The sections that are now remote and somewhat
24 pristine, we do have management direction to try to
25 preserve those areas of the trail.

1 Q. That's something that's in writing?

2 A. Yes.

3 Q. That's part of the plan?

4 A. Yes.

5 EXAMINATION OF ERIK CREWS

6 BY MS. HILTON:

7 Q. The other -- I guess just something that I noted is that
8 in your simulations, I don't think I see any evidence of
9 like logging or logging roads, clearcuts?

10 A. The data that I obtained did actually have logging roads
11 in there. From some of these views, they're not evident.
12 When you go back to the actual photograph, you analyze
13 this in detail and they're just not that evident.

14 This is a photograph from Saddleback Junior here.
15 When you compare the simulations to the photograph and try
16 to pick out the roads that are you included in the
17 simulations, they're just not all that noticeable. This
18 is why you're not seeing them.

19 MS. HILTON: Thank you.

20 MR. CREWS: Thank you.

21 THE CHAIR: Rebecca, Gwen, are you all set?

22 With that being I guess we'll move on to
23 cross-examination.

24 MR. THALER: Mr. Chairman, if I could suggest, I've
25 got to move some stuff over. We're almost at our break time.

1 Can we take our break now?

2 THE CHAIR: I think that the court reporter might
3 enjoy that.

4 (There was a break in the hearing at 10:38 a.m. and
5 the hearing resumed at 10:54 a.m.)

6 MR. THALER: Good morning Ms. Underhill. I'm going
7 to stand because I'm getting old and my eyes need distance.

8 Mr. Crews, I have a few questions for you.

9 EXAMINATION OF ERIK CREWS

10 BY MR. THALER:

11 Q. I believe you said -- and I just want to confirm for the
12 record -- that the VMS or SMS assessment approaches that
13 you have talked about are to be used on federal lands
14 only; is that correct?

15 A. No, I did not say that. They were written by Forest
16 Service landscape architects but have been used
17 extensively by nonfederal agencies.

18 Q. Are you aware that the Land Use Regulation Commission had
19 last year a consultant, Jim Palmer, on scenic impact
20 issues?

21 A. Yes.

22 Q. Did you see Mr. Palmer's comments to the Commission after
23 the hearing last summer about your use of the US Forest
24 Service approach on evaluating impacts of the project on
25 private land?

1 A. I don't recall seeing that.

2 Q. Let me show you a memo from Mr. Palmer to Marcia
3 Spencer-Famous that was then copied to all parties dated
4 August 8th, 2006. I ask if you would read aloud as I give
5 copies to the Commission and Sarah Tracy gives to the
6 intervenors his paragraph No. 1.

7 A. Erik Crews presented the US Forest Service's approach to
8 classifying their land. It does not apply to LURC private
9 lands because the management value goals are different.

10 Q. Is that the first time you saw Mr. Palmer's statement?

11 A. It is.

12 Q. Now, you testified last summer that you had gone up to
13 part of the 34, 32 miles on the AT in this area in June
14 2006; correct?

15 A. Yes.

16 Q. Have you been up there since the two days in June 2006?

17 A. No, sir.

18 Q. Had you been there before June 2006?

19 A. No, sir.

20 Q. During the time that you were up there, you didn't get to
21 Crocker Mountain, north or south; correct?

22 A. That's correct.

23 Q. You didn't get to Poplar Ridge, either; correct?

24 A. No, I did not.

25 Q. You didn't get to Spaulding, either?

1 A. No.

2 Q. So, when you -- let me hold on for a second.

3 Your testimony that you gave last summer included a
4 simulation of a view of what was then proposed. The
5 simulation was a view from Sugarloaf Cirque; do you
6 remember that?

7 A. Yes, sir.

8 Q. You remember that from Sugarloaf Cirque at that time,
9 according to your simulation, you were fairly close to the
10 Redington winds turbines?

11 A. Yes, sir.

12 Q. Let me show you again what will be an MMP exhibit. This
13 was your Exhibit D-4-B, simulated view of proposed project
14 from Sugarloaf Cirque.

15 Do you recognize that?

16 A. No, this is not my work.

17 Q. Was that Ms. Vissering's?

18 A. I couldn't say for sure.

19 Q. All right. It does say photo by Jean Vissering.

20 Would you agree generally that you, when you did your
21 simulation, you had turbines roughly in that location,
22 roughly those sizes?

23 A. This is -- that would be difficult to say without having
24 other images to compare. I have not seen this before.

25 Q. You would agree, though, that the current project -- the

1 revised proposal -- is different in that there would be no
2 turbines visible from Sugarloaf Cirque; correct?

3 A. I would agree, yes.

4 Q. So the Black Nubble turbines that are proposed now would
5 not be seen by anybody at Sugarloaf Cirque; correct?

6 A. Yes, I would agree with that.

7 Q. Now, Commissioner Harvey was asking you some questions
8 about Crocker Mountain, and I understand you've said that
9 you haven't been there.

10 Let me just show you -- we'll show you in a minute
11 your simulation of Crocker and I believe you testified --
12 try to stand out of the way of the Commission here, I'm
13 sorry, it's a little awkward -- that -- orally you said
14 this morning that all your simulations were open views
15 except for Crocker; correct?

16 A. That's correct.

17 Q. This view that you're showing here certainly looks like
18 it's open in that you don't have any trees blocking any of
19 the turbines that are displayed in that simulation;
20 correct?

21 A. In the written testimony with which this was submitted,
22 there is a -- well, on the image right there, there is a
23 disclaimer stating that foreground vegetation may be more
24 dense and that this image was included because it's the
25 closest view to the proposed project and that since the

- 1 project is a long-term impact, that vegetative screening
2 from critical viewpoints like this should be considered --
3 the screening should not be considered; the viewpoints
4 should be considered.
- 5 Q. So here, as you're using a computer simulation, but it's
6 not showing what somebody hiking today up on Crocker
7 Mountain would see; correct? I mean, taking the turbines
8 aside, you wouldn't be able to see Black Nubble when
9 you're on the summit of Crocker Mountain; correct?
- 10 A. I understand it's visible for the surveyor cut.
- 11 Q. I'm talking about on the summit, not off the summit on the
12 surveyor cut.
- 13 A. No, my understanding is that the vegetation screens the
14 view of Black Nubble at this point; and as I said, the
15 point of even including this was to demonstrate that if a
16 weather event occurred that eliminated the vegetation, the
17 wind farm would still be there, it would be visible.
- 18 Q. In fact, and you are aware that the Appalachian Mountain
19 Club's book on these mountains said that Crocker is a
20 wooded summit?
- 21 A. No, I was not aware of it.
- 22 Q. In terms of your discussions about Sugarloaf mountaintop,
23 would you agree that -- that's accessible by a short side
24 trail from the AT; is that correct?
- 25 A. It is accessible.

- 1 Q. It's an official -- whatever --
- 2 A. Blue-blazed trail, yes, sir.
- 3 Q. On that blue-blazed trail, you've been up to the top of
4 Sugarloaf?
- 5 A. Yes, I have.
- 6 Q. And you agree that there's several large cell towers,
7 buildings, picnic tables, chair lifts, things like that?
- 8 A. Yes, I do agree with that, and hikers along the
9 Appalachian Trail can choose to take those side trails or
10 not.
- 11 Q. Right. In fact, I think you indicated that you saw a
12 number of hikers or people up there who didn't seem
13 deterred?
- 14 A. We saw hikers that came up from the resort.
- 15 Q. Now, you also testified about where you might be able to
16 see the ski resorts; do you recall talking about that?
- 17 A. Yes, sir.
- 18 Q. Have you been over to the Bigelows, to the west peak of
19 Bigelow?
- 20 A. No, sir, I have not.
- 21 Q. Are you aware that from the west peak of Bigelow -- were
22 you here yesterday when Mr. DeWan testified?
- 23 A. No, sir, I wasn't.
- 24 Q. But you've reviewed his photos; correct?
- 25 A. I reviewed his written testimony, yes.

- 1 Q. Are you aware that from the west peak of the Bigelows you
2 can squarely see all of the -- most of the slopes, the ski
3 slopes of Sugarloaf?
- 4 A. Yes, I am aware of it.
- 5 Q. Are you also aware that from the west peak of the Bigelows
6 you can see the Sugarloaf golf course, lagoons, things
7 like that?
- 8 A. The viewpoints that I analyzed were included in my list.
9 I didn't analyze any viewpoints from the Bigelows.
- 10 Scenery analysis is a site-specific task. When you
11 get over there on Bigelow Mountain and look back this way,
12 the landscape character is different.
- 13 It's different than what is described for the
14 viewpoints that I've analyzed.
- 15 Q. Now, you have as your second photo Turbine 9, the cut in
16 the Turbine 9, Mars Hill; do you recall that?
- 17 A. Yes.
- 18 Q. Where did you get that photo from?
- 19 A. It was e-mailed to me by J. T. Horn of the Appalachian
20 Trail Conservancy.
- 21 Q. You haven't been up to Mars Hill?
- 22 A. No, sir, I have not.
- 23 Q. Are you aware that the applicant's experts have said that
24 they're going to be clearing for the turbine base pad
25 maybe 1/8 of what had to be done at the Mars Hill

- 1 Turbine 9?
- 2 A. I read in Mr. DeWan's testimony the specifications of the
3 dimensions of the clearing pads, the rectangular clearing
4 pads.
- 5 Q. So you have no personal knowledge that the photo you
6 showed of Turbine 9 in Mars Hill will have any resemblance
7 at all to what will be done if this project is approved at
8 Black Nubble; correct?
- 9 A. I don't think anybody knows how it will resemble what's
10 done at Black Nubble because the grading plan,
11 site-specific road and landing design, has not been
12 disclosed.
- 13 Q. Are you familiar with LURC's process of a preliminary
14 development plan and a final development plan?
- 15 A. I've heard it referred to, yes, sir.
- 16 Q. You're aware that we're here on a preliminary development
17 plan?
- 18 A. I'm aware of that, but if you are seeking to analyze
19 potential impacts from proposal, the specific information,
20 site-specific information is necessary to fully analyze
21 those impacts.
- 22 Q. Would you agree generally, Mr. Crews, that from last
23 summer to this that the proposed turbines for the project
24 are approximately three times further from the Appalachian
25 Trail than they were before?

1 In other words, before the closest would have been
 2 approximately 1 mile, and now it would be approximately 3
 3 miles?
 4 A. That varies with each specific viewpoint analyzed; but
 5 from certain viewpoints, yes, the distance is greater,
 6 yes.
 7 Q. Would you also agree that in terms of lighting, previously
 8 there were 30 lights proposed, now it's down to 7?
 9 A. I would -- that's what I've read in the proposal and
 10 that's -- I would agree that fewer lights would represent
 11 a reduced impact; but when analyzing scenery impacts, you
 12 analyze what the proposal is and what the contrasts are
 13 within the context of the characteristic landscape.
 14 Q. Mr. Crews, in your testimony, your 2007 testimony, you
 15 mention in one location that there would be visible -- I
 16 think it's 18 out of 30 turbines. You agree that that
 17 must have been a typo. There's not 30 turbines proposed
 18 under the revised plan?
 19 A. That definitely is a typo that I must have missed.
 20 Q. Sometimes typos happen.
 21 A. They do.
 22 Q. It doesn't mean there's any evil intent behind a typo?
 23 A. Certainly not.
 24 Q. In terms of your prior testimony -- by the way, you said
 25 in 2006 that at the Sugarloaf summit the view is dominated

1 by three communication towers, a ski lift terminus, and
 2 two large buildings, and that's because you can actually
 3 walk from the trail and touch those structures; correct?
 4 A. The side trail empties out into a large open area up here
 5 at the top, and yes, you can go right to the base of those
 6 towers.
 7 Q. And you can't go right to the base of the Black Nubble
 8 towers and touch them from public property; correct?
 9 A. Unless it's posted otherwise, I would assume so.
 10 Q. Well, let's --
 11 A. I've not been there.
 12 Q. Have you been to Stonehenge by the way, since the question
 13 came up?
 14 A. Yes.
 15 Q. So have I. If you had a pink Stonehenge pillar, you could
 16 actually put your hand on it because that's public
 17 property; right?
 18 A. No, actually they've got it gated off.
 19 Q. Well, you can get within 20 feet of the pillar; correct?
 20 A. Whatever distance, you can see them, yes.
 21 Q. You can see them from about 20 feet away as opposed to the
 22 turbines on Black Nubble from which on the AT the closest
 23 point that somebody on a public road could get where they
 24 could see it would be 4 miles; correct?
 25 A. The question related more to the idea of contrast and

1 color, particularly in that case. In any scenery
 2 analysis, the contrast that you're analyzing is specific
 3 to a viewpoint and the distance that the object being
 4 viewed as and what the user concern was.
 5 MR. THALER: Mr. Chairman, how much time do I have?
 6 THE CHAIR: 10 minutes.
 7 MR. THALER: 10 minutes, thank you. And I apologize
 8 for talking quickly but I'm not given much time here this
 9 morning.
 10 BY MR. THALER:
 11 Q. Mr. Crews, it's also my understanding in response to a
 12 question from Commission Hilton that your position is that
 13 basically if you can see wind turbines, even if they're 15
 14 miles from the Appalachian Trail, that would be an
 15 unacceptable modification; correct?
 16 A. When I answered that question what I was describing is the
 17 terminology used in individual management system.
 18 Certainly on a site-specific analysis, as any introduced
 19 element in the landscape, is further away from the
 20 viewpoint then the impacts of that are reduced.
 21 No, I wouldn't say that at any distance that it would
 22 be an unacceptable modification.
 23 Q. Last summer you said 10 miles, do you remember that, that
 24 was at least a minimum that you said if you could see it
 25 from 10 miles away anywhere along the trail, that would be

1 an unacceptable modification; do you recall that?
 2 A. It depends on the extent of the project at the time. When
 3 you're talking about the full project across the two
 4 mountaintops, those seen from a distance of 10 miles with
 5 the excessive scale of those projects.
 6 It would probably be determined to be an unacceptable
 7 modification. As you may know, the Avery Peak across the
 8 way here is 6.1 miles, and you can see the 20-foot high
 9 structure on it, even on a day like today that's fairly
 10 hazy.
 11 Q. I agree. Were you here when this exhibit was marked
 12 yesterday?
 13 A. No, sir, I was not.
 14 Q. I'll represent to you this was, I believe, Exhibit 22-B
 15 and commissioners and Ms. Underhill was given a copy.
 16 You're familiar with the concept of relative height;
 17 correct?
 18 A. Sure.
 19 Q. You even talked about it in terms of the hiker survey when
 20 you said that was one of the flaws of Mr. DeWan's analysis
 21 because you said the hikers weren't told how far away from
 22 their eyes to hold the pictures; is that correct?
 23 A. Correct.
 24 Q. Were you aware that Market Decisions, who did the survey,
 25 had on the photographs how far -- on the back of the

- 1 photographs -- how far people were to hold them and they
2 instructed people on that?
- 3 A. The examples that I saw in the hearing last year did not
4 have that information on them.
- 5 Q. If you hold 22-B out approximately 24 inches, and we look
6 at The Horns on Bigelow, which is 9.7 miles, pretty close
7 to 10, you'll see the relative height of the turbines.
- 8 Would you agree with me is maybe -- Mr. DeWan what
9 has .19 inches. Do they look about .19 inches to you?
- 10 A. In my opinion this is clearly useless information. Any
11 scenery analysis is conducted on a site-specific basis and
12 you're determining the contrast of the introduced element
13 within the elements of the characteristic landscape.
- 14 Q. Mr. Crews, I understand that you may not like or agree
15 with Mr. DeWan's analysis. I have a simple physics
16 question for you.
- 17 Would you agree that a turbine, the Black Nubble
18 turbine -- you know the stacks of them, you've simulated
19 them -- from 9.7 miles away are going to be if not .19
20 inches, surely less than half an inch high.
- 21 Would you agree with that?
- 22 A. I would assume that the calculations used to develop this
23 document are correct.
- 24 Q. So is it your testimony that seeing something that maybe
25 is .19 inches high 9, 10 miles away is an unacceptable

- 1 modification?
- 2 A. When you do a scenery analysis, you have to look at the
3 whole picture. This is one stick figure on a piece of
4 white paper.
- 5 Q. I asked you a general question. I'll restate the
6 question.
- 7 Is it your position that seeing -- even if you saw
8 all 18 Black Nubble turbines from 10 miles away a quarter
9 inch high that that would be an unacceptable modification
10 that this Commission or no Commission or board anywhere
11 should permit?
- 12 A. No, it has to be determined on a site-specific basis.
- 13 Q. Let me move quickly to your dictionary definitions of
14 undue.
- 15 You said that your definition of undue was excessive.
16 Did you then go and look at what the definition of
17 excessive was on your Internet dictionaries?
- 18 A. No, sir, I did not.
- 19 Q. I'll represent to you that excessive by dictionary.com is
20 going beyond the usual necessary or proper limit or
21 degree. Webster, exceeding what is usual, necessary,
22 proper, or normal.
- 23 So being more than necessary is comparable to what
24 Mr. DeWan's definition was; correct?
- 25 A. In the context in which I heard him make the sentence at

- 1 the hearing last year, the sentence that I included in my
2 presentation seemed to be more appropriate that no more
3 adverse impacts would be created than were necessary to
4 build the wind farm proposal.
- 5 Q. I just have one more question for Mr. Crews and then I
6 have a couple for Pam and then I'll be done.
- 7 Did you -- I have to ask a preliminary question and
8 then ask my last question to you, Mr. Crews.
- 9 Did you review all the prefiled testimony or only
10 that of Mr. DeWan in terms of the applicant's testimony?
- 11 A. Just Mr. DeWan's.
- 12 Q. So you didn't review Mr. Lee's prefiled in which he
13 provided the Maine legislature's definition of undue
14 adverse impact; is that correct?
- 15 A. No, sir, I did not see that.
- 16 MR. THALER: Moving to -- do you want me to call you
17 Ms. Underhill?
- 18 MS. UNDERHILL: You may call me what you like.
- 19 EXAMINATION OF PAM UNDERHILL
- 20 BY MR. THALER:
- 21 Q. You mentioned that the Commission should be familiar with
22 the law and we agree with that.
- 23 Are you aware that -- you quoted the Maine Trail
24 System statute in your testimony; do you recall that?
- 25 A. Yes.

- 1 Q. Are you aware that what, for example, the Land Use
2 Regulation Commission did pursuant to that statute was to
3 in part create a subdistrict called a P-RR subdistrict
4 that would include the Appalachian Trail running through
5 the unorganized territories, are you familiar with that?
- 6 A. Yes.
- 7 Q. Are you also familiar that in a P-RR subdistrict there's a
8 250-foot wide buffer on either side of the trail?
- 9 A. I thought it was on 200 feet on either side of the trail,
10 but I am aware that it exists.
- 11 Q. It's certainly not 1000 feet or a mile or 2 miles;
12 correct?
- 13 A. Yes, correct.
- 14 Q. Let me just ask you quickly, the Black Nubble property is
15 private property; correct?
- 16 A. Yes, it is.
- 17 Q. Does the National Park Service have a scenic easement on
18 any portion of the project site?
- 19 A. No, we do not.
- 20 Q. Has the National Park Service sought to acquire a scenic
21 easement or purchase either Black Nubble or Redington?
- 22 A. No.
- 23 Q. We've seen photographs, particularly again from the
24 Bigelows, for example, west peak and I'm sure you're
25 familiar with it, looking from the Appalachian Trail back

1 towards Sugarloaf where you have a very nice view of the
2 ski slopes up behind us here and the lagoons and things
3 like that.

4 Did the National Park Service oppose the development
5 of the ski resort or any expansions of Sugarloaf?

6 A. Not that I'm aware of but I'm not exactly sure of the
7 timing and scheduling of when the Sugarloaf ski area came
8 into operation or when it's been expanded.

9 But I did -- I have indicated in my testimony
10 previously that the National Park Service alone cannot
11 protect all of the values that are important to the
12 Appalachian National Scenic Trail, and we would like to
13 create a climate of concern around the trail, and we would
14 appreciate LURC's assistance in helping to protect this
15 national resource.

16 Q. A climate of concern, as you describe it, could be 10 or
17 15 miles away from the trail; correct?

18 A. It depends on the section of the trail and the values that
19 are at stake.

20 MR. THALER: Mr. Chairman, I have no further
21 questions. Thank you. Did I finish under 20 minutes?

22 THE CHAIR: I'm going to have to give Mr. Plouffe a
23 few extra minutes, I'm sure.

24 I assume you're next, Mr. Plouffe.

25 MR. PLOUFFE: I think so.

1 THE CHAIR: Come right up.

2 EXAMINATION OF ERIK CREWS

3 BY MR. HARVEY:

4 Q. While we're transitioning here, Mr. Crews, did you -- the
5 applicant, of course, had the obligation to do a complete
6 analysis of a huge area around this wind farm proposal and
7 presented a lot of viewpoints.

8 Your simulations did not include all of the
9 viewpoints that he provided; is that correct?

10 A. That's correct. I only analyzed from the viewpoints of
11 this section of the Appalachian Trail.

12 Q. From --

13 A. From this section of the Appalachian Trail from Saddleback
14 Mountain to Crocker Mountain.

15 Q. So your views were selected based on the proximity to the
16 trail and the project; right?

17 A. That's correct.

18 MR. PLOUFFE: I'm Bill Plouffe, and I represent a
19 number of intervenors. I really only have a few questions. I
20 might not even use my whole 10 minutes, Mr. Chairman.

21 EXAMINATION OF ERIK CREWS

22 BY MR. PLOUFFE:

23 Q. Going to the bottom line here, cutting back this project
24 from Redington and Black Nubble to just Black Nubble, has
25 that, in your professional opinions, significantly changed

1 the visual impacts on the Appalachian Trail?

2 A. It certainly reduces the impacts because it's one mountain
3 instead of two; but in the analysis it was determined that
4 the contrast with the form, line, color, texture and
5 overall scale of the project is still excessive and
6 represents a significant impact.

7 Q. Did Mr. DeWan's visual impact assessment follow the
8 methodology in either the Scenery Management System or
9 Visual Management System?

10 A. He made a reference to it in a few locations, but he
11 didn't follow the methodology exactly as is spelled out in
12 the systems.

13 He placed much greater emphasis on items that are
14 less important in the process described in the Visual
15 Management System.

16 Q. You were unable, based on the information that you had
17 available to you, to model the cut-and-fill aspect of the
18 roads on Black Nubble; is that right?

19 A. That's correct.

20 Q. If you had had that information and assuming that there
21 are cuts-and-fills, what would be the likely impact of
22 those visually?

23 A. They -- the cut-and-fill would increase the visual
24 contrast between the disturbed areas and the surrounding
25 landscape.

1 On steep slopes where the road traverses the slope,
2 the cut-and-fill could be extensive. Where they are
3 blasting into rock, the color contrast of the white rock
4 against the forested landscape could be very noticeable.

5 Q. So if you, from a layperson's perspective, were to look at
6 a cut-and-fill you see rock or some kind of riprap above
7 the road and the same below the road instead of natural
8 vegetation?

9 A. That's correct; or in certain cases if it was solid rock,
10 you may see a blasted vertical cut face above the road,
11 and then the fill material or overcast -- side cast
12 materials from that blasting down on the lower side of the
13 road.

14 Q. So without that information, would it be fair to say that
15 you cannot do a complete visual impact assessment?

16 A. That is absolutely true.

17 Q. But your visual impact assessment, even without that,
18 concludes that this is excessive?

19 A. That's correct.

20 Q. I believe there was testimony in written form from
21 Dr. Palmer. You've been asked one question about his
22 testimony last time.

23 I believe it said that the human eye cannot make out
24 forms at anything beyond 8.9 miles.

25 Do you have a comment on that?

1 A. It depends on what the object is, the size of the object,
2 the atmospheric conditions, the typical atmospheric
3 conditions at the site.

4 To make blanket statements like that without taking
5 into consideration the site-specific information can be
6 very misleading.

7 Q. Mr. Thaler gave you a handout of what Mr. DeWan prepared
8 of windmills supposedly representing the height of
9 windmills at various points, and you began to tell him
10 that you didn't think that was useful information.

11 Could you expand on that?

12 A. Well, once again as I've said repeatedly, when doing a
13 scenery analysis, it is a site-specific task.

14 You take into consideration the landscape character
15 from a specific location as seen from a specific location.
16 You take into consideration your concern level, you take
17 into consideration how the objects will appear in the
18 landscape and how they will contrast with form, line,
19 color, texture and the existing landscape, and looking at
20 a stick figure on a piece of white paper has no
21 resemblance whatsoever what these things will actually
22 look like on the ground.

23 So in terms of a scenery analysis, no, I don't find
24 this to be useful; from a physics standpoint as Mr. Thaler
25 described, it's interesting but it has little relevance to

1 a site-specific scenery analysis.

2 Q. Yesterday we heard Mr. DeWan talk about holding one's hand
3 out and moving -- spacing the index finger and the thumb
4 and gauging the visual impact by how high that is, a
5 variant on that figure you just looked at.

6 Isn't it true as a matter of physics that the
7 mountain ridges also fit within a fairly small space
8 between the finger and thumb and distances?

9 A. Absolutely. Depending on the viewing distances, yes. In
10 the 16 years that I've worked with the Forest Service and
11 done Scenery Management, I've never been taught or seen
12 anyone assess scenery impacts by that technique.

13 MR. PLOUFFE: Thank you, Erik.

14 EXAMINATION OF PAM UNDERHILL

15 BY MR. PLOUFFE:

16 Q. Pam, when was the Appalachian Trail designated as a
17 National Scenic Trail?

18 A. In 1968.

19 Q. So if Sugarloaf Mountain was constructed -- the Sugarloaf
20 Mountain ski area were constructed before 1968, would
21 there have been any opportunity for the federal government
22 to comment in favor or in opposition?

23 A. No.

24 MR. PLOUFFE: Thank you. That's all I have,
25 Mr. Chairman.

1 THE CHAIR: Thank you. NRCM. While Peter is coming
2 down here, Mr. Crews --

3 EXAMINATION OF ERIK CREWS

4 BY MR. HARVEY:

5 Q. In just listening to your presentation on your scenic
6 system that you used, it seems kind of formalistic and
7 that's not a criticism.

8 It obviously has to work. You're almost saying that
9 there is a very objective system and there are assumptions
10 involved here.

11 Is that true? Are you personally making assumptions
12 that drive how the analysis comes out?

13 A. That is the beauty of using a standardized system such as
14 the Visual Management System and the Scenic Management
15 System.

16 It introduces an objective methodology, a repeatable
17 methodology, that can be used from project to project, and
18 by following the process and applying the definitions of
19 the various terminologies, we're able to come up with the
20 most consistent and objective means to assess scenery
21 impacts.

22 Q. So I guess it's -- your contention is that there are
23 very -- you don't have to make any key assumptions here
24 that might drive this analysis one way or the other?

25 A. The determination -- through the use of the simulations

1 and then site visits, the determination of how the
2 introduced elements will appear in the landscape has to be
3 made by a human.

4 I mean, when you look at the simulations and you see
5 that those elements of form, line, and color are not
6 repeated or barred from any other element in the landscape
7 and that the scale of the proposal is so large of the
8 individual turbines, then it's pretty obvious that it fits
9 within the classification of the modification in the
10 Visual Management System.

11 THE CHAIR: Are you ready, Peter? You've got 10
12 minutes, right?

13 MR. DIDISHEIM: I've got 10 minutes.

14 I'm Pete Didisheim, and I'm with the Natural
15 Resources Council of Maine, and I have some questions for
16 Mr. Crews to begin with.

17 THE CHAIR: Is that microphone on? Your voice sounds
18 a little -- I don't know if everyone's hearing it, that all.

19 EXAMINATION OF ERIK CREWS

20 BY MR. DIDISHEIM:

21 Q. Mr. Crews, one of your simulations, Exhibit F, is of what
22 a hiker allegedly would see of Black Nubble from the top
23 of Sugarloaf Mountain; is that correct?

24 A. Yes.

25 Q. And you've been to the top?

- 1 A. Yes, I have.
- 2 Q. I'd like to talk a little bit about the development that
3 exists on the top of Sugarloaf Mountain. I'd like to show
4 a few slides.
- 5 Just so that we are all quite aware of what is at the
6 top of Sugarloaf Mountain, the second tallest mountain in
7 Maine, if you can just click through some of these,
8 there's three cell phone towers, is that correct, to the
9 best of your knowledge?
- 10 A. Yes.
- 11 Q. And there is four buildings up there to the best of your
12 knowledge?
- 13 A. I recall seeing two. I'm sure that that's correct.
- 14 Q. Quite a large structure. There's a chair lift?
- 15 A. Hm-hmm (indicates yes.)
- 16 Q. Guide wires, here you can see the large facility. Looking
17 over towards Redington and Black Nubble the chair lifts?
- 18 A. Yes.
- 19 Q. Now, your simulation includes none of this, none of these
20 objects in the foreground. Can you explain why?
- 21 A. Yes, because when you stand below those objects with them
22 to the back looking to the west, they're all behind you.
- 23 Q. The blue-blazed trail that comes up is not below any of
24 this, so how does a hiker get below any of this?
- 25 A. I would disagree. The blue-blazed trail comes up from the

- 1 west and comes out into the opening below into the west of
2 all of this.
- 3 Q. These were taken five days ago.
- 4 A. Have you been to the site?
- 5 Q. Yes, I've been several times.
- 6 A. Then you'll realize what I'm saying is correct.
- 7 Q. So none of these are relevant to a visual assessment if
8 you're surrounded by these structures?
- 9 A. Yes, they are. They are relevant in terms of the context
10 of the surrounding landscape, yes.
- 11 Q. You have said that the ski areas visible -- this is the
12 corner of the National Trail corridor, this is about 150,
13 200 feet from the summit; correct?
- 14 A. I'll take your word on that.
- 15 Q. So the boundary of the Appalachian Trail is pretty close
16 to the top?
- 17 A. Again, I'll have to defer to you on that.
- 18 Q. You have said that the ski areas in the area are
19 essentially invisible, little visibility and visible from
20 only two small locations; is that correct?
- 21 A. From the trail itself, that's correct.
- 22 Q. From the trail itself. You made a very discrete
23 distinction there. Not from any of the side trails.
- 24 A. The two locations that I was referring to are the view
25 between the Saddleback and The Horn looking back toward

- 1 the Saddleback ski area and over at Crocker Mountain.
- 2 Q. Have you been to either of those locations?
- 3 A. No, I have not.
- 4 Q. You had a quote earlier this morning, you just don't see
5 development. When you were saying, you just don't see
6 development, you weren't talking based on personal
7 experience?
- 8 A. I was basing that on the views that I did experience while
9 on the trail and from photographs that I've seen as well.
- 10 Q. This is about 50 feet from the top of Sugarloaf looking
11 down on this village.
- 12 So would you call this fitting -- blending in with
13 the environment?
- 14 A. I'm not used to the term blending in with the environment.
15 No, that is on the other side of the summit. That's on
16 the east side of the summit looking down.
- 17 Q. In looking over what you described, this is Bigelow Range
18 in the distance; right?
- 19 A. I believe that is correct.
- 20 Q. You've not been to the Bigelow Range?
- 21 A. No.
- 22 Q. And the Bigelow Range you mention is a Class A in terms of
23 visual resource?
- 24 A. Hm-hmm (indicates yes).
- 25 Q. So all of this village, six-story hotel, base lodge, lifts

- 1 hundreds of condominiums are all in the relative
2 foreground, about two miles' distance in front of a
3 Class A visual resource?
- 4 A. And viewed from the top of the ski slopes. I have no
5 involvement in preparing any sort of scenery assessment
6 associated with the development of this resort or
7 classifying the inventory.
- 8 It's really not relevant to the viewpoints that I
9 analyzed for the Black Nubble proposal. Yes, obviously
10 there's a resort right next to a State preserve that we
11 classify as Class A.
- 12 Q. They might be relevant to the hiker's experience?
- 13 A. Absolutely. It will definitely affect the hiker's
14 experience from the Bigelows.
- 15 Q. And it's not subordinate to the landscape?
- 16 A. Absolutely not.
- 17 Q. So it's probably considered unacceptable if you ran it
18 through your system?
- 19 A. It's an existing impact.
- 20 Q. And it's more than 10 years so it would meet one of those
21 criteria?
- 22 A. When you're doing a site-specific analysis, you're
23 analyzing the existing condition of landscape and the
24 effects of a proposed activity within that landscape.
- 25 If you are now proposing to put a water tower in this

- 1 landscape, then it wouldn't be that noticeable within the
2 context of that existing landscape.
- 3 That's not how the Scenery Management System works.
- 4 Q. I just want to be sure I understand. You had simulations
5 of seven locations, and you've been to two of those, as
6 best I can tell -- the top of Sugarloaf and Saddleback
7 Junior -- but you have not been to five of the other ones?
8 The Horn, Hebron, Spaulding, Crocker, and Saddleback,
9 you've not been to any of those sites?
- 10 A. That's correct.
- 11 Q. So the simulations were done where, based on?
- 12 A. The simulations were done based on photographs and GIS
13 data of the locations along the trail.
- 14 I took geographic information system data, digital
15 elevation model, and a superimposed aerial imagery to show
16 where the open areas of the landscape existed and where
17 the Appalachian Trail route crossed through those open
18 landscapes.
- 19 I identified those points and brought those into the
20 visualization software from the GIS application and were
21 confirmed with Appalachian Trail Conservancy managers.
- 22 Q. This is the view from Spaulding. You had a simulation in
23 which there are no trees. This was taken four days ago at
24 the top of Spaulding. This is the view that exists today.
- 25 A. The view that I prepared for Spaulding was based on the

- 1 GIS coordinates from an ATC employee and a photograph
2 taken at those GPS coordinate locations, and you're much
3 further down the slope of the opening to where the trees
4 obscure the view quite a bit more than the photograph did.
- 5 Q. Do you know when that photograph was taken?
- 6 A. I would have to look back and provide that information to
7 you some other time.
- 8 When considering long-term impacts such as a wind
9 farm, as I've stated before, vegetative screening really
10 should not even be considered.
- 11 Look at those trees --
- 12 Q. Those trees are growing back. Can you agree that they can
13 also grow back and obscure a view?
- 14 A. Oh, absolutely. Absolutely.
- 15 Q. Are you saying that you only consider eliminating screens
16 to increase the view and you don't consider them growing
17 back and obscuring the view?
- 18 A. When you do a scenery analysis, you want to analyze for
19 the worst-case scenario.
- 20 Q. And the worst case is blowdown anywhere to open up any
21 view, so really what's the difference between an opening
22 and a closed section of the trail?
- 23 A. Well -- I mean, that's a good point. The fact that we
24 have identified numerous open views that have clear views
25 to the proposed development, those are the viewpoints from

- 1 which the most critical views exist and they need to be
2 considered in the analysis.
- 3 But you're right, at any point along the trail where
4 there are filtered views, vegetation could be killed by a
5 weather event or a disease and more views opened up and
6 that is a critical thing to consider.
- 7 Q. Other views could open up and views could disappear?
- 8 A. It's possible. In the alpine areas it's very unlikely
9 that vegetation taller than what's typical for those
10 alpine areas, such as Saddleback Junior, it's unlikely
11 those would grow high enough to obscure the view.
- 12 MR. DIDISHEIM: How much time do I have? 5 minutes.
- 13 THE CHAIR: That's being generous. Look, it's 11:30,
14 now. I don't want to start Mr. Plouffe's testimony until after
15 lunch because it wouldn't be fair to him for consistency.
- 16 This is an important topic and we're all interested
17 in it, so I'm going to let the discussion go, but we're going
18 to be done by 12 o'clock.
- 19 MS. UNDERHILL: Mr. Crews actually has a plane to
20 catch out of Bangor.
- 21 THE CHAIR: We're going to be done by 12. We've got
22 one more questioner. If we're done before 12 that's even
23 better.
- 24 I think the Commission's interested in this
25 discussion, and I assume all the intervenors and the applicant

- 1 are as well. I don't want to cut it off and then go home and
2 wonder why we didn't ask all these questions.
- 3 If everybody will buy into that, that's what I'd like
4 to do, thank you.
- 5 MR. DIDISHEIM: I don't have many more questions,
6 Mr. Chairman.
- 7 BY MR. DIDISHEIM:
- 8 Q. I just want to make sure, most of these simulations were
9 done on your computer in North Carolina I presume?
- 10 A. That's correct.
- 11 Q. With data that was given to you electronically and a few
12 photos?
- 13 A. Could you repeat that?
- 14 Q. With data that you gathered electronically and photos that
15 were submitted by organizations in opposition to the
16 project?
- 17 A. I used a variety of data sources for GIS analysis and for
18 the simulations that included GPS coordinates, trail
19 location data, USGS digital information models, USGS
20 aerial imagery, and color orthophotos. I used the CAD
21 file from the applicant. Many different data sources.
- 22 Q. But very little of it was first-hand experience on the
23 trail?
- 24 A. I hiked a section from the --
- 25 Q. Your testimony has the two sections that you've hiked?

- 1 A. Right.
- 2 Q. Collectively you've touched maybe 5 percent of the segment
3 of the trail?
- 4 A. Maybe that.
- 5 Q. You included the photo of the Mars Hill Turbine 9 when you
6 testified that you had not visited that site, but you
7 include it because it's of a similar project.
- 8 I assume by similar you just mean that it's a wind
9 farm?
- 10 A. It's a wind farm on a mountain ridge.
- 11 Q. A wind farm on a mountain ridge?
- 12 A. In this region.
- 13 Q. You have said that your scenic and visual analysis system
14 can be used in any location. It can be applied generally
15 across the landscape, not just --
- 16 A. Hm-hmm (indicates yes).
- 17 Q. Okay. Now, if the ridge were within a few miles of the
18 Appalachian Trail, I presume you would apply your system
19 and conclude that it was unacceptable?
- 20 A. It would depend on the site-specific analysis.
- 21 MR. DIDISHEIM: I have a couple of questions for Pam.
- 22 EXAMINATION OF PAM UNDERHILL
- 23 BY MR. DIDISHEIM:
- 24 Q. Pam, you've been to the top of Sugarloaf ski area.
25 Do you believe that it's --

- 1 A. Actually I have not been to the top of Sugarloaf ski area.
- 2 Q. You've not been to the top of the mountain?
- 3 A. No, I have not.
- 4 Q. Can I maybe have for the record clarity of how much of the
5 trail between Route 4 and 27 you have been?
- 6 A. I have hiked up from Route 4 to the top of Saddleback and
7 over to The Horn and a little beyond The Horn and back.
- 8 Q. So you've not been to Saddleback Junior, the Poplar Ridge?
- 9 A. I'm sorry, I have been to Saddleback Junior.
- 10 Q. Saddleback Junior is as far as you've gone, but you
11 haven't been to Poplar Ridge to Spaulding?
- 12 A. No, I have not.
- 13 Q. The stretch, Orbeton stream, any of that stretch?
- 14 A. No.
- 15 Q. That's helpful. So you have walked this stretch leading
16 up to The Horn and you can look back and see parts of
17 Saddleback ski area.
- 18 When did you do that hike?
- 19 A. Well, it would have been back during the time when we were
20 involved in the issue of the ski area expansion, so that
21 was around 2000, 1999, in that vicinity.
- 22 Q. Okay. So do you have any reason to disagree with an
23 observation that if one is walking that hike today and
24 looks back towards Saddleback, you would see a lodge,
25 parking lots, condominiums, and ski slopes?

- 1 A. My recollection is you see very little of it. As you're
2 coming back from The Horn towards Route 4, you see it for
3 a very short duration.
- 4 Q. But that's based on your recollection and that could be --
- 5 A. Clarify --
- 6 Q. -- based on a current photo?
- 7 A. Right. I've been to the ski area. I'm certainly well
8 aware that they have done improvements to the base lodge
9 and other activities down lower on the mountain.
- 10 Q. So you have not been to the top of Sugarloaf ski area. So
11 the photos that I just showed you with all the structure,
12 you weren't really --
- 13 A. I haven't touched that stuff.
- 14 Q. Did you review and approve the photo simulation from the
15 top of Sugarloaf and these other ones that Erik Crews did?
- 16 A. I don't know what you mean by review and approve.
- 17 Q. As they were submitted into the record, did you receive
18 them, take a look at them as part of your packet?
- 19 A. I certainly did, yes.
- 20 Q. But you had no first-hand knowledge of the cell towers,
21 the buildings, the chair lift, all the other activities up
22 there?
- 23 A. I'm aware that they're up there and I have great
24 confidence in my staff and my colleagues.
- 25 Q. But you did nothing to suggest Erik that maybe you should

- 1 include these in the image because most hikers who go to
2 the top of that mountain are surrounded by those
3 structures?
- 4 A. No, I think Erik addressed the fact that what we were
5 looking at were some trails looking out at Black Nubble.
- 6 You know, Peter, certainly the trail has a great
7 variety of experiences on it. We can't undue existing
8 development nor do we seek to.
- 9 Q. Some of those structures possibly were introduced since
10 the establishment of the National corridor?
- 11 A. And you make decisions about where -- you pick your
12 fights. Where there's already an area that's compromised
13 by human development, you're going to have less concern
14 about additional development going there.
- 15 Where there are sections of the trail that are
16 pristine, there's an objective to maintain that.
- 17 Q. Do you have any data --
- 18 THE CHAIR: How much longer are you going here now?
- 19 MR. DIDISHEIM: Two questions.
- 20 THE CHAIR: We've got to wrap it up here.
- 21 BY MR. DIDISHEIM:
- 22 Q. You had said quite emphatically this morning that the
23 National Park Service does not support a protected scenic
24 buffer around the Appalachian Trail.
25 The Appalachian Trail has 281 miles in Maine?

1 A. 285 in length.
 2 Q. Could you name a stretch --
 3 A. Excuse me, did you say we do not support a scenic buffer
 4 around the trail? We've been very dedicated to creating a
 5 scenic buffer around the trail.
 6 Q. Okay, a protected corridor of 3 or 4 miles?
 7 A. Okay.
 8 Q. You haven't established a position on that, that you would
 9 like a protective corridor of 3 or 4 miles on both sides
 10 of the Appalachian Trail?
 11 A. No, we have not sought that, sought to acquire that kind
 12 of interest with the trail.
 13 Q. Can you name a stretch of the Appalachian Trail in Maine
 14 within 4 miles, or at 4 miles, where you believe a wind
 15 farm would be acceptable?
 16 A. Not off the top of my head.
 17 THE CHAIR: That's it. CLF, are you asking
 18 questions?
 19 MR. MAHONEY: Yes, we are.
 20 THE CHAIR: You've got 15 minutes.
 21 MR. MAHONEY: Good morning. My name is Sean Mahoney.
 22 I'm with the Conservation Law Foundation. I have questions for
 23 you first, Ms. Underhill, and then for Mr. Crews.
 24
 25

1 EXAMINATION OF PAM UNDERHILL
 2 BY MR. MAHONEY:
 3 Q. First of all I want to thank you both for your service. I
 4 don't think anybody here disputes that the trail is a
 5 national treasure.
 6 That said, I was surprised, to say the very least, at
 7 some of your remarks this morning, Ms. Underhill.
 8 Is the really the position of the National Park
 9 Service, DOI, and the federal government that global
 10 warming is irrelevant to this proceeding?
 11 A. I think what I said was that the charge of this Land Use
 12 Regulation Commission is to evaluate the appropriateness
 13 of this use on the landscape.
 14 I am not disputing in any way on behalf of myself,
 15 the National Park Service, the Department of the Interior,
 16 or the federal government that global warming is a
 17 concern.
 18 Q. Is it irrelevant to this proceeding?
 19 A. I think it's not relevant to the charge of this
 20 Commission.
 21 Q. You were here yesterday for the testimony of Dr. Cameron
 22 Wake; correct?
 23 A. Actually I was not. I left the proceedings before he
 24 testified.
 25 Q. Are you familiar with the Northeast Climate Impact

1 Assessment Report?
 2 A. No.
 3 Q. You stated at the beginning of your testimony this morning
 4 that the Commission has been presented with "cute little
 5 statistics about global warming." You made that
 6 statement?
 7 A. I said sound bites.
 8 Q. You said cute little statistics. What cute little
 9 statistics were you referring to if you missed Dr. Wake's
 10 testimony yesterday?
 11 A. I'm referring to some of the information that has been in
 12 the prefiled testimony. I was referring to some of the
 13 statistics of the Natural Resource Council of Maine and I
 14 specifically elaborated on those.
 15 Q. Did you review the testimony of Dr. Wake who provided
 16 explicit testimony on the impact of global warming in this
 17 area of the state of Maine?
 18 A. No.
 19 Q. Is it your position that the undisputed impacts of global
 20 warming will not impact the Appalachian Trail?
 21 A. We are all concerned about the impacts of global warming.
 22 It's a huge issue. And there are impacts that could
 23 result to the Appalachian Trail from global warming.
 24 Obviously we've got tough tradeoffs to deal with
 25 here.

1 Q. That said, you still believe that global warming is not an
 2 issue for this proceeding?
 3 A. I don't -- I don't -- I don't know.
 4 Q. You stated that you're from West Virginia?
 5 A. I live in West Virginia now.
 6 Q. Have you personally witnessed the destruction from coal
 7 mining, and by that I mean both surface or mountaintop
 8 removal, as well as underground mining?
 9 A. I have not visited sites in West Virginia. I certainly
 10 have seen plenty of that activity in photographs and news
 11 and whatnot.
 12 Q. So you're aware of the impact that not only the mining has
 13 but also the actual burning of coal has on the environment
 14 and habitat that the Appalachian Trail goes through?
 15 A. Certainly.
 16 Q. In your view, would you rather have a new coal plant and
 17 all the impacts associated with that, or new renewable
 18 sources of energy?
 19 A. I don't have an answer for that. That's not my area of
 20 expertise. It's not my place to testify on that. I'm
 21 here to provide information on the Appalachian Trail.
 22 Q. Is it fair for me to assume that by your statement that
 23 NRCM threw the Appalachian Trail under the bus and that
 24 you won't forget it, that you disagree with NRCM's
 25 position on the compromised or scaled-back version of

- 1 Black Nubble?
- 2 A. I was very disappointed in their position on that, yes.
- 3 Q. Going to your specific testimony, you state that the
- 4 opposition of the National Park Service here is based
- 5 solely on the location of this facility; is that correct?
- 6 A. Yes, I did.
- 7 Q. How much of the Maine Appalachian Trail is high value?
- 8 A. I'm not sure what you mean by that.
- 9 Q. You make a distinction in your testimony between high
- 10 value and low value portions of the trail and the high
- 11 value portions of the trail deserve greater protection
- 12 than low value portions of the trail?
- 13 A. I have not systematically gone through and zoned the
- 14 Appalachian Trail in Maine in my mind. I'm just very well
- 15 aware that this section of the Appalachian Trail is
- 16 considered one of the jewels of the entire trail.
- 17 Q. By this section, do you mean just the 32-mile section or
- 18 34-mile section between Saddleback and Sugarloaf?
- 19 A. That is the section I'm talking about.
- 20 Q. Did that also include, also, the 100-mile wilderness
- 21 section?
- 22 A. No, that is further north, and that's also a lovely
- 23 section of trail.
- 24 Q. Is that high value?
- 25 A. I think it probably could be.

- 1 Q. Any other portions of the trail that you could state today
- 2 that would qualify as high value?
- 3 A. I think in my testimony I referred to the trail on the
- 4 Great Smokey Mountains.
- 5 Q. No, I'm talking about the trail in Maine.
- 6 A. I'm not prepared to say at this time.
- 7 Q. So about 132 miles of the 285 miles of the trail, at
- 8 least, are high value?
- 9 A. Yeah. But Sean, in terms of the 100-mile wilderness, to
- 10 say that that section of the trail has high value is not
- 11 to say that there might not be places to site wind farms
- 12 that would not have an undue adverse impact on the trail.
- 13 Those kinds of analyses have not taken place. They
- 14 will take place on a site-specific basis.
- 15 Q. In your rebuttal testimony last year, you stated that you
- 16 were opposed to anything that was between 1 to 5 miles of
- 17 the Saddleback to the Sugarloaf portion of the trail;
- 18 correct?
- 19 A. I don't have my rebuttal testimony right in front of me.
- 20 I know my testimony has indicated that there have been
- 21 some ten wind projects proposed -- or some eight wind
- 22 projects proposed within 10 miles of the Appalachian
- 23 Trail, and this is the only one that we have opposed.
- 24 Q. I'll ask you a question about that in a second.
- 25 That 1 to 5 miles would be either side of the trail;

- 1 correct?
- 2 A. What was the original question?
- 3 Q. Assuming that your rebuttal testimony was that you were
- 4 opposed to any wind power project within 1 to 5 miles on
- 5 that portion of the trail stretching from Saddleback to
- 6 Sugarloaf, that 1- to 5-mile buffer is for both sides of
- 7 the trail?
- 8 A. It would be for both sides of the trail, but we would
- 9 again individually evaluate any proposal.
- 10 Q. Those eight wind power projects that are within 10 miles
- 11 of the AT, where are they?
- 12 A. They were in a number of different states: Vermont,
- 13 New Hampshire, I believe Pennsylvania.
- 14 Q. Where in Vermont?
- 15 A. I don't recall right off the top of my head.
- 16 Q. The Searsburg project is more than 10 miles; correct?
- 17 A. I believe so, yes.
- 18 Q. Where in New Hampshire?
- 19 A. I don't have that information with me right now, sorry.
- 20 Q. Did you actually review those projects and take a position
- 21 on them?
- 22 A. My staff did.
- 23 Q. Did Mr. Crews take positions on those?
- 24 A. We had not worked with Mr. Crews on those.
- 25 Q. Did you perform a visual management --

- 1 A. We would have done a visual analysis, yes.
- 2 Q. Were those documents filed with any public agency?
- 3 A. I don't know offhand.
- 4 Q. Are there any of those wind power projects within 5 miles
- 5 of the AT?
- 6 A. I would have to get back to you on that.
- 7 Q. Does anybody else at the National Park Service -- would
- 8 anybody else at the National Park Service have more
- 9 information than you would on those projects?
- 10 A. Anybody in the National Park Service?
- 11 Q. Is there anybody else who would have that information more
- 12 readily available than yourself?
- 13 A. I could check with somebody on my staff who was the
- 14 primary person working on that, and I could get you that
- 15 information.
- 16 Q. You state in your testimony that since 1968 100,000 acres
- 17 of land have been purchased out of easement or in fee to
- 18 protect the trail.
- 19 How much of that has occurred in Maine?
- 20 A. I think we've acquired some 30,000 acres as part of the
- 21 protected corridor for the trail in Maine, approximately.
- 22 Q. Since 1968?
- 23 A. Yes.
- 24 Q. And the National Park Service has acquired that land?
- 25 A. Yes.

- 1 Q. Where is that?
- 2 A. Where is it?
- 3 Q. Yes.
- 4 A. What do you mean where is it?
- 5 Q. Where along the trail was that land purchased?
- 6 A. Starting at the New Hampshire border and --
- 7 Q. Let's start between Saddleback and Sugarloaf.
- 8 A. I guess -- I'm sorry, I don't quite understand the
- 9 question. Is it meaning where was it acquired?
- 10 Q. I'm asking, was any of that land, 30,000 acres, within the
- 11 Saddleback to Sugarloaf stretch of the trail?
- 12 A. Yes, it was.
- 13 Q. Where?
- 14 A. Well, we acquired a protected border for the trail from
- 15 the Route 4 extending up. It's a combination of State and
- 16 federal land. I guess I just don't get what you're
- 17 asking.
- 18 Q. Does any of it extend beyond the 500-foot buffer that is
- 19 part of the LURC zoning requirements --
- 20 A. Yes.
- 21 Q. -- or regulations?
- 22 A. Yes.
- 23 Q. Where is that?
- 24 A. I don't have detailed information at my hands right now.
- 25 I'm sorry, sir, I certainly can provide it to you. I

- 1 wasn't prepared to answer that kind of question.
- 2 Q. Are there any ongoing efforts to acquire land within that
- 3 32-mile stretch of the trail, Saddleback to Sugarloaf?
- 4 A. Not at the present time.
- 5 Q. When did you first find out about this proposed project?
- 6 A. The original project or this current project?
- 7 Q. The original project.
- 8 A. Well, I first became aware of Mr. Lee's interest in
- 9 putting a wind farm there back in -- sometime in the 1990s
- 10 I believe or early 1990s. Is that what you're asking?
- 11 Q. Sure. Thank you. Since that time has there been any
- 12 effort to purchase land in fee or easements in that area
- 13 that was being considered for wind power development?
- 14 A. No, we did not seek to purchase Redington or Black Nubble
- 15 Mountain.
- 16 Q. Did you seek to purchase any of the land around that area?
- 17 A. We certainly sought to purchase land across Saddleback
- 18 Mountain and did.
- 19 Q. And did. In your testimony you've criticized the
- 20 mitigation of this project.
- 21 Do you not consider the development restriction on
- 22 Redington Mountain mitigation?
- 23 A. I think it's very weak mitigation if it can be considered
- 24 mitigation at all. It doesn't -- it's not a permanent
- 25 conservation easement on that mountain.

- 1 I think this body already determined that that
- 2 mountain was not suitable for wind development, so it
- 3 seems like a rather hollow gesture to me.
- 4 Q. What other type of development would the Park Service
- 5 object to on Redington Mountain? Would it object to
- 6 sporting camps?
- 7 A. I'm not prepared to answer that. I don't even know
- 8 exactly what a sporting camp consists of.
- 9 Q. Has it objected to -- has the National Park Service
- 10 objected to the plans by the Western Mountain Foundation
- 11 to have a hut and trail system?
- 12 A. No, we had a few concerns about specific elements of that
- 13 proposal but the overall proposal in general, no.
- 14 MR. MAHONEY: Thank you.
- 15 EXAMINATION OF ERIK CREWS
- 16 BY MR. MAHONEY
- 17 Q. Mr. Crews, your testimony today stated that in your Visual
- 18 Management System you used a worst case scenario, which is
- 19 leaf off; correct?
- 20 A. Yes, in deciduous forest.
- 21 Q. How much of the trail between Saddleback and Sugarloaf is
- 22 deciduous?
- 23 A. I don't have that information. I prepared a GIS analysis
- 24 that utilizes some of that information, but I don't have
- 25 that in front of me right now.

- 1 Q. When you were doing your analysis for conifers, you
- 2 assumed that they stay leaf out or did they --
- 3 A. In the GIS analysis that I did, I was specifically looking
- 4 at sections of trail that would offer open or leaf-off
- 5 deciduous use. That's specifically what I was looking for
- 6 at the time.
- 7 Q. What percentage of users of the AT use the trail during
- 8 leaf-off period?
- 9 A. It depends on the part of the country you're in. Where
- 10 I'm from quite a few.
- 11 Q. How about in Maine?
- 12 A. I don't have that information, the percentages of users.
- 13 Q. Are you aware of what the season is for through hikers?
- 14 A. Up here it's probably September or October. So no, to
- 15 answer your question, I'm not --.
- 16 Q. The Visual Management System and the Scenery Management
- 17 System, you chose to use the VMS and not the SMS in this
- 18 case; correct?
- 19 A. Yes.
- 20 Q. You did that because it was -- in your testimony you said
- 21 the Visual Management System is closer to the LURC regs
- 22 and closer to the analysis, but closer to the terminology
- 23 of the LURC regs and closer to the terminology of the
- 24 applicants.
- 25 When does the Forest Service make the decision to use

- 1 Visual Management as opposed to Scenery Management?
- 2 A. That's made by the managers. There are many forests that
- 3 have chosen to continue using the Visual Management
- 4 System.
- 5 Q. My question is: What are the criteria that you use to
- 6 decide between using one or the other?
- 7 A. It depends on which system is used and incorporated into
- 8 the forest plan, the management plan for that forest.
- 9 That choice is made by the forest managers, depending
- 10 on their preference of the system and the various
- 11 components of the system.
- 12 Q. Now, you didn't do a Scenery Management System analysis of
- 13 this project; correct?
- 14 A. The two systems are virtually identical. The main reason
- 15 for the update to the Scenery Management System was to
- 16 incorporate a way to assess the value of cultural
- 17 landscapes and historic landscapes. It also changes the
- 18 way that constituent input is gathered and incorporated
- 19 into forest planning efforts, and some of the terminology
- 20 was changed.
- 21 Q. So does the Scenery Management System involve more public
- 22 input into the analysis?
- 23 A. At the forest planning level. Not more, it just clarifies
- 24 ways that that information is gathered. In the NEPA
- 25 process in the federal lands management, it's dictated by

- 1 NEPA.
- 2 Q. This project isn't on federal land, it's on private land
- 3 so NEPA doesn't apply?
- 4 A. That's correct, but you were asking me about how this is
- 5 incorporated into forest planning.
- 6 Q. So a Visual Management System is something that is
- 7 prepared by fed staff without a lot of -- without public
- 8 input; is that correct?
- 9 A. Restate that.
- 10 Q. The Scenery Management System you stated has public input
- 11 into what's considered in that evaluation, and the Visual
- 12 Management System, I'm asking, is prepared without any
- 13 public input?
- 14 A. No, that's not correct.
- 15 Q. So what public input was provided for your analysis?
- 16 A. I'm not sure I understand your question.
- 17 I analyzed the impacts as proposed by the applicant
- 18 from the viewpoints identified.
- 19 Q. Maybe I'm confused. I thought you told me that the
- 20 Scenery Management System, one of the changes,
- 21 incorporates a number of things that the Visual Management
- 22 System does, and one of those was public input, public
- 23 uses?
- 24 A. It has a description in it of how to gather constituent
- 25 information. The Visual Management System, forest

- 1 planning, and the NEPA process all public input on
- 2 national forest planning.
- 3 Q. So the Scenery Management System is only used when NEPA
- 4 applies?
- 5 A. All actions on federal lands and grounds NEPA is used.
- 6 THE CHAIR: Mr. Mahoney, we're at 12 o'clock.
- 7 MR. MAHONEY: One final question, please.
- 8 THE CHAIR: I'm done.
- 9 (There was a luncheon break in the hearing at
- 10 12:02 p.m. and the hearing resumed at 12:40 p.m.)
- 11 THE CHAIR: I think we're all set to go. Melissa,
- 12 are you ready? Lisa, ready.
- 13 Mr. Plouffe, please proceed.
- 14 MR. PLOUFFE: Mr. Chairman, this is the panel of the
- 15 opposing intervenors. I'd like to introduce each one of them
- 16 to you sitting at the panel.
- 17 This is J. T. Horn, who is here representing the
- 18 Appalachian Trail Conservancy. This is David Field, Dr. David
- 19 Field, I should say, from the Maine Appalachian Trail Club.
- 20 This Jean Vissering, who is a consultant to the Appalachian
- 21 Trail Conservancy, and she is a visual analysis expert. This
- 22 is Jody Jones from the Maine Audubon Society, and she'll be
- 23 testifying on wildlife issues. This is Dr. Kenneth Kimball
- 24 from the Appalachian Mountain Club.
- 25 We have 50 minutes and we're going to start off with

- 1 David Field showing an aerial view of the area of the project.
- 2 Then he's going to sit down, and we are going to go into Ken
- 3 Kimball's testimony, Jody Jones, Jean Vissering, J. T. Horn,
- 4 and then David Field will wrap it up. Thank you.
- 5 DR. FIELD: This shows the general landscape the
- 6 Appalachian Trail runs through, Saddleback, up around by
- 7 Redington, and so forth. This just shows the general landscape
- 8 of the AT with Black Nubble in the middle here and the trail
- 9 running from near Route 4 up to near Route 27, which is the
- 10 relevant area. I don't know why we've been talking about the
- 11 view from Bigelow at all. But this is a map certainly you have
- 12 seen.
- 13 The yellow apparently represents alpine areas.
- 14 Appalachian Trail to Abram, in this first little
- 15 piece, and this is flying in a small fixed-wing plane. Looking
- 16 over, that's the Saddleback Mountain Range. Right here in the
- 17 foreground, going what's called the false summit, which is the
- 18 saddle on Saddleback. Then up to The Horn. The videographer
- 19 was leaning out the window. I was getting the wind in the back
- 20 seat. It wasn't completely still. The Kennebago Mountain in
- 21 the background. Just flying along the alpine zone on the
- 22 Saddleback Mountain Range.
- 23 Again, this is The Horn. And then there is a large
- 24 saddle between the horn and Saddleback Junior. Once again, as
- 25 you look at this, folks, just keep in mind what you're seeing

1 in terms of any kind of existing disturbance in the way of
 2 timber harvest areas, logging roads, whatever the case may be.
 3 Then coming up past Saddleback Junior, and now
 4 Black Nubble begins to appear up here in the ridgeline off
 5 Black Nubble that is proposed for development. Again, this is
 6 an aerial shot. We see a little of Flagstaff Lake off in the
 7 background. This is Poplar Ridge down here. Once again, the
 8 whole idea here is to just get a feeling for the general
 9 landscape.
 10 Mount Abram, which has the most significant alpine
 11 zone outside of the Katahdin region. With Sugarloaf and the
 12 Bigelow Range in the background, this is Cranberry Peak on the
 13 Bigelow Range. Logging road down by Farmer Mountain. This was
 14 B land, I think it's Bayroot now. Spaulding Mountain, Crocker
 15 Mountain.
 16 Wrong, that's not what you're going to see. The
 17 young man that put this together doesn't know what he's looking
 18 at. This is actually flying over Route 4 with the Sandy River
 19 ponds in the foreground and Saddleback Mountain Range in the
 20 background, with Black Nubble right there, Mount Abraham,
 21 Sugarloaf, and Solon. And Sandy River runs right along
 22 Route 4.
 23 Then we flew around Black Nubble and took pictures.
 24 This is the main summit of Black Nubble right here. The light
 25 could be better but we'll deal with what we have. You can see

1 harvesting along here. It's -- I think you can see pretty well
 2 some of the tremendous steepness on the face of this ridgeline
 3 and on the central summit area of Black Nubble in these
 4 pictures.
 5 We did do pretty much of a 360 there. That's a piece
 6 of the road leading up to the Navy SERE, Survival, Evasion,
 7 Resistance, and Escape training facility.
 8 Once again, a little clearer, you can see some of the
 9 fir ways on Black Nubble in this picture and the openings for
 10 some of the test areas for the proposed wind towers. Once
 11 again, Flagstaff Lake and the Bigelow Range in the background
 12 there, and then looking out towards the Kennebec is Route 16
 13 between Stratton and Rangeley.
 14 That's just a quick overview.
 15 DR. KIMBALL: I want to go through and give a little
 16 bit of context. I think, as you know in the CLUP, it talks
 17 about not only mountains, but it also talks about areas of
 18 mountains, and I think you're all very familiar that in the
 19 state of Maine there are actually four mountain areas that have
 20 extremely high concentrations of natural ecological
 21 recreational resources: Mt. Katahdin, western high mountains
 22 area, which we're talking about here today, Mahoosuc Range, and
 23 100 miles of wilderness.
 24 The western high mountain region resources are
 25 extremely high, the greatest expanse of high elevation land in

1 Maine, that is about 2700. A great selection of the high peaks
 2 in Maine, cited as a priority area in northern Appalachian
 3 Ecoregion by both TMC and the Wildlife Conservation Society.
 4 It's got the largest contiguous forest in the western mountain
 5 region, and it's major fir-heart-leaved birch subalpine and
 6 alpine communities, greatest expanse of Bicknell's thrush
 7 habitat. One of the most active stretches on the AT. I want
 8 to point out that Black Nubble is not an undistinguished peak
 9 in this area.
 10 This gives you a quick context. I think you're
 11 pretty familiar with where Black Nubble is right now. It shows
 12 the summit as subalpine, alpine areas and so forth.
 13 One thing I think that needs to be kept in
 14 perspective here the juxtaposition of Black Nubble with the
 15 SERE Navy-based property. Here I've just highlighted and bold
 16 where the wind project would be, but also look at juxtaposition
 17 to see this project from the AT, the Bigelows and Mt. Abrams
 18 preserve because there's a lot of protected lands and high
 19 value ecological landscape.
 20 This is looking to Saddleback ridge out towards
 21 Black Nubble, and again, I think you can get the sense that
 22 there's a lot of ecological integrity moving across.
 23 I want to point out that in the testimony we
 24 provided, this is just quoting from the US Fish & Wildlife
 25 Service, which has really coveted the Navy property.

1 Why is that? Because it's high importance of
 2 property for conservation of migratory birds and species listed
 3 on the wildlife. Most of the 12,000 acres is forested upland,
 4 largely undisturbed and pristine, and a very late successional
 5 stage, and you notice from ridge to bottom land, almost to the
 6 ridge on Black Nubble, very old and largely undisturbed
 7 forests, extremely rare in Maine. Only about 5 percent of the
 8 forests in Maine are late successional. Most conservation
 9 easements do not provide for that type of protection.
 10 Due to the size of the property and the rarity of
 11 lakes, succession, it may be one of the most ecologically
 12 valuable tracts along the northern end of the AT.
 13 Is the Navy property entirely wilderness? No. Is it
 14 ecologically an area of significance? Yes, it is.
 15 If you take a look at the project itself in the
 16 layout of the maps -- I'm sorry, the layout of the roads and
 17 the turbines, particularly Turbines 10 through 18, you're
 18 sitting in the middle of an exemplary community. It was
 19 documented this summer by the Maine Natural Areas program. The
 20 roads to the turbines go dead center in the middle of it. I
 21 want to talk about this a little bit more.
 22 This is what the fir-heart-leaved birch community
 23 looks like. In the left and upper right photos, the left is
 24 with less exposure to the wind, the upper right is more
 25 exposure. The lower right is one of the openings, and I think

1 you can see that ecologically these are entirely different
2 types of communities.
3 There was a lot made about how small this community
4 was. This is just taken from Mr. Didisheim's testimony, and
5 actually the Maine Natural Areas Program has documented 17, now
6 with Black Nubble 18, of these community types. If you take a
7 look at where it hits, it's actually No. 11 in the largest, and
8 No. 12 is only 72 acres in size.

9 I'll also point out that the B, C ranking, unlike the
10 way it was presented yesterday, is not an important ranking,
11 it's actually above viability ranking. To get on the B, C
12 rankings, you have to have -- it only means that it's limited
13 to 20 to 100 occurrences.

14 The 35 acres and the roads are built dead center
15 through, so there's going to be a tremendous amount of impact,
16 and in the Maine Natural Areas Program description, this is
17 called pristine, except for the openings for the Met towers.
18 I'll also point out that the tree ages are 75 to 100 years.
19 It's very typical of this type of forest. That's the longevity
20 of these species in this kind of environment.

21 We did go through the site and there was a lot of
22 discussion about steep slopes. There's 3000 feet in elevation
23 and higher, probably about 6,000 feet of road on slopes, 33 to
24 55 percent of the hike. I don't have time to go down through
25 all of these statistics except to say that particularly for the

1 higher number turbines, you're working on extremely steep
2 slopes.

3 Now, the CLUP goes through them in your regulations,
4 and you're more familiar with them than I, but some of the key
5 things that you look at are visual impacts -- obviously the AT,
6 this is one of the highest mountain road projects in Maine.
7 Extremely steep slopes, soil and severe erosion ratings,
8 wildlife. It has now been documented that you have a pristine
9 fir-heart-leaved birch forest community, 300 acres. Bicknell's
10 thrush has been identified there now.

11 It's contiguous, almost, with the SERE project. It's
12 got very high ecological value. The technical feasibility
13 here, honestly, is going to be very challenging since I think
14 the documentation earlier this morning and yesterday
15 demonstrate this will be a new thing for Maine.

16 CLUP. Is this the best reasonable site? We also
17 have Maine's goal of 10 percent of 350 megawatts coming out.

18 Well, earlier on it was sort of presented this is one
19 of the few, if not only, sites out there. But I think you're
20 all aware from the press and everything else, Mars Hill built
21 50 megawatts, Stetson and Kibby coming up, almost another 200.

22 Just a few days ago a project in the planning stage
23 came out, 50 megawatts. The upper St. John Valley, possibly
24 500 megawatts. Township 19, 50 megawatts in varying planning
25 stages. This excludes the additional megawatts of other

1 renewables that could come on-line, like biomass, hydro,
2 hydrokinetics. This excludes the existing considerable hydro
3 in Maine.

4 One of the things that was presented yesterday, and
5 actually I would confess is the research of AMC, I was guilty
6 of following the same hypothesis, but the real question here is
7 are these fir-heart-leaved communities and the Bicknell's
8 thrush really at risk to climate change, or could they be the
9 resilient gene pool, the islands in the sky, to recolonize
10 displaced species, particularly in the low elevation fir
11 forests in the future.

12 We've got ongoing research, and I would be happy to
13 answer questions later about it, but if you take a look at the
14 historic record of what's happened, pollen microfossil data at
15 the high elevation sites from Mt. Washington through some work
16 by Spear shows that in the warming and cooling periods in the
17 last 9000 years post deglaciation, the middle and low elevation
18 forests changed and responded. The subalpine forests and
19 alpine were uncoupled and did not change, why?

20 If you look at the temperature record on
21 Mt. Washington, which is one of the few high elevation weather
22 data assessments we have, you see that it is actually not
23 performing the same way for low elevation sites.

24 The warming trend in the last 70 years -- remember,
25 the numbers were given to you yesterday -- were from 1970 on.

1 This record is from 1935. These are in degrees centigrade, but
2 the annual temperature increase up there has been a little bit
3 more than .5 degree, and the winter temperatures have been a
4 little bit less than 1 full degree, whereas in the lower
5 elevations you're seeing something around a 4-degree change.
6 I'll also point out that the summer temperatures here have
7 actually decreased.

8 I can't go through the reasons here, but as I said
9 I'd be willing to explain it, but the northeast subalpine
10 forest and treeline are highly dependent on exposure to wind,
11 clouds, moisture, mechanical damage, and the heavy rime ice,
12 not temperature. These ecosystems are in and above the
13 planetary layer in the atmosphere.

14 The other thing I'd point out is in the climate
15 change strategy, there's actually legs to the stool:
16 Technology, renewables -- which we're discussing here today --
17 energy efficiency, and adaptation. The high elevation balsam
18 fir communities are less sensitive, probably, to climate change
19 than the large spruce/fir forests in Maine, and they may be
20 your effusion in the future. Black Nubble has an exemplary
21 community.

22 MS. JONES: Good afternoon Commissioner Harvey and
23 members of the Commission. My name is Jody Jones. I
24 appreciate the opportunity to come before you to talk about the
25 wildlife impact of the Black Nubble project. I appreciate your

1 time.

2 You heard a lot about the undue adverse impacts, and
3 one of my team members is going to be talking about several of
4 these, but I'm primarily here to talk about the issues
5 associated with migrating birds and bats and the undue adverse
6 impact on Bicknell's thrush, the species and the core habitat.

7 I just want to remind you that the passage rate over
8 Black Nubble is twice that of any other survey done at any
9 other wind power facility. Insect contamination. There are 30
10 profound targets at that one radar site, we're heading towards
11 the project area.

12 According to a National Academy of Sciences report, a
13 forested ridge has been identified as one of the highest risk
14 areas for migratory birds and bats, and 90 percent of migrants
15 do not alter their flight path when approaching in an
16 individual study on the site.

17 No survey effort was done in July and August, and
18 this is identified by the applicant as a critical time period
19 for bats. The risk for birds and bats is a function of both
20 the altitude and the passage rate, so with really high capacity
21 rates, it's important to understand what percent is below the
22 blade area. That's a very important part of the puzzle.

23 Our conclusion is that the applicant has not met the
24 burden of proof for determining undue adverse impacts to
25 migratory birds and bats.

1 The Bicknell's thrush has been documented as
2 occurring up on Black Nubble now, and we believe that Woodlot
3 Alternatives and NRCM have not -- have underestimated the
4 impacts associated with the species.

5 The impacts go beyond the footprint. It's not just a
6 64 acres of temporary or permanent clearing or the six male
7 Bicknell's thrush identified as potentially breeding in the
8 area by NRCM.

9 I'd like to go through the risks of collision with
10 the turbine blades. There are two parameters I'm going to talk
11 about.

12 Any time you put a road through or develop an area,
13 you create disturbance in the habitat, and that can be from
14 noise, it can be from human activity, it can be from movement
15 of the blades. All those things degrade the habitat.

16 There's also the opportunity for invasive species
17 colonization, through trucks coming and entering the area,
18 which will degrade the habitat.

19 Bicknell's thrush are very susceptible to predation.
20 Squirrels have been found to be a real problem, and when you
21 get this edge effect, you also get increased predators in the
22 area as an effect from the formation of the roads.

23 There are also micro climate changes when you create
24 surfaces from a solar pane, and this is really a problem for
25 the subalpine forest. All these are documented in multiple

1 sources that were not considered by Woodlot, the National
2 Academy of Science Report, Lambert, who's done a lot of work on
3 Bicknell's thrush, and Drew Langston, also cited by NRCM.

4 I'd like to talk a little bit about the risk of
5 collision, which IF & W also had some concerns with.

6 Habitat is identified as having higher risk in the
7 timing of the courtship display. I'd just like to take an
8 opportunity to describe a courtship display of Bicknell's
9 thrush. It's much like a teenage boy. If you have teenage
10 sons, you know that their insurance rates go up, and there's a
11 reason for that.

12 They have high-risk behavior associated with car
13 driving, and it's sort of like that with the birds. The go up
14 and they are showing off for mates, and they do it single
15 mindedly right in the area of the rotor blades.

16 They're bubbling, and have been documented as the
17 most common fatalities reported at wind energy facilities.

18 All of these have courtship displays like the
19 Bicknell's thrush.

20 Now, the importance of global warming, I think
21 Dr. Kimball explained a lot of these. The landscape models
22 cannot predict site-specific changes. In Iverson, which was
23 responsible for a lot of these predictions of the complete loss
24 of spruce/fir forests do not predict changes -- perfectly
25 appropriately for landscape modelling but not appropriate for

1 site-specific sites.

2 Iverson's model averaged the elevation across
3 counties, and Maine's are pretty big. So we concluded that the
4 highest elevations will be the last to change and will be the
5 refuges for the Bicknell's thrush as global warming continues.

6 We have to remember, 3200-foot elevation is only 1/20
7 of 1 percent. That's our analysis in terms of what the impact
8 is going to be.

9 These islands in the sky will become even more
10 critical as the habitat changes due to global warming, and
11 because the birds nest in very limited habitat, it's going to
12 be disproportionate to the species impact.

13 I'd like to talk a little bit about -- there's the
14 map, we're going to hand that out. The areas above 3200 feet.

15 I'd like to also talk a little bit about the fact
16 that the project support is misguided in that it will not
17 replace coal -- we heard that -- it does not reduce mercury
18 contamination, which is a big problem for Bicknell's thrush.
19 The Black Nubble project will not protect the wintering
20 habitat.

21 The Black Nubble project has not met the burden of
22 proof for risk to migratory birds. It will destroy and degrade
23 habitat; and NRCM testimony says that there are potentially up
24 to 44 males in that area, and will put the Bicknell's thrush at
25 risk of collision.

1 This site will become even more critical due to
2 global warming, so our message is to get the site right and
3 choose projects that do not have the multiple complex that this
4 site has.

5 MS. VISSERING: I have a handout. It's really not
6 for looking at while I'm doing the presentation, it's for
7 reference later.

8 Hello, my name is Jean Vissering. I'm a landscape
9 architect. At the present time I am working in support of four
10 wind projects, two of them are in Vermont, one in
11 New Hampshire, and one in Maine, which is the Kibby project.

12 I've had the opportunity to view many projects across
13 the United States and Europe, and I have been involved over
14 several years in about 12 projects. That would be involved
15 professionally.

16 I don't take on a project without doing a minimum of
17 one and up to three days of field assessment in order to
18 determine whether or not I can support the client's position.

19 I have had in those 12 projects found significant
20 concerns with only two of them, and of those, they were for
21 very different reasons. Of course, I have seen many projects
22 that I think fit very well into their settings.

23 Now, I do believe that wind energy is an essential
24 component of our energy mix. We are in the early stages of
25 sorting out meaningful siting and evaluative criteria, and of

1 course, high elevation ridgeline sites have historically been
2 considered to be very sensitive sites for a variety of reasons.
3 They also happen to have very high wind resources.

4 So I think that we will find sites that are suitable
5 but there will also be ones that are inappropriate.

6 Now, I don't need you to read this entire chart. I
7 want to focus actually on what's on the left.

8 Now, in evaluating wind energy projects, I think it's
9 important that we not focus on whether people find them
10 beautiful or not because we're never going to find agreement on
11 that point. We can and should be focusing on the specific
12 resources involved in the site and its surroundings, and of
13 course the visual assessment, we're always looking at, usually
14 looking at, the site from outside areas.

15 Now, Erik Crews used a methodology, as he noted in
16 his prefiled testimony, that is considered to be the basis of
17 all other methodologies. The methodology that I have used is
18 the one that I have adapted. It uses the same principles in
19 that methodology, and it's the same methodology that I use in
20 evaluating all wind projects, it's the one that appeared in the
21 National Academy of Sciences report that I was involved with.

22 I have to say that the three criterion that I have
23 seen in Mr. DeWan's assessment, the relative height, angle of
24 view, and weather factors are not something I have seen as
25 major components of any other methodology that I've seen.

1 On this particular chart what I want you to focus on
2 is the left-hand column. These are six factors, six
3 indicators, that I think are the most important indicators in
4 most wind energy projects: Documented significance, scenic
5 quality, viewer expectation, uniqueness of the resource,
6 duration of view, and proximity to the project.

7 I've highlighted on this slide the documented
8 significance because I think -- it's partly because I can't
9 illustrate that with a photograph -- but also I think it's one
10 that is very important in looking at an indication of broad
11 public concern and value for a particular resource.

12 To rise to the level of a National Park is really the
13 highest level of sort of public concern. In addition, of
14 course, the Appalachian Trail has been identified specifically
15 several times in the CLUP.

16 In terms of looking at significance, documented
17 significance, if you look -- this is a viewshed map. Ignore
18 the pink, that's not what I'm really interested in talking
19 about.

20 The green areas are areas that represent an
21 ongoing -- ongoing efforts to protect resources in this area.
22 It has been a focus of protection efforts because of the
23 special resources in this area. In turn, of course, those
24 protected areas contribute to the scenic quality.

25 The tan area is the 12,000-acre Navy SERE facility.

1 You can also see from this map that the trail is really making
2 a circle around Black Nubble in a sense. Black Nubble is
3 really a focal point in this landscape. You also get a sense
4 of the duration of view. We have been primarily concerned with
5 that between Route 4 and 16, which is a 34-mile stretch because
6 of the great proximity.

7 I want to talk a little bit about the idea of scenic
8 quality. Scenic quality is something that can't be identified
9 and articulated, variables that contribute to scenic quality.
10 Here we're on The Horn looking over towards Black Nubble. What
11 we have here -- one of the primary indicators of scenic quality
12 is diversity. We have diverse topography, diverse vegetative
13 patterns, you add rock elements or perhaps water, you're
14 increasing the amount of diversity. This is a great example of
15 a highly diverse landscape.

16 As we look back over The Horn and towards Saddleback,
17 you can see some of those very high elevation ridgeline
18 environment, the alpine meadows, the rock faces extending over
19 much of those high summits of those three mountains,
20 increasing, of course, the duration of view of the project.

21 Then we're up on Saddleback where that continues
22 to -- you continue to have those high alpine foregrounds with
23 very diverse vegetation.

24 Now, here you can see another indicator, which is the
25 idea of scenic or diverse and intact foreground, middle ground,

1 and background, so you have a very diverse and intact
2 foreground, the middle ground is the area which would be where
3 you can see details. In most landscapes it appears as green as
4 opposed to blue. And in many landscapes it's that layering of
5 the mountains in the background that also contributes to the
6 view. All those are mountains are contributing to the distant
7 view.

8 Another factor in this particular landscape is from
9 many viewpoints Black Nubble is seen as the next ridge over, so
10 it is the most proximate ridge that we see. Keep in mind, of
11 course, as Erik pointed out, our simulations don't include
12 roadways.

13 Now, the diversity of this experience is partly in
14 the different environments as you hike along the trail. This
15 is the crossing at Orbeton Stream. Near Orbeton Stream is this
16 viewpoint, which is very different in character. It's a wooded
17 setting, you're at very close range here, 3.3 miles, and you're
18 looking up at Black Nubble instead of right across or down at
19 it.

20 Another type of viewpoint is Spaulding Mountain where
21 you're seeing it behind Redington, and, of course, this is near
22 a campsite and it's where directly looking west of the view
23 where people come to look at sunsets.

24 Now, yes, there are places where you're travelling
25 through the woods, and that's very integral to the experience

1 of hiking a trail. The trail is deliberately maintained as a
2 single track to minimize any disturbance to that landscape.

3 Of course, it's a high elevation view. That tends to
4 be what hikers want it to be, and here's a different type of
5 view towards Black Nubble from Mount Abraham.

6 All throughout this area, the Black Nubble Mountain
7 is both a very distinct feature in its form, it's also part of
8 that inner circle of high peaks, so it's very much a part of
9 this landscape.

10 This is a view looking from the Saddleback towards
11 the Saddleback ski area. Another indicator of scenic quality
12 is the intactness, what level of disturbance exists, and
13 there's been a lot of discussion about that. Clearly the view
14 from Sugarloaf is the most significant view, some of you have
15 been up there, the worst of the views more the Appalachian
16 Trail. This is more typical of the Saddleback ski area.

17 You can see that the ski area does not extend up to
18 the ridge top anywhere, it -- the changes in the landscape are
19 fairly low in contrast, and not -- certainly not prominent in
20 the view. So certainly there are a number -- a few of, I think
21 we counted probably two places on the trail plus Sugarloaf,
22 where you do get glimpses towards the ski area. I showed this
23 one last time. That's the view from Saddleback Junior towards
24 Sugarloaf. You can make out the tiny portion of the top.

25 There's from Mount Abraham and -- but I think that

1 the point here is that because we do see occasional glimpses of
2 development from the trail, I'm not sure that the logical
3 conclusion from that is that it would be appropriate then to
4 develop an entirely new area with a new -- entirely new
5 development of fairly significant scale.

6 Okay, so we'll return to the chart here. I think the
7 issue with the Black Nubble project is not that it's visible
8 from the AT, but it is how it is seen, over what duration, and
9 what proximity. All wind projects are going to be visible from
10 many locations, from lakes, ponds, hills.

11 These particular mountains are highly scenic, they
12 are documented as significant, they are unique resources.
13 There's a long duration of view, and they're highly proximate.

14 The issue that I have here is that this project
15 raises concerns in all six indicators.

16 So this is my last slide. So the issue here is not
17 the number of turbines, the issue is the site. This is a
18 poorly selected site for this project. There are many possible
19 sites for wind energy projects in Maine as you're discovering.

20 This one happens to be adjacent to one of the most
21 remote and scenic sections of the Appalachian Trail and would
22 very much change the character of this unique area.

23 Thank you.

24 MR. HORN: Good afternoon. My name is J. T. Horn. I
25 worked for ten years for the Appalachian Trail Conservancy. I

1 left my job with ATC back in July to pursue another
2 professional opportunity. And last night as the comments went,
3 one of the members of the public indicated his appreciation for
4 the hard work of the LURC staff and Commissioner Harvey
5 reminded him that you all are volunteers. I'm getting a
6 similar experience on this stage of the case.

7 I've stayed with this project for two reasons: One
8 is out of professional courtesy of my former employer, ATC, but
9 also because I think the big issues here are grave in terms of
10 the impacts of Appalachian Trail.

11 In the Park Service testimony this morning there were
12 a number of questions about some of the details of this
13 proposal and the Park Service's familiarity with the site. One
14 of the things about the Appalachian Trail as a 2000-mile long
15 resource is that management is inherently local and for the
16 most part it's private.

17 The trail is made up of about 4,500 volunteers who
18 contribute 200,000 hours of service in terms of doing trail
19 maintenance. That resource here in Maine means the Maine
20 Appalachian Trail Club, who Dave Field represents, are really
21 most knowledgeable about the site, about the property, and that
22 the Park Service coming from their headquarters in Harpers
23 Ferry, West Virginia is not necessarily in a position to answer
24 some of those really, really detailed questions when they are
25 looking at the trail from a 2000-mile perspective as opposed to

1 this section of trail here in Maine. So if the Commission has
2 questions, either Dave or myself will be happy to answer them
3 about the various site-specific issues that have been raised.

4 I wanted to reflect back to the January meeting where
5 you guys voted to overturn the staff recommendation and move
6 towards a denial. In the discussion that I heard at that
7 meeting, there was a very strong sense that this project -- as
8 a two-mountain project -- had some very significant issues.
9 One of those issues was impacts on the Appalachian Trail.
10 Certainly there were other issues as well.

11 I'm here to tell you that the logic that you applied
12 in moving towards the denial for the two-mountain project
13 applies to the one-mountain project as well. The impacts are
14 still grave, they're still severe, and I find that they're
15 undue.

16 I also want to put this in context of terms of ATC's
17 position on this issue for many, many years. When Endless
18 Energy first started doing their exploration in this part of
19 Maine, we were very clear at the outset that the Redington
20 Range and Black Nubble was not an acceptable site from our
21 point of view. We were on record with that at the very first
22 time that LURC viewed the meteorological towers, and based on
23 Mr. Lee's testimony yesterday, it appears that you were on
24 record opposing the site even before he purchased it.

25 And so I guess I want to just be very clear that we

1 have been consistent on this issue, we've given the applicant
2 fair warning, going back over 15 years at this point, this is a
3 highly problematic site.

4 Why is it a problematic site? Well, as Ken had
5 talked about in some of his testimony, this is the most
6 significant mountain area in Maine. It's the largest area
7 above 2700 feet, it's almost a 4000 footer. One of the things
8 that's important about that, though, is that this is the only
9 area outside of the Mahoosucs and outside of Katahdin where you
10 get above the treeline.

11 In terms of talking about scenic impacts and the
12 impacts to recreation, that above-tree-line hiking experience
13 is something truly rare and unique in Maine. There are not
14 many places where you can go to get above the treeline. The
15 Bigelows, Mount Abram, Saddleback Range, Saddleback Junior are
16 some of the only places that you will find, other than in
17 Baxter and other than in the Mahoosucs, to do that. That
18 resource and the scarcity of that resource is something that I
19 really think has not been emphasized enough in the proceedings.

20 So, let's talk a little bit about wind energy in
21 terms of how Maine policy deals with it. I mentioned last year
22 that getting ready for last summer's hearing, I read the whole
23 CLUP, which is quite an undertaking. It's a very impressive
24 document. There's a lot in there that talks about the
25 resources of the unorganized territories in Maine, and in the

1 section under wind energy, it's very clear that not all
2 mountain areas are suitable for wind energy development. Page
3 59 is very clear about that.

4 Elsewhere in Maine policy we have very explicit
5 references in the Maine Wind Energy Act of 2003. I'm going to
6 read you a quick section: It's the policy of the State that
7 political subdivisions, agencies, and public officials take
8 every reasonable action to encourage the attraction of
9 appropriately sited wind energy related development.

10 When you go through all of the testimony
11 Mr. Tannenbaum put forward, the testimony of the intervenors
12 who support citing the regulatory environment, in all of those
13 documents that I have reviewed, there is this caveat for
14 appropriate siting.

15 Finally I want to talk a little bit about the burden
16 of proof in this case. You, in your CLUP, in the Chapter 10
17 rules have set the bar very high for rezoning from a protection
18 district to a development direction. The criteria is
19 specifically is substantially equivalent level of protection.

20 This case is a high-conflict case. This site is a
21 very fragile site, very close to protected resources, and it's
22 safe to say that the testimony that this intervenor cohort is
23 putting to you is that this is a higher conflict site than any
24 of the others that are currently under review by LURC or are
25 proposed in terms of the preliminary analysis that we've done.

1 There's a number of things in the CLUP and in the
2 Chapter 10 rules that are high hurdles to cross. It includes
3 best available site, structure shall be located in designated
4 areas to reasonably minimize the visual impact, structure shall
5 be placed least likely to block or interrupt scenic views. For
6 ridge top projects, the development shall preserve the natural
7 character of the ridgeline, and many, many others.

8 In conclusion, I want to just offer you four
9 thoughts. These, I think, are the best encapsulation of the
10 issue that's before you.

11 No. 1, you place a high value on your mountains.
12 It's very clear in the CLUP and all of your documents; No. 2,
13 these mountains, the western mountains, are amongst the most
14 significant in Maine; No. 3, wind energy can be done at lower
15 elevations far from public resources of statewide significance.
16 We've seen other applications that seem to be doing that and
17 doing it on a profitable basis; and No. 4, wind energy on
18 Black Nubble is a high conflict project that does not meet the
19 criteria.

20 MR. FIELD: My name is Dave Field. I'm speaking on
21 behalf of the Maine Appalachian Trail Club. You already have
22 my prefiled testimony, and I'll repeat only that the central
23 issue of this case from the perspective of the Appalachian
24 Trail community is aesthetics. That's the core of the trail
25 experience and much of the main experience that draws business

1 to the state and the region. They don't come for the black
2 flies.
3 The most extensive visual impact of this proposed
4 development would be that from the Saddleback Mountain Range.
5 I testified before you a year ago last month that from the AT,
6 the proposed development on Black Nubble would have by far the
7 greater impact of all the development that was included in the
8 original Redington Wind Farm project proposed.

9 You have site visits to a number of existing or
10 proposed wind farm development areas in Maine. I understand
11 that most of you have never hiked across the Saddleback
12 Range -- Rebecca, I bet you've been up there -- or visited the
13 peaks from which Black Nubble would have the greatest impact.
14 Your staff, in the PowerPoint at your meeting last
15 January, showed you a single picture from the Saddleback Range
16 taken from a point which was perhaps the furthest possible away
17 from Black Nubble. I want to show you now what you've missed,
18 but first I want to repeat a statement from my testimony last
19 year.

20 From personal experience, I tell you no simulated or
21 photographic representation of the views of the proposed
22 development site that are along the AT comes close to views
23 experienced from the trail itself. Again, I understand your
24 constraints and how busy you are, but it really is unfortunate
25 that you won't have before you vote a relevant site visit.

1 This first picture is taken standing right on the
2 Appalachian Trail footpath looking at Black Nubble, which
3 unfortunately was misidentified in the applicant's paperwork as
4 the Redington Pond Range.

5 Now, what I'm going to do is, you are now standing on
6 top of Saddleback Junior. I'm going to go through a 360-degree
7 panorama. I want you to see the level of development, of
8 visual impact, of human intrusion that is evident from this
9 alpine peak.

10 Here we're looking over Poplar Ridge towards
11 Cranberry Peak on the Saddleback Range. The fir ways on
12 Crocker, and the shoulder of Redington Pond Range -- oh, and
13 you're looking right at the Navy SERE camp. This is the best
14 view of the Navy camp from the entire Appalachian Trail. You
15 can see a little bit of a roof right there. That's it. Next.

16 Moving to the right, you're looking at the heavy
17 development on Sugarloaf. Spaulding Mountain. Incidentally,
18 when Harley Lee proposed a wind farm on Sugarloaf, the Maine
19 Appalachian Trail Club in response to LURC said, fine, it's so
20 screwed up already that a few windmills aren't going to make a
21 difference. It's a marginal impact that we took into account.

22 Looking across when, Hudson Pulp and Paper owned this
23 land, this was all heavily cut for many, many years. You can
24 see the impact of a hundred years of timber management.

25 Now you're looking out at the Mt. Abrams Range

1 looking down into Orbeton Stream valley. Again, these are all
2 taken from the summit of Saddleback Junior. There is a
3 greened-up Mead Corporation clearcut. Here's a little from
4 Farmer Mountain. You can see a little bit of a logging road
5 there.

6 Once again, what's your impression of this landscape.
7 Now we're basically looking towards New Portland, looking down
8 across the town of Madrid, the New Vineyard hills, and remnants
9 of the extensive farmland that was there when my grandmother
10 was born there 100 years ago, 117 years ago. Little bit of a
11 logging road down here. This is looking out over the valley of
12 organized towns, several towns -- not Madrid, it's deorganized.

13 You're looking out over -- again, my home town.
14 We're looking at communities here. That's Mt. Blue, and then
15 we're looking over towards the Tumbledown Range. Once again,
16 you're looking over a relatively heavily settled area, my
17 hometown area, and what's your general impression of the view.

18 Here up in the far distance is the Presidential
19 Range. I don't think you can see it very well. You actually
20 pick up Sunday River ski area right in the middle there, but
21 it's not a big deal.

22 You're looking at Blueberry Mountain, Big Jackson,
23 Little Jackson, Tumbledown, there's some State-owned land, and
24 the lower slopes of Saddleback and the valley. Once again,
25 areas that been heavily cut for timber again and again and

1 again in the 56 years that I've been hiking this mountain and
2 that's the visual impact.

3 There's the most recent cut that's visible and I
4 apologize. Before I said we were looking at the Presidentials
5 and I was premature. Madison, Adams, Mount Washington off in
6 the distance. That would be the Sunday River ski area, and
7 looking along the shoulder of the Saddleback Range. Once
8 again, the forest.

9 Here's a view of Saddleback ski area and Saddleback
10 Junior. You're having trouble seeing it, that's good because
11 it's not visible. This is the summit of Saddleback, this is
12 The Horn. This is a big shoulder that comes off The Horn.
13 You're looking out at Kennebag Lake, Kennebag
14 Mountain.

15 Now you're picking up bits of the Bigelow Range. You
16 can see a bit of that road there, and if you look carefully,
17 you can see some greened-up cut areas up in there.

18 Now as we complete the panorama, here we are at the
19 ridgeline of Black Nubble.

20 And finally, the cone of Black Nubble with the
21 Bigelow Range in the background.

22 That 360 degrees looking out over towns that have
23 been settled for 150, 200 years, looking over areas that have
24 been cut for timber again and again and again for a hundred
25 years, it is a relatively undisturbed landscape. I'll tell you

1 again to imagine this.

2 This issue is not about -- last slide, please. There
3 we go -- this issue is not about wind power in general, it's
4 not about even wind power in Maine in general. A number of
5 significant projects, as you've been told, are already well on
6 their way to lightning completion in Maine.

7 This is about this specific project in this specific
8 place, and whether the benefits of this project outweigh the
9 costs of this project. I've enjoyed the views from this area
10 for more than half a century. I've stood at this spot 100,
11 150, 200 times. I've stood there in storms, I've stood there
12 in silence on very calm days -- they're actually pretty common
13 in this area -- and I beg you to think about the legacy that
14 your decision will leave for future generations such as are
15 represented by this young man.

16 This is not an ordinary landscape. This is not an
17 ordinary place. Its loss would be sorely felt. The applicant
18 will probably tell you that a better legacy would be to ensure
19 that visitors of this place will have a clear view with
20 unpolluted air.

21 This specific project would accomplish very little
22 towards that goal, but it would have a devastating effect on
23 the great values that exist there now.

24 Thank you.

25 MR. PLOUFFE: So that concludes our panel,

1 Mr. Chairman, and they are ready to accept questions.

2 THE CHAIR: Thank you. Gwen, Rebecca, do you have
3 any questions now or would you like to hear some of the other
4 questions?

5 We're going to concede our time, at least for the
6 time being. We'll let the applicant go right ahead.

7 (There was a pause in the hearing.)

8 MR. MAHONEY: Excuse me, Mr. Chairman, can we get
9 copies --

10 DR. FIELD: Those are in the prefiled testimony.
11 Every one of them.

12 MR. MAHONEY: Dr. Kimball's? The slides that
13 Dr. Kimball used?

14 THE CHAIR: Do you have his prefiled testimony?

15 MR. MAHONEY: I don't have his slides.

16 THE CHAIR: The slides that he used for a summary
17 presentation, they're not in your prefiled testimony?

18 DR. KIMBALL: Most of those pictures are or they're
19 in the prefiled from Mr. Thaler. I think the one that is not
20 would be the SERE property.

21 THE CHAIR: The what?

22 DR. KIMBALL: Of the SERE property, the Navy base
23 just showing the juxtaposition. I'd be happy to provide the
24 PowerPoint.

25 THE CHAIR: I guess we can provide the PowerPoint if

1 that's what you would want.

2 MR. MAHONEY: I would just like to take a look at
3 some of the data that was cited that wasn't in the prefiled
4 that he had from some of the Mt. Washington data, also climate
5 change data as well.

6 DR. KIMBALL: I'd be happy to present that to you and
7 answer questions on it.

8 MR. MAHONEY: I guess that's what I'm asking. I'd
9 like to ask questions and I have to have the slides now so I
10 can prepare some questions on them.

11 THE CHAIR: Okay, I guess I understand what you're
12 doing.

13 MR. PLOUFFE: Mr. Chairman, I'm going to move Jean
14 Vissering's slide show and Jody Jones' map into the record.

15 THE CHAIR: Where's Marcia? They'll be in the record
16 then. As soon as Marcia comes back, we'll give you the number.

17 MR. THALER: I'm going to start with Dr. Field.

18 EXAMINATION OF DAVID FIELD

19 BY MR. THALER:

20 Q. Dr. Field, you testified -- actually in your prefiled you
21 say that what this all boils down to is aesthetics, which
22 I assume you mean visual; correct?

23 A. From the perspective of the Appalachian Trail only.

24 Q. You've heard testimony last year and this that while I
25 understand that you have a different view, that there are

1 people who may wish to see turbines on mountain ridges
2 and see it as a positive sign of progress in the 21st
3 Century?

4 A. Yes, there are. There are true believers. You're right.

5 Q. Just as there are true believers saying there shouldn't be
6 any wind power on the mountains; correct?

7 A. Honest difference of value judgment.

8 Q. They being a true believer is not a negative necessarily;
9 true?

10 A. True.

11 Q. You when you showed your film from the plane, can you
12 explain to the Commission why the camera didn't show the
13 viewer things like the towns of Stratton and Carrabassett
14 Valley, the ski resorts, the condos, the golf courses, and
15 things like that?

16 A. Probability because they were irrelevant. As I mentioned
17 a moment ago, why in the world all this fuss about the
18 view from Bigelow? That's really not the issue with the
19 Black Nubble development.

20 You can't see the condos and so forth and Sugarloaf
21 from the Appalachian Trail between Route 4 and Route 27.

22 Q. Let me just --

23 A. You don't see the towns. You can take the side trail up
24 to the summit and see -- there are side trails that go to
25 Stratton, too. You look at the biomass plant and a

- 1 sawmill, so what.
- 2 Q. Maybe it's up to the Commission to decide about so what.
- 3 In this terms what's actually out there, you weren't
- 4 attempting by that film to show only a partial view of
- 5 what was in the area, were you?
- 6 A. The attempt was to show the landscape that's relevant to
- 7 Black Nubble.
- 8 Q. I understand what you may think is relevant. But my
- 9 question was, did you make an effort to accurately show
- 10 what was in the general area of Black Nubble including any
- 11 cultural modifications such as I described?
- 12 A. I did not put together the video, I did not take the
- 13 pictures. In my prefiled, you will find -- are you
- 14 listening?
- 15 Q. I'm absolutely listening.
- 16 A. You will find in my prefiled the still photos that I took
- 17 directly down at the SERE camp, directly down at the big
- 18 Plum Creek cuts on the -- must be northerly side of
- 19 Black Nubble. I put that stuff in my prefiled.
- 20 MR. THALER: Let me ask you, Sarah, if you could put
- 21 up DeWan 25.
- 22 Q. Would you agree that in the areas of Black Nubble wind
- 23 farm, which is right here, we have all those different
- 24 human-made structures and modifications to the
- 25 environment?

- 1 A. They exist. My testimony had to do with relevance to the
- 2 Appalachian Trail. I just showed you a panoramic from
- 3 Saddleback Junior in which most of those things are
- 4 virtually invisible.
- 5 Q. Okay, well, I'm going to follow up on that in a minute
- 6 because you mentioned Saddleback Junior, but there are
- 7 other places from the trail where you can see, for
- 8 example, the ski resorts; correct?
- 9 A. There are 2/10 of a mile between Saddleback summit and the
- 10 False summit where you can see down on the Saddleback.
- 11 Ms. Vissering showed you the picture from The Horn of
- 12 the base lodge area of Saddleback and the very tiptop of
- 13 the chair lift area, which disappear rather rapidly as you
- 14 hike south down into the saddle.
- 15 MR. THALER: If you could, Sarah, go to the next
- 16 slide of DeWan.
- 17 Q. Now, that's the SERE Navy facility that we've been hearing
- 18 about is what's called the Dallas Road going to it; is
- 19 that correct?
- 20 A. Hm-hmm (indicates yes.)
- 21 Q. Did you see that from the airplane when you were flying
- 22 over doing your filming?
- 23 A. Yes, I told you my prefiled testimony shows a picture of
- 24 it.
- 25 Q. And that is Black Nubble adjacent to the road?

- 1 A. That is Black Nubble.
- 2 Q. If you could then go to slide 30, DeWan 30. This is a
- 3 view from the AT of the Saddleback Mountain ski area ski
- 4 lift about a mile away?
- 5 A. Yeah, I think that's from the False summit, just east of
- 6 the main summit.
- 7 Q. Let's go to the next slide, then.
- 8 A. That's one I mentioned a moment ago.
- 9 Q. Saddleback Mountain ski area seen from the AT, base lodge
- 10 about a mile and a half away. Do you agree that that's
- 11 the view you have from the Appalachian Trail?
- 12 A. Yes, that's what I described a moment ago.
- 13 Q. Okay. We didn't see that in your film when you were
- 14 filming the area from the airplane; correct?
- 15 A. That's correct, we were on the other side of the mountain.
- 16 Q. All right. That's where you chose to film. Let's look at
- 17 Slide 32 -- yeah, 32, did you oppose the Saddleback
- 18 Mountain ski expansion that was pending before LURC that
- 19 was recently approved?
- 20 A. Not the recent one, no. We went through the whole battle
- 21 with Saddleback over a long period of time, we got every
- 22 compromise we felt was possible, the Park Service bought
- 23 what they could, and the latest development we looked at
- 24 very carefully and appeared to have no unacceptable impact
- 25 for the Appalachian Trail. There was a question of

- 1 proximity, there was a question of angle of view.
- 2 Q. Would you agree that Mr. DeWan has shown what has been
- 3 approved as the area of future expansion, and that would
- 4 be visible -- however much of that would be developed --
- 5 would be visible from the Appalachian Trail; correct?
- 6 A. Correct.
- 7 Q. Let me just move back for a moment. I know that you're
- 8 very familiar with Maine and LURC standards. You heard
- 9 this morning -- and I assume you would agree -- that the
- 10 Appalachian Trail under LURC's Chapter 10 regulations is
- 11 part of the P-RR recreation protection subdistrict;
- 12 correct?
- 13 A. That's correct.
- 14 Q. Are you aware that there are many man-made changes that
- 15 LURC allows and can approve in that district, subdistrict?
- 16 A. They have in the 500-foot zone, to the best of my
- 17 knowledge, except for reserved rights of way -- well,
- 18 except for State-owned land, all of that district is
- 19 inside National Park Service ownership.
- 20 Q. My point is that under LURC's jurisdiction, the only State
- 21 regulatory or legal scope of protection for the AT is 250
- 22 feet on either side of the tread path; correct?
- 23 A. That's correct, in the original zoning; of course, we
- 24 tried for more but that's where it ended up.
- 25 Q. Now, were you involved in developing the local plan for

1 the management of the AT in Maine from Grafton Notch to
 2 Katahdin?
 3 A. As I told you last year, I wrote it.
 4 Q. I'm sorry?
 5 A. As I told you last year, I wrote it. You handed me a
 6 page, which I unfortunately didn't take time to read, and
 7 then you made a statement which actually mischaracterized
 8 that page an hour later.
 9 I'll be careful not to get snookered again.
 10 Q. Well, it was good of you learn from a snookering
 11 experience, apparently, but I certainly wouldn't try to do
 12 that again, I guess.
 13 But it is true that in that guide, which you wrote --
 14 the draft plan -- that you talk about all mountain peaks
 15 along the near the trail are now in public ownership or
 16 protected by easement rights with respect to utility and
 17 communications facilities, correct, do you remember that?
 18 A. Yeah, I've got the same page in front of me now.
 19 Q. And I read it correctly?
 20 A. I'm going to check this time. What paragraph are you on?
 21 Q. It starts, outside public highway, it says in the middle
 22 that entrepreneurs --
 23 A. Okay, all mountain peaks along?
 24 Q. Yes, all mountain peaks along and near the trail, meaning
 25 the Appalachian Trail, now in public ownership or

1 protected by easement rights.
 2 Are Black Nubble or Redington Mountain in public
 3 ownership?
 4 A. They are not.
 5 Q. Are Black Nubble or Redington Mountain protected by
 6 easement rights?
 7 A. They are not.
 8 Q. Has the Maine Appalachian Trail Conference ever sought to
 9 acquire either the fee or conservation scenic easements or
 10 conservation easements on Redington or Black Nubble?
 11 A. It's the Maine Appalachian Trail Club. The answer is no.
 12 MR. THALER: Mr. Field, that's all I have for you at
 13 the moment. In the interest of time, I will go to Dr. Kimball.
 14 If you would pass the mic down.
 15 EXAMINATION OF KENNETH KIMBALL
 16 BY MR. THALER:
 17 Q. Do you want to call me Ken or Mr. Kimball?
 18 A. Take your pick.
 19 Q. Ken is shorter. Ken, as I understand it, we've got an
 20 e-mail that Dave Publicover was going to be away for three
 21 weeks, so you're here in his place; correct?
 22 A. That's correct; I'm also his boss.
 23 Q. When he testified last summer, I think you were in the
 24 audience?
 25 A. Yes, I was.

1 Q. Had you reviewed his prefiled testimony last summer before
 2 he filed it?
 3 A. Yes, I did read through it.
 4 Q. Have you reviewed in preparation for your testimony here
 5 both his prefiled and what he had said, you were familiar
 6 with what he said during the hearing; correct?
 7 A. Yes, I went through those.
 8 Q. Is there anything in his testimony, sworn testimony, to
 9 the Commission that AMC today is either retracting or
 10 correcting?
 11 A. To my memory I can't think of anything outside of what
 12 he's retracted already.
 13 Q. One of the things he retracted was saying that there was a
 14 contiguous roadless unfragmented block of forests that
 15 encompass both Redington and Black Nubble; correct?
 16 A. Yes, I think there was a debate, if my memory is correct,
 17 last time about when you look more to the north as to
 18 there was a small road that cut through.
 19 Q. In fact, Mr. Publicover, during the hearing when
 20 questioned -- by I believe Mr. Didisheim -- he testified
 21 that Black Nubble was not within the roadless contiguous
 22 unfragmented block of forest; do you recall that?
 23 A. You may be correct; I don't recall either way.
 24 Q. I'll -- the transcript was prepared of that hearing and --
 25 it was Mr. Didisheim he said, the question: A significant

1 portion of your testimony talks about the damaging
 2 fragmentation effects of the project on the Saddleback,
 3 Redington, Crocker roadless complex, and you state that
 4 Redington is in the middle of that.
 5 Is Black Nubble within that roadless area?
 6 Mr. Publicover said no.
 7 Was that testimony accurate?
 8 A. Yes, I believe it probably was. I want to point out the
 9 point that I was making today is the primary focus AMC had
 10 on the hearing last August was on Redington because that
 11 was the mountain with the most impact.
 12 When we take a look at this project here, you've got
 13 to understand the roadless is built in part -- and I think
 14 this was the same term used by Mr. Pelletier -- sensitive
 15 with your desktop.
 16 When we went out into the field and we at looked at
 17 some of the information as we prepared for Black Nubble
 18 and we looked at the juxtaposition relative to the Navy
 19 base land, there was still a lot of ecological integrity
 20 there.
 21 Q. Mr. Publicover also testified in response to questions
 22 from Mr. Didisheim, and I believe Mr. Hinchman from
 23 Conservation Law Foundation, that global warming and acid
 24 rain are threats to the mountain ecosystems to which the
 25 trail runs, correct, would you agree with that?

1 A. Yes, I would; but I would want to clarify that currently
2 I'm the project investigator of a program that's sponsored
3 by NOAA, which we're doing jointly with Mt. Washington
4 Observatory and the University of New Hampshire.

5 That project is funded to take a look at that climate
6 change impact in alpine areas as well as air pollution.
7 We started off with the original hypothesis, and this is
8 what I was describing in the beginning here that climate
9 change -- the spruce-fir forests at higher elevations
10 would respond very similarly to the lower elevation. But
11 as we look at the data that we have out there, it's
12 bringing into question whether that's actually true.

13 Q. So you're testifying -- were you here for Dr. Wake
14 yesterday?

15 A. Yes, I was.

16 Q. So you disagree with Dr. Wake's testimony and that of the
17 60 or so scientists who helped prepared the Union of
18 Concerned Scientists report?

19 A. Well, that's a sweeping question the way that you answered
20 it.

21 Q. I don't answer my own questions. I ask them.

22 A. Basically what Dr. Wake presented, I think the general
23 concepts that he has out there are correct. Are all of
24 the small that were presented possibly correct? Probably
25 not. That's part of what we're pointing out here.

1 Q. All right. Now --

2 A. And I would want to add on because I've actually talked to
3 Dr. Iverson who put the model together, discuss with him
4 some of the data that we have at the high elevation areas.

5 I think as Mrs. Jones pointed out here, is that model
6 basically is looking at very large cell sizes when it's
7 making its predictions. It really wasn't designed to look
8 at higher elevations.

9 Q. In your testimony, in your prefiled written testimony, you
10 go on at some length about comparing the Kibby Mountain
11 proposal and its possible impacts with this project's
12 possible impacts; do you recall that?

13 A. Yes. I think you know we support the Kibby project.

14 Q. I'm aware of that, which is why I'm going to ask you some
15 of these following questions.

16 You assert in your testimony that at over 3000 feet
17 elevation that the Maine Mountain Power project would have
18 more land that has slopes over 33 percent, I believe, than
19 Kibby; is that your testimony?

20 A. I believe that's what my testimony was, there was several
21 amounts of area that were both above 3000 feet in
22 elevation, a lot of that had steep slope.

23 Q. You picked 3000-foot elevation, but as we know with LURC
24 and DEB, 2700 feet is the general standard.

25 Are you aware of that?

1 A. Yes. And the reasons why Dr. Publicover did some of these
2 analyses -- the reason why 3000 was picked -- that's
3 typically about as high as most logging goes. Not to say
4 that it doesn't go higher, but that's the reason why the
5 3000 was picked.

6 Q. Are you aware that logging has gone higher than that in
7 the Black Nubble area here?

8 A. As I said, there are areas, but in general it does not go
9 above 3000 feet.

10 Q. When you say that you if I picked -- or Dr. Publicover
11 picked -- 3000 feet for that reason, did Dr. Publicover
12 explain to you that if you take 2700 feet, the LURC
13 standard, as your baseline, that Kibby actually has about
14 triple the amount of steep slopes as the Maine Mountain
15 Power site on Black Nubble?

16 A. We understand Kibby does have steep slopes, but I would
17 also point out that on Black Nubble, slopes are at
18 considerably higher elevations where you expect to see a
19 lot more precipitation.

20 Q. Your prefiled that you gave the Commission didn't give them
21 the complete picture because you said that Kibby had less
22 steep slopes than Black Nubble; correct?

23 A. I'm not sure exactly how was that worded. I didn't commit
24 it to memory.

25 Q. Did you ever look at 2700 feet elevation and up, the

1 comparison between Kibby and Black Nubble slopes?

2 A. All the slopes -- yes, Dave did do that.

3 Q. Did you personally?

4 A. Did I, no.

5 Q. One more question, I think, Dr. Kimball. I assume you're
6 generally familiar with the Appalachian Mountain Club
7 Maine Mountains Hiking Book?

8 A. Yes, I am.

9 Q. In terms of the mountains of Black Nubble, Redington, and
10 Kibby, isn't it true that the only one of those three
11 mountains for which there is a passage with described
12 heights up to it, Kibby mountain?

13 A. Yes, but Kibby Mountain is not the one with the project on
14 it; and No. 2 is, I think, the way the question is
15 characterized is a little misleading because a lot of the
16 adjacent mountains look out on Black Nubble.

17 Q. I understand when you're talking about adjacent. I'm just
18 talking about -- I mean, some of your fellow team members
19 here are focusing just on Black Nubble or just on Kibby or
20 just on Redington.

21 MR. THALER: Let me move on in the interest of time
22 to Ms. Vissering, if you could pass the mic down please.
23 Just give me a moment.

24
25

EXAMINATION OF JEAN VISSERING

1 BY MR. THALER:

2 Q. Good afternoon Ms. Vissering.

3 A. Good afternoon.

4 Q. Are you currently working for TransCanada with respect to
5 the proposed Kibby Mountain wind farm?

6 A. I am doing a visual assessment for that project.

7 Q. Not only are you doing one, you have done one and you have
8 prefiled testimony in that case?

9 A. Yes, that's correct.

10 Q. In that case you have testified in support of the proposed
11 wind project there?

12 A. That's correct.

13 Q. You do talk about a little about Kibby in your testimony,
14 but you testified in this proceeding last summer.

15 When were you contacted by TransCanada about possibly
16 appearing as their expert in their proceeding? Was that
17 before or --

18 A. It was after this and it was probably sometime in the
19 fall. It was, I think, maybe September or October.

20 Q. Now, in your testimony, your prefiled testimony, you say
21 that few, if any, structures can be seen from the open
22 summits.

23 Isn't it true that on the summit of Saddleback you
24 can see some of the base lodge, condos, things like that?
25

1 MR. THALER: For example, Sarah, if we could look at
2 Slide 31.

3 Q. Would you agree that you can see a fair amount of
4 structures from the AT in that area?

5 A. Yes, you can see structures there.

6 Q. Let me also just clarify something. When you testified
7 last summer, you said that you had gone up to a portion of
8 this 34-mile circle that we're talking about, you had gone
9 up on two days with J. T. Horn and Mr. Crews in June, and
10 you had gone up, I think, a couple months earlier by
11 yourself or with some others?

12 A. No, I went up with some other people in the wintertime. I
13 think it was March.

14 Q. And since those two days in June 2006, have you been up
15 hiking any of the Appalachian Trail in the 34-mile study
16 area?

17 A. No, I have not.

18 Q. Is it true that the area -- strike that.

19 Looking at your scenic assessment, have you been to
20 the north -- the summit of north and south Crocker?

21 A. No, I have not.

22 Q. Have you been to Poplar Ridge?

23 A. No, I have not.

24 Q. Have you been to Spaulding?

25 A. No.

1 Q. Have you been to the Bigelows?

2 A. No.

3 Q. So you personally don't know what the views would be from
4 those summits; correct?

5 A. I have not personally been there; I have certainly, as I
6 do for all of my work, refer to photographs taken by ATC
7 staff, but that's -- so those are pretty commonly
8 photographed views.

9 Q. Would you agree with the general proposition that the size
10 of an object seen by a person will depend in large part on
11 how far the person is from the object?

12 A. Yes.

13 Q. Would you agree with the general proposition that as you
14 mover further and further away from a stationary object,
15 it's going to be looking smaller and smaller and smaller;
16 correct?

17 A. It will appear smaller.

18 Q. It will not become smaller, but it will appear smaller to
19 the human eye; correct?

20 A. That's correct.

21 Q. I know you were here and you saw Mr. DeWan's -- strike
22 that.

23 Were you here for Mr. DeWan's testimony yesterday?

24 A. I was.

25 Q. You're familiar with the concept of relative height and

1 field of vision or angle of vision?

2 A. As I said in my presentation, those concepts are not ones
3 that are used in any -- I used to teach for 15 years at
4 the University of Vermont, visual assessments, and I've
5 looked at the many methodologies, and those are not
6 considerations that I had ever seen in any methodology.

7 Q. We'll see. I'm not a scientist or a scenic expert, so I
8 sort of comment from the seat of the pants, but wouldn't
9 you agree that from a layperson's perspective, getting a
10 sense as to how big something is as you move further and
11 further away, is one tool used in assessing the impact of
12 that object as you move around an area?

13 A. Well, clearly it is a factor in assessing, and as you move
14 away from a project certainly it will appear -- an object
15 will appear smaller. I think what we're talking about --
16 we're certainly talking about the scale.

17 But -- it's important to understand that as you look
18 at these issues, that is one tiny variable and probably
19 certainly not one of the more important variables in
20 determining what the impact would be.

21 Q. Let me ask you that, again as a non expert, it would
22 strike me that how big something is to my eye would be a
23 pretty significant question as to how I might react to it.

24 Am I totally from another planet isn't that the way
25 people -- at least one available -- as to how people react

- 1 to something.
- 2 (Steve Nadeau joined the hearing at 2:02 p.m.)
- 3 A. Context is everything in a visual assessment. It's
- 4 usually the most important variable.
- 5 Understanding the setting in which an object appears,
- 6 for example, I might very much appreciate seeing a statue
- 7 of David in Piazza, Italy, but seeing the statue of David
- 8 up on top of a Camel's Hump, which is one of my favorite
- 9 mountains in Vermont, it is not where I would want it to
- 10 appear.
- 11 So the context of where you see an object, the scale
- 12 is also relevant, and I think maybe that is what Mr. DeWan
- 13 is trying to get at. Scale is the usual terminology.
- 14 Q. I'll correct my wording then and use the term scale if
- 15 that's more comfortable for you.
- 16 A. Relative scale would be fine because it is in relationship
- 17 to the context.
- 18 Q. So relative scale, looking at that Exhibit 22-B that we
- 19 passed out yesterday, and you got, that does tell me, or
- 20 you, or the Commission what the relative scale of a
- 21 turbine would be on Black Nubble from certain distances as
- 22 a matter of physics; correct?
- 23 A. Okay, so we're looking at this relative scale. Now, some
- 24 factors that would be of concern to me would be we're
- 25 showing this as a line. Now, those -- they are maps, of

- 1 course, they're not just in a line. They're also white.
- 2 The other question is, there are 18 of them, not just
- 3 one of them. The other question is -- and the most
- 4 important question, and I think this is my central
- 5 point -- that those 18 turbines seen in another setting at
- 6 that particular relative scale would be absolutely fine, I
- 7 would have no problem. I've found many wind projects
- 8 where I've seen them at 6 miles away, 4 miles away at
- 9 these distances.
- 10 But if I were to examine every wind project in terms
- 11 of this variable, how big does it look on a piece of
- 12 paper, I don't think that I would have much of a
- 13 professional reputation left.
- 14 Q. Ms. Vissering, just so I don't confuse you, I'm certainly
- 15 not suggesting, nor do I believe Mr. DeWan was, that
- 16 that's the only variable for a professional or a
- 17 regulatory body to --
- 18 A. It's three variables that he was using.
- 19 Q. In fact in your visual impact assessment that is on file
- 20 with LURC, how the turbines look at Kibby from various
- 21 distances is something you spent a fair amount of time
- 22 talking about; isn't that true?
- 23 A. From Kibby Mountain, absolutely.
- 24 Q. Right. So if it's relevant in the Kibby case, it would
- 25 seem relevant in the Black Nubble case, correct, the

- 1 relative size of turbines from different distances?
- 2 A. I didn't talk -- in my testimony on Kibby, I never
- 3 referred to the relative size of those turbines in the
- 4 view.
- 5 The relative size is not the question there, it is
- 6 the viewpoint. Kibby Mountain is a very different setting
- 7 than this one that we're talking about here. The
- 8 resources are different.
- 9 Q. I understand your testimony, the resources are different.
- 10 We'll come back to you what you did say in your visual
- 11 impact assessment about what you could see of the Kibby
- 12 turbine and how that related directly to distance.
- 13 But you, in your testimony -- and I believe Ms. Jones
- 14 as well, Ms. Jones attached it to her prefiled --
- 15 referenced the National Academy of Science draft or
- 16 prepublication report about environmental impacts and wind
- 17 energy projects; correct?
- 18 A. Yes, and that's now -- the final version is out now.
- 19 Q. I think what Jody submitted and what I had was May 2007
- 20 draft. In terms of -- and you served on a committee for
- 21 that report; correct?
- 22 A. Yes.
- 23 Q. Is it generally true -- strike that.
- 24 You reviewed, I assume, the visual impact part of
- 25 that report, is that fair to say, as a committee member?

- 1 A. Yes.
- 2 Q. So when the report talks about the most significant
- 3 impacts for a wind farm are likely to occur within 3 miles
- 4 of the project, you signed off on that; correct?
- 5 A. You're taking that out of context. I happened to have
- 6 written this report so I know what it says.
- 7 Q. Good. So the complete sentence is, the most significant
- 8 impacts are likely to occur within 3 miles of the projects
- 9 with impacts possible from sensitive viewing areas up to 8
- 10 miles of the project; is that true?
- 11 A. Yes, from sensitive viewing areas. That is the critical
- 12 question, sensitive viewing areas. The most important
- 13 part of a visual assessment is to understand both the
- 14 nature of the resource and the sensitivity of the places
- 15 from which the project is being viewed.
- 16 Q. Also in that report, which I gather you wrote, there was a
- 17 discussion about simulations and visualizations; do you
- 18 recall that?
- 19 A. Yes.
- 20 Q. In this case, both you and Mr. DeWan used photo simulation
- 21 as a general technique?
- 22 A. Yes.
- 23 Q. Whereas, Mr. Crews, who was here this morning, did not do
- 24 that; correct?
- 25 A. Actually -- I actually don't create photo simulations

1 myself because I don't have the technology. Mr. Crews
2 did.

3 The people who do these simulations, some of them
4 refer to those as a photo -- as a simulation, a true
5 simulation, whereas, what I -- other techniques, such as
6 what is in my report, are photo simulations.

7 Q. When Commissioner Harvey was questioning Mr. Crews this
8 morning -- and I think it's pretty clear on the record --
9 what Mr. Crew did was use a 3D visualization model, a
10 computer model; do you agree with that?

11 A. Yes.

12 Q. Do you also agree that with 3D visualization models, such
13 as what Mr. Crews used, they are "not as realistic in
14 appearance and details as a photographic simulation"?

15 A. I would say that that is true, they have other advantages,
16 but I would agree with that.

17 Q. So you would agree then that the approach that Mr. Crews
18 used in this proceeding compared to the photo simulation
19 approaches that you and Mr. DeWan used would not be as
20 realistic in appearance and details as the photographic
21 simulation approach; correct?

22 A. They're very accurate and they eliminate some variables
23 that I think are useful to eliminate as when you're really
24 trying to assess the relative scale of a project in a
25 landscape.

1 As Mr. Crews said, they have the advantage of being
2 able to model things that are very difficult to do in a
3 photo.

4 Q. But they're not as realistic in appearance and details?

5 A. To most people they're hard to look at because -- or they
6 can be hard to look at -- because you're not seeing -- if
7 you're familiar with a particular view, you want to see
8 the details of the landscape.

9 Q. Ms. Vissering, you wrote that they are, "not as realistic
10 in appearance and details."
11 Was that an accurate statement?

12 A. Yes.

13 Q. You also wrote that some of the factors affecting the
14 landscape context, the first one you write about is
15 distance from the project; is that correct?

16 A. I would rather not comment -- I know I did write about
17 distance.

18 Q. I'm not trying to trick you. You said you wrote it and I
19 know it's in the record.
20 I'm showing you Page 257, Factors Affecting the
21 Landscape Contents.
22 Is the first variable you list there distance from
23 the project, right there?

24 A. Yeah, I want to point out that these are pages clipped out
25 from the middle of my report; but, however, having said

1 that, the particular part that you have clipped out here,
2 the beginning paragraph --

3 Q. I'm just asking you about --

4 A. I'm sorry, I'm just trying to remember what is written
5 here. I need to look at it.

6 Q. Well, the first four words are, distance from the project;
7 is that correct?

8 A. Factors affecting landscape content, yes, distance from
9 the project.

10 Q. And the next variable is view duration; correct?

11 A. Yes; and footnotes on the distance --

12 Q. Sure. I'm not going into content right now. I'm just
13 trying to identify what you believe are factors affecting
14 the landscape context for the view assessment.

15 A. Yes. Clearly distance from a project is important, view
16 duration, angle of view. These are sort of a list of many
17 different factors. They're not necessarily listed in
18 terms of importance, but they are the list of factors that
19 need to be considered.

20 Q. You also in the report wrote about mitigation techniques;
21 do you recall that?

22 A. Yes.

23 Q. Once again, I'm not -- I'll walk back over here.
24 Of the techniques that you wrote about, I understand
25 they may not be in order of importance, appropriate siting

1 is one?

2 A. The first one.

3 Q. The next one is down-sizing; correct?

4 A. That's right.

5 Q. So on down-sizing you wrote, reducing the scale of the
6 project (numbers of turbines or heights of turbines) could
7 help the project fit more comfortably into its
8 surroundings; is that correct?

9 A. That is correct.

10 Q. So that's a technique of mitigation, one technique?

11 A. Yes, I would say that it is.

12 Q. Lighting, another mitigation technique. You mentioned the
13 revised FAA lighting guidelines reduce lighting impacts;
14 correct?

15 A. Yes, I did.

16 Q. Do you agree with Mr. DeWan that the revised Black Nubble
17 proposal has reduced the number of lights that would be
18 placed on the turbines and potentially see by others?

19 A. Yeah, I actually would like to make a comment about the
20 reduced lighting from 30 to 7. It's a little bit of an
21 exaggeration, because those FAA guidelines have been out
22 for some time, and I think that what was used as a figure
23 for the original lighting proposal was one which did not
24 take into account the new FAA guidelines.
25 So the former guidelines were light every turbine.

- 1 In my mind, I would have expected that those FAA
2 guidelines -- new FAA guidelines -- were taken into
3 account at the time of the last hearing.
- 4 Q. Do you know what the effective date of those "new" FAA
5 guidelines was?
- 6 A. I don't off the top of my head.
- 7 Q. Let me show you Page 129 from your portion of the report.
8 Do you see they were effective February 1, 2007?
9 (Ms. Hilton excused herself from the hearing at
10 2:15 p.m.)
- 11 A. That's true, but those guidelines were being considered
12 seriously at least the time since I had been writing that
13 report and before that. They've been out for about five
14 years.
- 15 Q. One other mitigation technique that you mentioned, and
16 I'll move off this, is color.
17 You said a recent FAA study showed that daytime
18 lighting could be eliminated provided the turbines are
19 white, white often is regarded as more cheerful and less
20 industrial than other colors, which may be part of the
21 reason some people find wind turbines more visually
22 appealing than, for example, cell towers."
23 Do you agree with that statement?
- 24 A. Absolutely.
- 25 Q. What color are the wind turbines proposed for

- 1 Black Nubble?
- 2 A. White.
- 3 Q. Last, and I'll walk over here, at Page 266 of the National
4 Academy of Science report, determination of acceptable or
5 undue aesthetic impacts, you have a discussion about what
6 kind of -- how decision makers should be guided in
7 assessing visual impacts.
8 Is it true that Box B-2 on that page, which calls out
9 a sample or a model approach, is the Maine Department of
10 Environmental Protection's visual impact assessment
11 criteria MDEP 2003?
- 12 A. Yes, I did use that as an example of a review summary,
13 review criteria.
- 14 Q. Those were acceptable review criteria that the Maine DEP
15 uses; correct?
- 16 A. I thought -- in putting those in the report, I thought
17 they were an example. I didn't think they were
18 necessarily the most perfect but I think they're
19 reasonable -- a reasonable approach to take.
- 20 Q. Are you aware that that reasonable approach to take is
21 Chapter 315 of the Maine rules and is what Mr. DeWan did
22 in this case?
- 23 A. He said he did, yes. Those are not the variables that he
24 discussed though in his testimony.
- 25 Q. You're saying he didn't apply -- he didn't follow

- 1 Chapter 315 standards?
- 2 A. Those three variables that are listed there received very
3 little discussion in the testimony. I think it would have
4 been a better report.
- 5 Q. I understand you disagree with his report and have
6 criticisms of it, and we'll move forward for the moment.
7 You also -- you wrote a paper called Wind Energy in
8 Vermont's Scenic Landscape: A Discussion Based on the
9 Woodbury Stakeholder Workshops; do you recall that?
- 10 A. Yes, that was written in 2002. It was the first time I
11 had been involved with the issue of wind energy, and it
12 was a result of group discussions among many stakeholders
13 in Vermont.
- 14 Q. And you wrote the following -- and I'll come over so you
15 can follow me and tell the Commission whether I've read it
16 accurately or not. It's the top of Page 5 of your report.
17 "The fact that we can actually see -- and the word
18 "see" is underlined -- the wind being turned into power
19 with the rotating blades gives wind turbines a visual
20 appeal that is not true of stationary communication towers
21 like cell towers."
22 Did I read that correctly?
- 23 A. Yes. I think I need to make a comment on that if I could.
- 24 Q. Do you disagree with what you said?
- 25 A. Absolutely not. I very much agree with it, and I think

- 1 this is an important point.
2 These are, as I said, many people find these
3 beautiful, I happen to be one of those people. I find
4 wind turbines beautiful.
5 I do not think they should be everywhere. That's the
6 question we're dealing with here, and I do think that one
7 of the reasons that people find them to be beautiful is
8 because they're white, that more cheerful color that was
9 quoted. I think that there is sort of a visual connection
10 with the wind that does give them a visual appeal; but the
11 critical question is, if you look at other places in my
12 document, the siting is really important and there are
13 places with sensitive resources.
- 14 Q. Ms. Vissering --
15 MR. THALER: Sarah, if you could put up DeWan 4 --
- 16 Q. Would you agree -- do you agree, Ms. Vissering, with the
17 numbers that Mr. DeWan put on that table?
- 18 A. I'm assuming that they are accurate, yes.
19 MR. THALER: If you could put up DeWan 42.
- 20 Q. Now, I understand that you haven't been to this point of
21 the Appalachian Trail.
22 Would you agree that from this point of the
23 Appalachian Trail that there are very significant man-made
24 changes in the environment that you can see?
- 25 A. This is -- this is an important point here that needs to

1 be made about this. This does relate to distance.

2 The closer views of this project are what we're
3 concerned about. This view -- it looks to me like it was
4 taken with a wide-angle lens, so it distorts the
5 prominence of Black Nubble; but aside from that issue, it
6 is true that there are views from the Bigelow Range, they
7 are at a distance of, I think, 9, around 10 miles from
8 some of the closest points in the Bigelow Range.

9 The concern here, if this project were just visible
10 from the Bigelow Range, I don't know that I would have a
11 problem because of the distance.

12 Q. So distance is a relative factor?

13 A. Yes. I think, though, that what is of concern with the
14 Bigelow Range is not only do we have quite a few views
15 over that 34 miles of what I call the inner circle, but
16 you also have this extended and cumulative impact of views
17 as you continue up into the Bigelow Range.

18 Even though -- I want to correct this -- Mr. Palmer
19 said that the turbines are unlikely to be visible at
20 beyond 8.5 miles. I have been up to the top of the fire
21 tower at the very peak to look at the Searsburg project.
22 You can see the turbines. That is 9.9 miles away.

23 I know the turbines are about half the size. So no,
24 I do not consider it to be an impact; I did this for a
25 project I'm working on. That is not an issue but it is

1 important to understand that they can be seen.

2 I want to be careful about those kinds of blanket
3 statements. They may be technically by someone's
4 analytical approach true, but it's a similar problem to
5 this.

6 Q. Ms. Vissering, I don't mean to cut you off, but I'm
7 mindful of the Chair and the clock. I still have a lot of
8 witnesses that I have to do, so I'm going to try to keep
9 my questions focused and I would appreciate hopefully if
10 you can do the same on your answers.

11 You said distance is a factor. So you agree that
12 this revised one-mountain proposal has -- is both
13 physically further from the Appalachian Trail than it was
14 before and the closest views are further than the closest
15 views were before; correct?

16 A. Look at some of the important views -- Saddleback, for
17 example, The Horns --

18 Q. I asked you a specific question. Ms. Vissering, if you
19 could listen to the question.

20 MR. THALER: First of all, go back, Sarah, to DeWan 4
21 so we can move on.

22 A. I think the answer is I would not agree. It is
23 technically closer than some viewpoints, but overall it
24 is --

25 Q. Ms. Vissering, you already testified a couple of minutes

1 ago -- I didn't think we had to go back over this -- but
2 for Black Nubble the closest view from the AT is 3.2 miles
3 versus what had been 1.1 miles before.

4 Is that a greater distance, 3.2 versus 1.1? Yes or
5 no.

6 A. I think we're getting to the point where we're getting
7 redundant. Yes, it is a greater distance.

8 Q. I don't like to be redundant, but I also want to make sure
9 there's clarify.

10 The closest open view from AT on the Black Nubble
11 project is further than what it had been before under the
12 Redington proposal; correct?

13 A. The closest open view -- now, Saddleback Junior is 4.1
14 miles and remains 4.1 miles. Same with The Horn, same
15 with Saddleback --

16 Q. Under the original application, wasn't the closest open
17 view Sugarloaf Cirque?

18 A. Oh, Sugarloaf Cirque. Yes, that is the one view that we
19 do not have anymore with this proposal. It is not an open
20 summit view, though.

21 Q. But it was an open view from where you took the photograph
22 that was used in your testimony?

23 A. Yes, trees in that location, because of the steep slopes
24 tended to not grow to any great height there.

25 Even though you're into the forest, your head is

1 above the trees there.

2 Q. Ms. Vissering, before you filed your testimony, this
3 summary, since you wrote in your prefile about -- and Jody
4 Jones, as did Mr. Kimball -- comparing the Kibby and
5 Black Nubble projects in terms of ecological or scenic
6 impacts, did you actually compare, for example, scenic
7 distances -- since distances is one of the variables --
8 that you could so certain things between the Kibby project
9 and the Black Nubble project, for example, view distance
10 from the Maine Scenic Highway?

11 A. I guess I'm not -- I'm sorry.

12 Q. Sure, I'll ask it again. In the interest of time I'll
13 show you an exhibit --

14 MR. THALER: Sarah, if you could give it to the
15 intervenors.

16 Q. -- Ms. Vissering, this is a simple bar chart because I'm
17 a simple guy. From your view impact assessment, Page 15,
18 the view distance from the Maine Scenic Highway and byway
19 for Kibby is 1.5 miles, and Black Nubble is 8 miles.

20 Were you aware of that before you filed your
21 testimony?

22 A. Well, of course, in reviewing this project -- although I
23 looked at views from the scenic highway generally, it was
24 not a focus of my assessments in this particular case.

25 I certainly -- well, I certainly looked at the views

1 from the scenic highway, although the distance was -- it's
 2 an important thing to identify but it is not something
 3 that I made any comparative analysis on.
 4 Q. Same thing with respect to view distance from the surface
 5 water body, Chain of Ponds, at Kibby is 1.9 miles away
 6 from the wind farm and that has some camps where people
 7 live, correct, on it?
 8 A. Is blue Kibby --
 9 Q. Blue is Kibby.
 10 A. -- from a distance of the surface water body, so that
 11 would be Chain of Ponds, and distance from -- yes, and
 12 from -- so I presume --
 13 Q. The red is Black Nubble and it's about three times further
 14 from -- 2.5 times further for Black Nubble.
 15 A. And what water body is that?
 16 Q. From Black Nubble?
 17 A. Yes.
 18 Q. Do you know what the nearest water body is?
 19 A. I don't.
 20 Q. You looked at a public rest area that people use
 21 frequently, it's on the scenic byway?
 22 A. Right. The Sarampus Falls rest area, yes.
 23 Q. Did you ever look at how close a public rest area would be
 24 that people would use on a scenic highway or byway to
 25 Black Nubble?

1 A. Oh, now here's a very good example of the problem with
 2 your analysis.
 3 The Sarampus Falls rest area, when you look at that,
 4 is in close proximity of the project, but you can see
 5 probably at most four turbines behind trees.
 6 The big difference between that and looking at the
 7 entire project of Black Nubble from Saddleback Junior,
 8 from all of those other peaks I've mentioned, this is the
 9 problem with the numerical approach.
 10 It can work in very limited situations, but it's not
 11 meaningful as a form of visual assessment.
 12 Q. In terms of people driving in cars, people don't drive in
 13 cars up to Saddleback or Saddleback Junior, do they?
 14 A. No, but if you're driving by the Sarampus Falls rest area
 15 on Route 27, you're seeing behind the trees four turbines.
 16 That's a very different setting and a very different
 17 context. Those are important parts of the analysis, how
 18 much of the project do you see from what kind of setting.
 19 Of course, at Sarampus Falls you are in a car along a
 20 roadway as opposed to on a scenic trail. So I think these
 21 are the variables that need to be taken into account.
 22 THE CHAIR: Mr. Thaler, just so I'm clear, this
 23 chart -- is this something -- who made this up? Is this
 24 from -- did I understand this is out of prefiled testimony or
 25 what?

1 MR. THALER: No, it is not because it is -- we didn't
 2 put in anything about comparisons of Kibby in this project in
 3 our prefiled; however, the opposing intervenors did, so we're
 4 entitled to --
 5 THE CHAIR: No, no, I'm not arguing about -- I just
 6 want to know what the source of this -- where did this come
 7 from?
 8 MR. THALER: The view -- we prepared it based on data
 9 in the LURC record of the Kibby project and we can provide --
 10 and Marcia can provide -- I can give you the page references.
 11 THE CHAIR: That's fine. You prepared this chart. I
 12 thought you said it was prefiled testimony in the Kibby case.
 13 MR. THALER: No, not the chart. The information in
 14 the blue, that's from the report that she prepared. We were
 15 just trying to compare, since both intervenors are comparing
 16 projects, we were --
 17 THE CHAIR: Let's just make sure we keep both these
 18 projects as separate as we can, please.
 19 MR. THALER: Mr. Chairman, I agree; however, we're
 20 going to move in a moment to Ms. Jones, who repeatedly talked
 21 about the projects.
 22 THE CHAIR: I understand. I've read all the
 23 testimony -- at least I tried to. So I understand that and
 24 it's fair game.
 25 MR. THALER: As you said, the door was open and I

1 unfortunately have to go through it.
 2 THE CHAIR: Don't confuse us any more than we already
 3 are.
 4 MR. THALER: I will try not to.
 5 I'm going to move on to Ms. Jones.
 6 EXAMINATION OF JODY JONES
 7 BY MR. THALER:
 8 Q. Jody, would you agree that the revised project has reduced
 9 ecological impacts compared to the two-mountain only
 10 project?
 11 A. Yes.
 12 Q. You had some testimony about bats and impacts on bats.
 13 Last summer when I was questioning you, you told me that
 14 you're not a bat biologist; is that correct?
 15 A. That's correct, I don't think we really have a bat
 16 biologist in Maine.
 17 Q. You haven't become one since last summer I take it?
 18 A. No, I haven't.
 19 Q. You also had testimony about -- and you have attached to
 20 your testimony, or certainly have seen it on the Audubon
 21 website, Turbine 9 at Mars Hill.
 22 Is it your testimony that you provided that to LURC
 23 because it's your understanding that the amount of
 24 clearing that would be done in the Black Nubble project,
 25 turbine pads, is the same that was done at Turbine 9 on

1 Mars Hill?

2 A. No, I think my testimony articulated that there's a wide
3 range of opinion about how much clearing would be required
4 for various types of turbines and various types of
5 settings.

6 The National Academy of Sciences report indicates
7 there's sort of an unresolved issue with regard to
8 estimates for clearing before a project is built and then
9 after.

10 That was sort of a part of what it was included in.

11 Q. You also talk about, in your testimony, as did
12 Mr. Kimball, about the issue of the contiguous
13 unfragmented roadless area; do you recall that?

14 A. Yes.

15 Q. You recall that Dr. Publicover, last summer, said that
16 Black Nubble was not part of that unfragmented roadless
17 contiguous forest. Do you disagree with Dr. Publicover?

18 A. I would refer questions about that to Dr. Kimball.

19 Q. You have it in your testimony.

20 A. I think in discussing this with Dave and Ken, the issue
21 about the survival school, the wilderness survival school,
22 indicated that 12,000 acres that's adjacent to the
23 Black Nubble project does have a road through it, but the
24 road is gated and doesn't have high traffic volumes and
25 functions much better as a wilderness area, so

1 Dr. Kimball's figure on that adjacent to the Black Nubble
2 project should be considered.

3 Q. This was Dr. Publicover's description last summer of his
4 testimony where the unfragmented habitat was and he showed
5 where Black Nubble is.

6 Would you agree that that shows Black Nubble outside
7 of what AMC testified last summer?

8 A. Yes, it does.

9 Q. In terms of -- let's move to bird issues for a moment.

10 You described the National Academy of Sciences report
11 as the most comprehensive evaluation on wind power impacts
12 on various species and natural resources, generally;
13 correct?

14 A. Right.

15 Q. Are you aware that in the National Academy of Sciences
16 report, they use pretty much the same table as the GAO
17 report, you and I talked about last summer, which shows
18 that generally per turbine nationally bird mortality is
19 approximately anywhere from zero to four or five birds per
20 turbine per year with the exception of the one in
21 West Virginia?

22 A. That's right. I think that the -- there's been
23 highlighted also in this report an indication that the
24 bird and bat issues are likely to be higher concern along
25 the eastern parts than they had been on the western part.

1 Bird and bats, the migration patterns are essentially
2 lower in western states. The primary concern is that
3 migratory species out there are raptors, not that they're
4 not a concern here as well.

5 Because there are so few turbines that rise into the
6 level of the migratory pathway yet built here, that's why
7 we're concerned about pre-construction study and post
8 construction study for wind turbines.

9 Q. Jody, I'm going to show you some pages of your exhibit
10 from the National Research Council, National Academy
11 Sciences report, and directing your attention to Page 51.
12 In your prefiled testimony you wrote that there was a
13 great deal of uncertainty about the magnitude of bird
14 impacts.

15 Isn't it true that the National Academy of Sciences
16 report said that there are literally hundreds and hundreds
17 of millions of birds killed each year through a variety of
18 human structures and other means so that actually
19 according to Erickson, the total accumulative bird
20 mortality in the US may easily approach a billion birds
21 per year?

22 So if we're talking five or six birds per turbine at
23 Black Nubble per year, five times 18 is 90, wouldn't you
24 agree that that would be an absolutely minuscule amount
25 with no impact on the viability of any of the bird

1 populations?

2 A. Well, the page before that, Jeff, talks about putting
3 those birds in context, it discusses the fact that 20 bald
4 eagles are very different than 2000 or 200,000 -- actually
5 I think they use 100,000.

6 It depends on the species is basically what the page
7 before talks about. It tells you that we should take
8 those estimates with a great deal of caution because we
9 need to have region-wide surveys and we need to have
10 species-specific surveys, and we really need to take those
11 into context.

12 Q. The next page is the table that you and I were just
13 talking about, just for the record, which was also in the
14 federal government's report and is now in the National
15 Academy of Sciences report about regional and overall bird
16 and raptor mortality; is that correct?

17 A. That's correct.

18 Q. In the interest of time, would you agree that climate
19 change is having an extremely negative impact on many bird
20 species?

21 A. Yes, I would, Jeff.

22 Q. Including Bicknell's thrush?

23 A. Yes, we're very concerned about that, which is why we want
24 to keep the most critical habitat above -- at the highest
25 elevations with documented occurrences protected.

- 1 Q. Maine Audubon, since I left, it has now become part of
2 National Audubon Society; is that correct?
- 3 A. We are affiliated with National Audubon Society.
- 4 Q. Are you aware that National Audubon Society has stated
5 that we need to have a great deal more wind power in this
6 country because of the habitat concerns from climate
7 change?
- 8 A. Yeah, I think Maine Audubon agrees with that, too. We
9 supported 180 megawatts of power in the state of Maine.
- 10 Q. One of those areas is the Kibby project that you talk
11 about in your testimony; is that right?
- 12 A. That's right.
- 13 Q. I guess I'll ask you the same question that I asked
14 Ms. Vissering.
- 15 Before you prepared your testimony in this case, in
16 the Black Nubble case, did you take a look at the
17 different natural resource impacts, such as wetlands or
18 rare species or things like that, putting aside scenic --
19 I know you're not a scenic expert -- but did you compare
20 some of the natural resource impacts of the two projects?
- 21 A. We've been working -- Maine Audubon's been working with
22 TransCanada for months trying to make sure that they
23 address all of the concerns that we have -- that we had --
24 and recognizing that not all impacts are created equal.
25 We spent a lot of time with the folks at TransCanada,

- 1 particularly on Bicknell's thrush issues and a variety of
2 issues, to try to assure -- the decommissioning was
3 another aspect of it -- to try to assure that they
4 addressed all our concerns to the greatest extent and
5 that's where --.
- 6 So, yes, I had a lot of contact with the TransCanada
7 folks before I submitted this testimony.
- 8 MR. THALER: Let me just, Mr. Chairman, pass out two
9 Exhibits. These are again bar charts that we prepared in our
10 prefiled, but they compare certain impacts between Kibby and
11 Black Nubble wind farms.
- 12 Q. The first one, Jody, that I'm going to ask you about has
13 three comparisons: Acres to serve without T line, acres
14 of T lines, numbers wetlands crossed by T lines. Do you
15 have that one?
- 16 Were you aware, Jody, before you filed your testimony
17 in this proceeding that the Kibby project has
18 approximately four times as much acres of disturbance with
19 or without transmission lines?
- 20 A. Yeah, like I said, we were focused on the protected
21 mountain area. We were trying to get the highest level of
22 concerns because not all impacts are created equal, like I
23 said.
- 24 Q. I understand. Were you aware --
- 25 A. I know --

- 1 Q. Were you aware that there were three S-2 imperiled plant
2 species within the project at Kibby, whereas there are
3 zero at Black Nubble?
- 4 A. Yes.
- 5 MS. BROWNE: Mr. Chair --
- 6 THE CHAIR: Let Jeff finish. Your intervenors have
7 already introduced all this stuff into evidence by their
8 testimony, so I think it's fair game that we talk about it.
- 9 MS. BROWNE: It's just with respect to the exhibit.
- 10 MR. THALER: All of the figures on the exhibit for
11 Kibby are contained in their application and the data is in
12 their application.
- 13 Q. Were you aware, Ms. Jones, that the amount of 150-kV
14 transmission line, miles of new roads were multiple times
15 greater than Black Nubble?
- 16 A. I knew the transmission line was longer and was likely to
17 have a greater number of acres. I don't think I was aware
18 of the exact ratio.
- 19 Q. Were you also aware of the number of wetlands crossed by
20 the transmission line to be permanently filled being
21 substantially greater at Kibby than Black Nubble?
- 22 A. Yes.
- 23 Q. Let me just ask you quickly, again in the interest of
24 time, you talked about Bicknell's thrush earlier and sort
25 of the mating habits of young teenage Bicknell's thrush,

- 1 and I have to -- I dealt with my insurance premiums going
2 up over the years myself.
- 3 Do you agree with -- strike that.
- 4 Do you disagree with what IF & W said this morning
5 about the fact that there are substantially more male
6 Bicknell's thrush in the area than female?
- 7 A. Yes. Bicknell's thrush have a really interesting breeding
8 strategy. They're polyandry, which means that there's
9 more -- females mate with multiple males.
- 10 It's a very rare breeding strategy, actually, in the
11 bird world. I think there's only one other species that
12 does that in North America. People have tried to figure
13 out why Bicknell's thrush actually does this and there's
14 been --
- 15 Q. Has anybody interviewed them to ask?
- 16 A. Good question. But -- so the way it works because the
17 Bicknell's thrush breed in a very cold harsh environment,
18 the females have a much smaller territory and the males
19 have a much larger territory.
- 20 The male participates in feeding the young, and
21 multiple males actually help feed the young of a single
22 nest. It's been hypothesized that that strategy is
23 necessary in order to assure the young's survival.
- 24 So I think that Tom Hodgman's concern about aerial
25 collision and what it might do to the population is valid

1 and that we don't really have a surplus of males
 2 expendable, because they are -- they participate not just
 3 in fertilization, but they also participate in feeding the
 4 young.
 5 There's a question about how -- when this comes into
 6 frame, more or less, and when foraging is low there's not
 7 much provision for the young. It makes it more critical.
 8 Q. Let me just ask again --
 9 THE CHAIR: You've got one minute.
 10 MR. THALER: Could I just ask, Mr. Chairman, because
 11 Bill went 5 minutes over.
 12 THE CHAIR: I think you need to -- since these
 13 charts, just for the record, would you please state the
 14 capacity of each one of these wind farms so that we have the
 15 right context for these?
 16 MR. THALER: 54 megawatts for Black Nubble and
 17 Juliet, for Kibby, is 100-and --
 18 MS. BROWNE: -32.
 19 THE CHAIR: So there is a substantial difference in
 20 the size.
 21 MR. THALER: There is, about 2.5 or so.
 22 MS. BROWNE: Mr. Chairman, just for the record I
 23 object to these exhibits. They're information about the Kibby
 24 project and it's flat out incorrect.
 25 And if the applicant here wants to introduce evidence

1 about the Kibby project, they need to do it through a witness,
 2 not through a document that we don't even know who prepared it,
 3 it's presented by counsel.
 4 So I am -- I object to this. I think it's
 5 inappropriate and it's also wrong.
 6 MR. THALER: Do you want me to respond now or wait
 7 until I get done?
 8 THE CHAIR: You've got to wrap up here, Jeff.
 9 MR. THALER: I agree.
 10 THE CHAIR: Give me a couple of minutes just to sort
 11 all this out.
 12 Please go ahead expeditiously.
 13 EXAMINATION OF J. T. HORN
 14 BY MR. THALER:
 15 Q. Mr. Horn, you, in your testimony, mentioned Burnt Jacket
 16 and used that as an example of how the Commission deals
 17 with the issue of adjacency or remoteness, things like
 18 that?
 19 A. Yes, I did.
 20 Q. Are you aware that Burnt Jacket was not a D-PD rezoning
 21 issue?
 22 A. Yes, I am.
 23 Q. Are you also aware that the CLUP defines fringe? Have you
 24 ever looked at the definition of fringe?
 25 A. Yes, some time ago. I'm familiar with the way it's used

1 in the CLUP.
 2 Q. And it's defined as being -- are you aware that LURC
 3 defines whether something is on the fringe as to whether
 4 it's in a township or part of the unorganized territory
 5 adjacent to a town?
 6 A. Yes, I believe the Burnt Jacket decision talked about
 7 adjacency in other contexts as well.
 8 Q. I'm just asking about fringe. Do you agree that the
 9 Black Nubble project is located adjacent to the Town of
 10 Carrabassett Valley?
 11 A. Redington Township is adjacent to Carrabassett Valley,
 12 yes.
 13 Q. You also talked about multiple federal resources -- the
 14 Appalachian Trail, the SERE facility, scenic byways --
 15 being in the area; do you recall that?
 16 A. I do.
 17 Q. Were you aware that US Fish & Wildlife, the Army Corps,
 18 the FAA have reviewed this project?
 19 A. I would assume that they have, yes.
 20 Q. Were you here yesterday when the testimony provided that
 21 both the United States Army Corps and -- has issued a
 22 permit but then before was issued the application was
 23 reviewed by the US Fish & Wildlife and EPA?
 24 A. I'm familiar with that. I think you're taking my comment
 25 out of context. My comments were in relationship to best

1 available site.
 2 MR. THALER: Mr. Chairman, I'm just going to ask one
 3 or two more questions to conclude -- one question.
 4 Q. Mr. Horn, we talked about this briefly last summer, but I
 5 believe last night in public comment somebody talked about
 6 spending two days hiking up on the trail during beautiful
 7 weather and seeing a total of six hikers.
 8 Is it true that over the course of the year the
 9 number of through hikers going through this area has been
 10 declining and that last year, 2006, for people who started
 11 and finished in the same year was under 400 people over
 12 the course of the year?
 13 A. That sounds about right, but it's a very small percentage
 14 of the total visitation.
 15 MR. THALER: That was my one question. We did not,
 16 in our prefiled, discuss the Kibby project at all, and had the
 17 opposing intervenors not brought it up and made explicit
 18 arguments about it, I would not have been bringing it up today.
 19 As a matter of due process, we're entitled to respond
 20 to arguments that they made, and they asserted that Kibby had
 21 fewer impacts on this project, and we're entitled to challenge
 22 that using data in, for example, one of the consultants for
 23 TransCanada who's supporting that project and opposing us.
 24 We can move from the Kibby file to the Maine Mountain
 25 Power file, the application or the relevant portions of that,

1 including the view impact assessment, but I think it's
2 perfectly fair, and if TransCanada wants to, they have the
3 opportunity after this hearing to file comments.

4 If we're so wrong, they can certainly show us where
5 we're so wrong from their materials.

6 MS. BROWNE: Mr. Chair, he's certainly entitled to
7 ask about that. My concern is that he has also attempted to
8 introduce into the record a document that purports to
9 characterize another project in another proceeding.

10 If he thinks -- if he wants to introduce evidence on
11 the Kibby project, he needs to do it through a witness, who's
12 subject to cross-examination.

13 My concern is this exhibit -- I'm particularly
14 concerned, because among other things, the permanent wetland
15 impacts are wrong.

16 There's no legal basis for this document to come in.

17 THE CHAIR: Upon advice we will allow the exhibit to
18 be in the record, and it is not part of the -- any part of the
19 Kibby proceeding and that obviously you have the right to --
20 Juliet has the right to file her objections and note them for
21 the record, which they already are, but I'm sure she wants to
22 do it in writing and point out the error of the information
23 that's in those exhibits.

24 MR. THALER: She probably does.

25 THE CHAIR: We certainly would welcome that

1 correction, if there is one to be made.

2 MR. THALER: Thank you, Mr. Chairman. And I guess
3 just again for the record I'll move the other exhibits that we
4 were showing, the National Academy of Sciences report, and I
5 think there were just one or two others. Thank you.

6 THE CHAIR: You're done.

7 MR. THALER: I am done, done. Thank you.

8 (There was a break in the hearing at 2:55 p.m. and
9 the hearing resumed at 3:10 p.m.)

10 MR. DIDISHEIM: For the record, I'm Pete Didisheim,
11 Natural Resources Council of Maine. My first questions will be
12 to Maine Audubon, to Jody Jones.

13 EXAMINATION OF JODY JONES

14 BY MR. DIDISHEIM:

15 Q. Jody, in testimony last summer Dave Publicover cited
16 Redington Pond Range 32 times as a significant natural
17 resource that relies on recreational values, but he didn't
18 mention Black Nubble except for one time.

19 On Page 1 of your testimony you say that, "the values
20 associated with Redington are nearly identical to the
21 values associated with Black Nubble."

22 How do you reconcile your statement with Dave
23 Publicover's now?

24 A. I would say my opinion is relative value. I think the
25 biggest difference has to do with the northern bog lemming

1 not being at the site. My testimony had to do -- the
2 nearly identical qualifier there had to do with that.

3 Q. But David Publicover's comments, which are attached to my
4 testimony, speak about wildlife issues, bird issues, and
5 specific -- Bicknell's thrush specifically, S-3
6 population, forested, the type of forest, the roadless
7 areas, unfragmented forests. He didn't just focus on bog
8 lemmings.

9 Could you please elaborate further why a member of
10 your consolidated intervenor group testified 32 times
11 about Redington in particular and only once about
12 Black Nubble?

13 A. Well, I guess my response to that is we looked at
14 Black Nubble more closely this time around than we did the
15 last time around because we had very limited time to
16 present our case last year, and we focused on the area
17 that had the highest impacts.

18 Q. So you believe that they have identical values?

19 A. No, I don't; I said nearly identical values.

20 Q. Which is 90 percent?

21 A. I don't know if I could estimate it as a percentage.

22 Q. During the cross-examination, you're aware of Dave
23 Publicover's comments last year that he specifically said
24 that he was talking about Redington Mountain in all 32 of
25 those passages and was not considering Black Nubble as

1 part of that; right?

2 A. That's correct, I'm aware that that's what he said.

3 Q. Your testimony states that there are 18 species of concern
4 at the Black Nubble site. Yesterday Steve Pelletier
5 testified under oath that only four such species have been
6 observed in the D-PD zone.

7 Do you have evidence that contradicts that?

8 A. No; I think that Steve Pelletier's testimony -- which I
9 really appreciated -- was that that's sort of a desk
10 analysis of what's likely to occur based on the habitat
11 type, and the surveys that they do pursuant to that are
12 focused on the species most at risk for impacts.

13 And so that they don't evaluate for all the species
14 because that would probably be too expensive, but he
15 recognized that there was likely, based on the habitat
16 qualities there, that they would exist somewhere in the
17 project area.

18 Q. Do you have any evidence or can you substantiate that
19 there are 18 species of concern, that there are risks to
20 those 18 species?

21 A. My -- I don't have independent evidence of that. No, I am
22 just depending on the Woodlot Alternatives' report that
23 indicated they are likely to occur there.

24 In terms of the impact, I think the -- what I would
25 like to point out is that commercial wind power facilities

1 with the roads and the blasting and the turbines and
2 whatnot all have the impacts associated with development:
3 Disturbance and invasive species, the ones that I
4 outlined.

5 It's a degradation of habitat quality in general for
6 wildlife.

7 Q. You have said that the applicant -- that this application
8 was about blowing the top off of Black Nubble.

9 Do you have any substantiation of what you mean by
10 that in terms of dramatic and fundamental change of the
11 contour of the mountain?

12 A. Was that in a press release? Can you identify where I
13 said it?

14 Q. It's in an Action Alert by Maine Audubon, it's in press
15 statements.

16 A. Right, right. I guess what I would characterize it as is
17 that --

18 THE CHAIR: Yeah, but is it in the testimony? Is it
19 in her written testimony?

20 THE WITNESS: No, I don't believe it is.

21 THE CHAIR: I'm not sure -- I don't think we should
22 be asking questions about press releases.

23 MR. DIDISHEIM: It's in a media story, but I don't
24 have copies of it.

25 THE CHAIR: Then don't ask the question, I guess.

1 BY MR. DIDISHEIM:

2 Q. Your panel -- someone on your panel, I think it may have
3 been AMC's testimony, said that there's only 5 percent of
4 Maine's forest late successional stand.

5 What your definition of late successional?

6 A. My definition?

7 Q. Yeah, I know that Maine Audubon --

8 A. I don't believe I'm prepared to answer that. I would
9 probably depend on my forester, Rob Ray. We worked
10 collaboratively with AMC on that.

11 Q. You're aware that LURC has issued a substantial number of
12 permits for timber harvesting in P-MA zones; correct?

13 A. Yes, I am.

14 Q. And that timber harvesting involves at least 321 acres of
15 forestland above 2700 feet; correct?

16 A. I would trust you on that, Pete.

17 Q. Among that is based on the data that's in the record, 4550
18 acres of Redington Township alone. I'd like to ask, has
19 Audubon taken any position to intervene in any of those
20 permits, including the one that involved 1900 acres cut on
21 Black Nubble with mature stands of 80-plus-year-old trees?

22 A. When we decide to take a stand on any particular issue, we
23 have to go through sort of an assessment of statewide
24 significance and impacts and precedent setting issues.

25 At this point that hasn't reached that level. No, we

1 haven't taken a stand on that.

2 Q. Do you know whether those 1900 acres that were cut
3 involved harvesting any of the S-3 community type?

4 A. I don't know. Actually, when I went up there, it's likely
5 that some of it might have, yeah.

6 Q. Do you have an estimate of the number of acres --

7 A. No.

8 Q. -- that may have occurred in the timber harvest?

9 A. No.

10 Q. What's the total --

11 A. But, I would point out that forest activities, that is a
12 renewable resource, it's not a permanent change in the
13 landscape the way a wind farm is.

14 Q. Would cutting down 80-plus-year-old trees cause
15 significant wildlife impacts potentially?

16 A. Probably would, yes.

17 Q. Probably would. But you didn't take any action to express
18 concerns about that timber harvesting?

19 A. Not for that renewable type of activity, no.

20 Q. We heard from the agency representative from IF & W this
21 morning about their position in terms of threats to the
22 Bicknell's thrush, specifically on Black Nubble, as a
23 result of this project, and I'd like -- and we were told
24 that in their opinion it is not an undue adverse impact.

25 Do you disagree with IF & W on this?

1 A. I do.

2 Q. You mentioned that there are invasive species that pose
3 threats to Bicknell's thrush. What are those invasive
4 species?

5 A. I don't have those off the top of my head. I can get
6 that.

7 Q. Is that one of the reasons why you disagree with Inland
8 Fish & Wildlife?

9 A. My testimony is that I think that the degradation of the
10 habitat due to some of these types of activities have not
11 been fully evaluated.

12 So, yes, that's part of the reason. Another part is
13 the collision risk.

14 Q. You're aware that there's 336,373 acres of Bicknell's
15 thrush habitat as estimated in the scientific literature;
16 correct?

17 A. For the north -- that's a predicted model of -- yes, I am.
18 For the entire northeast, for the endemic species, that
19 occurs nowhere else in the world but here.

20 Q. You're also aware that the total potential loss of habitat
21 on Black Nubble as a result of this project is 84 acres of
22 cleared habitat?

23 A. Something like that. Is that true? Something like that,
24 yes.

25 Q. So that would be .02 percent of US modelled estimated

1 Bicknell's thrush habitat?

2 A. Yes. And in the National Academy of Sciences report, they
3 indicated that species limited ranges and high mountaintop
4 ridges that they would have a disproportionate -- that
5 activities in this area would have a disproportionate
6 impact on populations, and there's also the cumulative
7 impact associated with siting projects.

8 One of my concerns about this project is it would set
9 the bar too low and allow other projects to be sited
10 inappropriately in Bicknell's thrush habitat.

11 MR. DIDISHEIM: Okay, that's my questions for
12 Audubon.

13 I would to ask Ken Kimball --

14 THE CHAIR: Peter, please put the mic -- we're losing
15 you.

16 EXAMINATION OF KENNETH KIMBALL

17 BY MR. DIDISHEIM:

18 Q. Ken, I'm going to ask a similar question of you.

19 You're aware that Dave Publicover's testimony
20 included 32 passages specifically referring to Redington
21 Pond Range in his testimony last summer about the natural
22 resource recreational ecological values?

23 Do you believe that testimony is accurate?

24 A. As stated it's accurate, but it's also misrepresented the
25 way that you're putting it forward.

1 I would like to point out that I think AMC, like NRCM
2 or any other group that takes on an issue, has to pick and
3 choose how your resources are going to go.

4 We recognized that Redington was the highest of the
5 two mountains there, highest value resources, and we did a
6 site visit there. We did not do a site visit at that time
7 on Black Nubble.

8 It's also true that on Black Nubble at that time --
9 and it was in the summer -- it wasn't clear that the Maine
10 Natural Areas -- actually, when we did the site visit this
11 year, we took a look at that forest and we recognized it
12 really had the potential to be classified as old growth.

13 The Maine Natural Areas program has classified it as
14 such. There was a bunch of new data that came out in the
15 course of the summer. As we took a look at that and look
16 in the juxtaposition of SERE property, and so forth, we
17 recognized that the resource values here are extremely
18 high.

19 But to simply cite those numbers -- because we did
20 not spend a lot of time on Black Nubble and we did spend a
21 lot of time on Redington -- in my testimony, that we took
22 Black Nubble to be irrelevant is just simply a
23 misrepresentation.

24 Q. In cross-examination Dave Publicover, when asked whether
25 the Black Nubble-only project would have significantly

1 reduced environmental impacts, he said, yes, it would have
2 significantly reduced environmental impacts.

3 Do you believe that that was an accurate statement?

4 A. At that time Dave was missing two pieces of information
5 which we have right now, which is what I just repeated.

6 It's interesting that you could send a biologist out
7 to find Bicknell's thrush quickly, whereas the applicant
8 took years and couldn't find it, and the applicant didn't
9 recognize or put forward the potential for the summit to
10 be actually recognized as a Maine Natural Areas area also
11 caught us by surprise.

12 MR. DIDISHEIM: I think I have no more questions for
13 AMC. Moving down the line to Jean Vissering.

14 EXAMINATION OF JEAN VISSERING

15 BY MR. DIDISHEIM:

16 Q. Jean, I just want to be clear that I understand which
17 portions of the AT you have been to between Route 4 and
18 27.

19 I know you gave a little bit of information in
20 response to a question earlier on the record, but it
21 wasn't quite clear how much of the AT you have visited?

22 A. I visited twice, once in the winter when I went up to
23 Saddleback Junior and up to Mount Abraham, and I spent a
24 May 2nd visit, in which I went back to Saddleback Junior
25 but also up to -- from the Carrabassett Valley up to

1 Sugarloaf Cirque and then up to the summit of Sugarloaf
2 Mountain.

3 Q. You've said for the record that you've received photos
4 from the ATC or MATC for the basis of your analysis for
5 those areas that you didn't personally visit?

6 A. Yes. I visited most of the areas that have the extensive
7 alpine areas, which are considered to be some of the most
8 critical viewpoints; I did not visit -- I did not visit
9 The Horn, for example, but I had people take photographs
10 at the correct focal length, and so I was able to use
11 those photographs to get a pretty good sense of what the
12 landscape is like and how the mountains appear from that
13 perspective.

14 Q. Now, a visual impact analysis is attempting to understand
15 the expectation of the visitor; is that correct?

16 A. It does -- well, a couple -- that is one aspect of it.
17 The expectation of the visitor, I actually rely, as I
18 said, on documented evidence of some concern about a
19 resource and some evidence, for example, of what that
20 particular concern is.

21 So that viewer expectation came to me as both some of
22 the documentation of the trail generally but also
23 specifically identified in State and federal documents.

24 The critical part of a visual impact assessment is to
25 understand what are the characteristics of this landscape.

1 Within the characteristic landscape, what are the things
2 that really contribute to the scenic quality, assuming
3 there is scenic quality, which in some landscapes it can
4 be fairly moderate and in some cases it's very highly
5 scenic.

6 There are particular aspects of those that
7 contribute. But there are variables, which I described in
8 my presentation, that contribute to the scenic quality and
9 aspects that detract from the scenic quality.

10 So understanding and then understanding how a
11 particular project's site will be seen from identified
12 scenic viewpoints.

13 So my role is to go to the most scenic viewpoint that
14 are of the most highest and most sensitive viewpoints and
15 determine how the project would appear.

16 Q. One of those very scenic viewpoints is Sugarloaf Cirque
17 where you're looking straight across the valley at
18 Redington.

19 What's the current visual impact of the project from
20 the long stretch there at Sugarloaf Cirque?

21 A. Right now the project would not be visible from Sugarloaf
22 Cirque.

23 Q. Before the reconfigured project, is it not correct that
24 probably all 18 turbines, the majority of them, would have
25 been visible from this stretch?

1 A. Yes, that's correct.

2 Q. Is there any portion along the Appalachian Trail that
3 you're aware of where the hiker is this close for an
4 extended period to turbines as would have been the case
5 with the original project?

6 A. For an extended period?

7 Q. This is --

8 A. If we're looking at just that particular -- that probably
9 was one of the closest viewpoints for an extended period,
10 yeah, it was no longer than, for example, up on Saddleback
11 Junior, some of the other summits.

12 Q. But closer?

13 A. It certainly was closer.

14 Q. And the project has disappeared from this site?

15 A. It has.

16 Q. Were you here this morning when Erik Crews was testifying?

17 A. I was.

18 Q. It was clear in his testimony, was it not, that the
19 visualization he did from the top of Sugarloaf Mountain
20 eliminated all structures, cell towers.

21 What do you think about that?

22 A. I thought his representation was quite good. I had a
23 photograph that I included in my last presentation from
24 Sugarloaf Mountain. I was up there, and as I pointed out,
25 it is probably the -- in terms of foreground views,

1 certainly one -- the viewpoint when you come up to the
2 summit, you have entered another world, clearly.

3 The views are really quite undisturbed except for
4 that very little bit of foreground.

5 Of course we do have a different expectation going up
6 to the top of a ski area than you do hiking along the
7 Appalachian Trail.

8 I thought it was absolutely appropriate to do a
9 simulation. I don't think that he could have in the -- A,
10 he couldn't have put all those variables. Those variables
11 are not part of that view. You're standing there, you're
12 looking across the valley.

13 There is nothing in the foreground except that if you
14 look over this way, where you see the ski lift, you look
15 over that way -- I'm assuming you're at Black Nubble right
16 now -- if you look over that way, there's the shelter.
17 You turn around a little further, and there's huge radio
18 towers. And then there's really not a whole lot else in
19 terms of development up there.

20 Those shots were a little misrepresentative this
21 morning.

22 Q. You're aware that there's a humming building up there?

23 A. I don't remember it humming that much. It was not part --
24 there is noise -- I don't deny that there are things up
25 there, but you have to understand, you've got a sweeping

1 view up there.

2 Few people, you certainly -- the buildings are
3 probably what I would describe to be as unfortunate for
4 the summit but they're there, they're part of that
5 context, but they are certainly -- you're also seeing this
6 fabulous landscape around there.

7 Q. Are you aware of any data in the literature that suggests
8 that the number of people that have hiked up to the top of
9 Sugarloaf Mountain, the second highest mountain in Maine,
10 has been reduced because they're surrounded by cell
11 towers, buildings, chair lifts, picnic tables?

12 A. That's interesting. In other words, they don't want to go
13 up there because of all that --

14 Q. Right --

15 A. Well, if I were to choose a mountain to hike to, I would
16 certainly not choose to go up to a mountain that had
17 development; I would choose a mountain with an undeveloped
18 alpine summit.

19 Q. That's you personally but we don't know --

20 A. Yeah, I think -- well, I think that a lot of people go up
21 to -- in fact, I went to the west side of the Saddleback
22 ski area. Just -- the views on the Saddleback ski area
23 website from the top of Saddleback ski area show this
24 absolutely gorgeous summit. That's the experience that
25 people have when they go up there.

1 I think that -- I mean, as I said, I think people
2 would choose -- I think that certainly people would choose
3 to go to an undeveloped summit where you'll have a natural
4 experience and beautiful views, which is part of our
5 concern with this project here.

6 MR. DIDISHEIM: Now I'm going to ask a few questions
7 of David Field.

8 EXAMINATION OF DAVID FIELD

9 BY MR. DIDISHEIM:

10 Q. David, your testimony has made quite clear -- both in your
11 written and oral -- that "the central issue in this case
12 is aesthetics, beauty."

13 I would like to show you an exhibit that includes
14 specific quotes in the record from individuals at the
15 public hearing last summer, and this is just seven or
16 eight quotes of individuals who all believe that wind
17 power is beautiful, wind turbines are beautiful, and that
18 they would not object to them in these mountains.

19 Is your testimony asking LURC to choose one person's
20 sense of beauty over another's?

21 A. As I responded, clearly there are differences in value
22 judgments of folks out there. My belief based on talking
23 to a lot of folks, reading letters to the editor
24 Appalachian Journey, certainly testimony last year from
25 everybody -- not just this cherry picked crew -- is that

1 the majority of those -- the great majority of those who
2 hike the Appalachian Trail do not think windmills are
3 beautiful.

4 Certainly you can find folks who believe that they
5 are. There's almost a religious zeal for wind power.
6 It's interesting that many of the folks who have expressed
7 this apparently have never set foot on the viewpoints that
8 I've shown you. This is motherhood and apple pie. Global
9 warming is a disaster, we're convinced of that, anything
10 we can deal with it is fine.

11 A page of folks -- no. What's the point? Sure, you
12 can get a page full of folks who think windmills are
13 beautiful, so what.

14 Q. Your testimony said that this is about beauty?

15 A. Exactly.

16 Q. And you are representing --

17 A. Clearly I am talking about scenic beauty of an undisturbed
18 landscape.

19 Q. And I'm just making the obvious point that it's difficult
20 to adjudicate beauty?

21 A. As you say, it's an obvious point.

22 Q. As you know from prefiled testimony, there's public
23 opinion surveys that show that 85 percent of Maine's
24 citizens strongly support wind power development.

25 Do you believe that your arguments in support of --

1 in opposition of this project trump the 85 percent
2 majority?

3 A. I'm among the 85 percent. I support wind power
4 development. Not on this site for this project in this
5 area.

6 Q. Is it correct that you've been maintaining this stretch of
7 the AT for 50 years between The Horn and Orbeton Stream?

8 A. Between Saddleback summit and Orbeton Stream for most of
9 those years. Between The Horn and Orbeton Stream now.

10 Q. So you have a very personal attachment to this stretch?
11 You've been up here a lot?

12 A. Sure. It's my home area also. I first climbed the
13 mountain in '51.

14 Q. And you're aware that there are many days on Black Nubble
15 across the whole Appalachian Trail that are quite hazy; is
16 that correct?

17 A. Well, there are the turkeys exuded by the conifers in the
18 area, there's the air pollution from the automobiles down
19 in Boston, New York, Philadelphia that drifts up this way.
20 Yep.

21 Q. This is a --

22 A. And it's varied a great deal over the 50 years.

23 Q. Has it gotten worse in the 50 years?

24 A. Not on average in my experience. It's changed.

25 Q. Were you here for the testimony yesterday from Cameron

1 Wake?

2 A. I was not.

3 Q. His testimony -- I'll just -- others on your team were
4 there.

5 I'll just explain that he described global warming on
6 the current emissions rate is probably going to quadruple
7 the number of poor air quality days in Maine, and he
8 clarified for the record that that probably means the
9 pollution that you've described as being the source of the
10 haze, in part, could result in a quadrupling of the haze
11 mix.

12 A. My point is that this particular project would have an
13 insignificant impact on regional air quality, and even if
14 a miracle occurred and it did, why would I want a clearer
15 view of what I'm looking at as a mountain ridge with
16 windmills?

17 Q. Are you aware of any project that will have a -- in and of
18 itself, that will have a significant impact on air
19 quality?

20 A. Any single project?

21 Q. Any single project.

22 A. No. There is a whole collection of projects, as I
23 testified, that are proposed for Maine. Once again, it's
24 the benefit and cost of the individual project. To me the
25 costs far outweigh the benefit of this specific one. I

- 1 would feel differently about others.
- 2 Q. And might those people at those other sites feel very
- 3 differently about this site, people that live near those
- 4 other sites think very differently about the one near
- 5 them, as opposed to --
- 6 A. So you're characterizing this as a "not in my backyard"
- 7 issue. I think that's a gross oversimplification.
- 8 The boundary mountain, the Kibby project is not in my
- 9 backyard, but I've fished and hunted and travelled in that
- 10 area for many, many years and I'm not opposing that.
- 11 Q. I've got one more exhibit to distribute. This is a
- 12 document sent out recently by the Appalachian Trail Club,
- 13 its members.
- 14 In the middle of this document, to all MATC members,
- 15 friends, there's a sentence that says, If we prevail now
- 16 and are able to stop what is called the Black Nubble-only
- 17 portion of the original wind power development, then it is
- 18 doubtful that subsequent developers will propose wind
- 19 power developments so close to the AT in Maine.
- 20 Would it be inaccurate to interpret this as a
- 21 position by MATC that you oppose wind power developers
- 22 coming within four miles of the Appalachian Trail?
- 23 A. I have no idea. I would have to see a proposal specific
- 24 to the landscape.
- 25 Q. But saying our goal is to establish a precedent that it

- 1 would send a signal to developers not to develop this
- 2 close to the Appalachian Trail, certainly communicates a
- 3 position of the organization?
- 4 A. Yeah, I didn't write this.
- 5 Q. You're representing the MATC here today; correct?
- 6 A. I am, that's correct, and I think your interpretation
- 7 probably is probably.
- 8 MR. DIDISHEIM: I think that is --
- 9 THE CHAIR: Are you close to getting wrapped up here,
- 10 Peter?
- 11 MR. DIDISHEIM: Yes, I think I will wrap up right
- 12 there.
- 13 THE CHAIR: Thank you. You guys can't go away yet.
- 14 I think we've got one more intervenor that wants to work you
- 15 over, is that true?
- 16 MR. MAHONEY: Good afternoon. My name is Sean
- 17 Mahoney. I'm with the Conservation Law Foundation.
- 18 I can start by saying, Ms. Vissering and luckily
- 19 Mr. Field, I don't have any questions for you. If you wanted
- 20 to sit down, I'll limit my questions to Dr. Kimball, Ms. Jones,
- 21 and Mr. Horn.
- 22 I'll start with Dr. Kimball.
- 23 EXAMINATION OF KENNETH KIMBALL
- 24 BY MR. MAHONEY:
- 25 Q. Dr. Kimball, you're not a climate scientist; correct?

- 1 A. Am I climate scientist, no; am I an ecologist, yes. We've
- 2 been studying alpine areas and the effects of climate on
- 3 them for the last 20 years, yes.
- 4 Q. So you have a doctorate in botany, you've been looking at
- 5 the effects on plants and ecology for the last 20 years on
- 6 mountain habitat; correct?
- 7 A. That's correct. We've mapped out the alpine vegetation on
- 8 Mount Katahdin, Franconia, the Presidential Range, and
- 9 we've been trying to understand the dynamics behind them.
- 10 Q. Thank you. So unlike Dr. Wake, who has a doctorate in
- 11 geochemical systems and studies regional climate and
- 12 environment change as part of the New Hampshire Climate
- 13 Change -- University of New Hampshire Climate Change
- 14 Project; correct?
- 15 A. Yes, that's correct.
- 16 Q. Your testimony, your direct testimony, or your prefiled
- 17 testimony, has no testimony concerning climate change;
- 18 correct?
- 19 A. That's correct.
- 20 Q. So your testimony today about climate change was rebuttal
- 21 testimony; is that correct?
- 22 A. That is correct.
- 23 Q. And rebuttal to what?
- 24 A. There was testimony both yesterday and today and actually
- 25 by Dr. Wake that went through and was presenting the

- 1 argument that the climate change impacts that we would
- 2 expect to see at low elevations were the same at upper
- 3 elevations.
- 4 Q. So the rebuttal testimony was to Dr. Wake's testimony.
- 5 Was it to any other testimony that was presented
- 6 yesterday?
- 7 A. No, I think that NRCM's expert witness presented that, and
- 8 I believe Mr. Pelletier did as well.
- 9 Q. NRCM's testimony hasn't come forward yet.
- 10 A. No, but I mean the stuff that was prefiled.
- 11 Q. But primarily is it with Dr. Wake that your testimony was
- 12 rebutting?
- 13 A. The only part that --
- 14 Q. That's a yes or no.
- 15 A. I would like to answer the question so that there's
- 16 clarity as to what is being said as opposed to --
- 17 Q. Sure, let me ask the question again. Was it Dr. Wake's
- 18 testimony that you were primarily responding to in your
- 19 testimony today concerning climate change?
- 20 A. I very tiny portion of it as I clarified earlier.
- 21 Q. That portion was what?
- 22 A. It was the potential impacts to the high elevation areas.
- 23 Q. Did Dr. Wake actually testify about that yesterday?
- 24 A. I believe that he went through and he discussed losing the
- 25 upper elevation spruce/fir.

- 1 Q. And your testimony today -- where in your testimony today
2 did you rebut the testimony about losing upper elevation
3 spruce/fir?
4 A. I think what I said a little bit earlier, and I'll give
5 you the full history of this --
6 Q. I have a very limited time -- actually, I have a lot of
7 time but I would like to keep it very short. If you would
8 just answer the questions that I ask.
9 A. Could you repeat that.
10 Q. Sure. Where in your testimony today did you rebut
11 Dr. Wake's testimony concerning spruce/fir forest impacts?
12 A. Let's clarify the term rebut first, because what I did
13 say -- and I think you have a copy of the stuff that I put
14 up there and there was a question mark behind it -- is
15 there's two hypotheses about what will happen on the upper
16 elevation.
17 One is that they will disappear, and the other
18 hypothesis is that they've actually shown the ability to
19 pass through these kinds of filters before post
20 ecoglaciation and they may be able to repeat that again.
21 That is what I think I said.
22 Q. Could you pull up your slides on the projector there so we
23 could use them? I do have them.
24 I think Slide 12 is where we started, if you could
25 start there. Slide 12 through 15 is where you address

- 1 climate issues.
2 Let me just ask about Slide 12 specifically.
3 The AMC website on the topic of wind power has the
4 following statement, and I quote, "AMC is committed to
5 promoting clean alternative energy sources to reduce air
6 pollution and to stop the demise of the region's alpine
7 ecosystems from climate change." That's the end of the
8 quote.
9 A. That is correct and this is the clarity that I wanted to
10 get to.
11 We started our project last year, and one of the
12 things we did was to go back through and mine the existing
13 data.
14 As we started to look at the data as we moved through
15 into this summer, and we're just finishing some of
16 analyses, we realized that some of the original hypotheses
17 that we had out there, which was the original hypothesis
18 we passed to NOAA, which was the one that Cameron Wake
19 presented yesterday, which was upper elevation spruce/fir
20 forests' response to lower elevation, as we looked at our
21 data, as we start coming out to the summer, we recognize
22 that there is a lot of stuff that's contradicting there.
23 We don't know the final answer. There's a lot of
24 evidence to suggest there's contradictions.
25 As I pointed here, when we look at the botanical

- 1 data, we realize that these have not responded the same
2 way to temperature as they did at lower elevations.
3 Q. We'll go through the slides. Let's talk about the Maine
4 goal of 10 percent; correct? Would you agree with me that
5 the goal of 10 percent is not the ceiling?
6 A. I would agree with you 100 percent.
7 Q. To be a 40-percent increase in renewable energy, that
8 would be a good thing and would help with addressing the
9 threat to alpine species and our habitat from global
10 warming; correct?
11 A. That's correct.
12 Q. Are you aware of any present proposals for renewable
13 projects other than wind in Maine?
14 A. I would have to say, because I'm not an expert in this
15 area but I do read it and do follow it and I would
16 emphasize that the AMC does support other renewables.
17 I think we also take the position that there is no
18 energy source that's entirely benign, but I would point
19 out -- I think you can just look at the Kibby project or
20 wind in general -- that the technology has changed
21 dramatically in a very short time frame.
22 A lot of emphasis on a lot of these other sources out
23 there, and it's not to say in the near distant future that
24 they may not come into play, and I think it's also true
25 that when you ask what you're going to sacrifice.

- 1 Q. I really don't mean to cut you off. You have the
2 opportunity to testify. I really do just want you to
3 answer the questions as I ask. There is a chance for
4 rebuttal after this. If you feel I'm cutting you short,
5 that can be taken care of then. It's limited time.
6 If you turn to Slide 13, this islands in the sky
7 theory or proposition --
8 A. Hypothesis.
9 Q. Hypothesis. What ongoing research suggests this
10 possibility of islands in the sky?
11 A. Well, I first point out that the alpine areas in the
12 eastern United States are extremely low, it's hard to
13 understand why.
14 No. 2, is when we mapped out where the tree line --
15 Q. I'm sorry. Can you just tell me what the ongoing research
16 is that supports the islands in the sky theory? It's a
17 simple question.
18 THE CHAIR: Mr. Mahoney, I'm not sure what
19 Mr. Plouffe is going to say, but I suspect that -- you're
20 getting into an incredible amount of stuff here that is not
21 particularly relevant to probably the decision we've got to
22 make.
23 I appreciate what you're trying to do here, you're
24 trying to present to us a picture of global warming and its
25 impacts, but I'm not lost in this discussion. It's gotten so

1 technical that I think you've lost me and you've probably lost
 2 the rest of the members of the Commission.
 3 You've got to be -- I'm not sure you're getting
 4 anywhere with us. That's all I'm trying to tell you.
 5 I don't know if that's what Mr. Plouffe's objection
 6 was but he may state it as well.
 7 MR. PLOUFFE: Mr. Chairman, there's that, and I would
 8 also -- this isn't the show Law and Order. This is an
 9 administrative hearing, and we're trying to get information
 10 from people.
 11 To be cutting off the witness who is trying to answer
 12 a question seems to me to be not in the spirit of what we're
 13 trying to do here.
 14 I would appreciate it if Dr. Kimball would be allowed
 15 to, within reason, respond to the question that's asked.
 16 THE CHAIR: I think I understand that as well.
 17 MR. MAHONEY: That's fine. I really was trying to be
 18 efficient.
 19 THE CHAIR: I appreciate, but, you know, please
 20 understand you're going in a direction that I'm not sure is
 21 helping your case or our deliberations in this.
 22 You've presented us an incredible amount of
 23 information on global warming, all of which is good
 24 information, but how it impacts on this decision is another
 25 matter that this Commission a going to have to decide on.

1 So just be guided by that, please.
 2 MR. MAHONEY: Thank you. I'll ask the question again
 3 and answer it as you wish.
 4 BY MR. MAHONEY:
 5 Q. Could you tell me the ongoing research that supports this
 6 islands in the sky theory? Hypothesis, excuse me.
 7 A. As I mentioned before, we looked at the climate data, we
 8 realized what's happening in the climate at the planetary
 9 boundary layer and above and below.
 10 When we look at the historic data as to what's
 11 happened, we see that actually the high elevation areas
 12 that we looked through the scope before, we take a look at
 13 our own research on what elevations tree line alpine eco
 14 zone is. It varies by 2000 feet on this mountain and on
 15 Mount Katahdin as well as the Presidentials.
 16 You need an explanation other than temperature to
 17 explain all those differences. That's what we're
 18 researching right now.
 19 Q. So this is research by AMC?
 20 A. This is AMC, Mount Washington Observatory, and the
 21 University of New Hampshire, which is funded by NOAA.
 22 Q. That's the report that's mentioned in your prefiled
 23 testimony?
 24 A. No, because I --
 25 Q. The NOAA report in your prefiled testimony.

1 A. Yes; I don't remember a NOAA report in my prefiled.
 2 Refresh my memory, please.
 3 Q. You referenced you're a principal investigator for a NOAA
 4 report?
 5 A. Yes, I am the principal investigator, that's correct.
 6 Q. That is the research you're talking about?
 7 A. That is correct.
 8 Q. Thank you. If you go to the next line, this is data from
 9 Mount Washington.
 10 Are you aware that this data was considered by
 11 Dr. Wake in the study that he did that was discussed here
 12 yesterday?
 13 A. We have an issue coming out in our magazine to our members
 14 this month, and the draft manuscript, which does contain
 15 alpine climate and some of the stuff that I just discussed
 16 here -- at least draft version, I haven't seen the final
 17 version -- quotes Cameron Wake, he does understand what
 18 may be happening with the upper elevations is different
 19 than the lower elevations.
 20 Q. On the final slide, which I think is Slide 15, the third
 21 bullet point you have here, high elevation balsam fir
 22 communities, less sensitive to climate change than lower
 23 spruce/fir forest.
 24 Are you suggesting then that the islands in the sky
 25 are a refuge for both balsam fir and spruce/fir, or just

1 balsam fir?
 2 A. It would be just balsam fir. I think I also want to point
 3 out here just to be clear and trying to be a true
 4 scientist, I put question marks because these are
 5 hypotheses right now.
 6 Q. As a working hypothesis, has it been peer reviewed or any
 7 of the normal --
 8 A. As I told you, we are about seven or eight months into it,
 9 and we started out with this grant with the same
 10 hypothesis that the lower elevation spruce/fir and the
 11 upper would behave the same, but we're having difficulty
 12 making the data support that.
 13 MR. MAHONEY: Thank you. Mr. Horn, a few questions
 14 for you.
 15 EXAMINATION OF J. T. HORN
 16 BY MR. MAHONEY:
 17 Q. It really just gets to your discussion of the work by
 18 Mr. Crews.
 19 The first part is that in your testimony you discuss
 20 the Scenery Management System.
 21 A. Correct.
 22 Q. Mr. Crews didn't use the Scenery Management System;
 23 correct?
 24 A. I believe he used the Visual Management System.
 25 Q. What is your understanding of the difference between the

1 Visual Management System and the Scenery Management
2 System?
3 A. The Visual Management System is an earlier version. It's
4 still used on many national forests. It does a better job
5 assessing impacts of development projects.
6 The Scenery Management System is used to map national
7 forests to determine which zones are sensitive when
8 they're planning the kinds of development that they're
9 going to be doing, timber harvest, recreational
10 development, things like that.
11 Both are considered, you know, legitimate
12 contemporary science. One does not replace the other.
13 They essentially serve slightly different purposes.
14 Q. Do they both take into account expectations of the
15 viewers?
16 A. They do.
17 Q. In either the VMS or your review of this, were there any
18 actual expectations of viewers taken into account of your
19 evaluation of the project?
20 A. In the Scenery Management System handbook and the Visual
21 Management System handbook, there are certain
22 classifications that are very explicit, like National
23 Scenic Byways, National Scenic Trails, which are given a
24 sensitivity level, which is the highest sensitivity level.
25 So it's built into the way the system is structured.

1 Q. But no specific expectation of viewers, individual
2 viewers, was taken into account for this project?
3 A. The -- well -- the National Park Service and the US Forest
4 Service used this system, and they have essentially, by
5 the national designation, determined that these scenic
6 byways and National Scenic Trails are of national
7 importance and therefore more sensitive. I think that
8 that's an operating assumption that's built into the
9 program.
10 The other thing that I'll say is that the sense of
11 remoteness that is -- that Eric Crews talked about -- is
12 something that is also kind of structurally built into the
13 system where opportunities to observe undeveloped
14 landscapes are assumed to be more sensitive by
15 destruction, you know, from a viewer or recreational
16 facility.
17 And so the sensitivity ratings -- I guess the simple
18 answer is sensitivity ratings are built into the system
19 itself.
20 MR. MAHONEY: Okay.
21 EXAMINATION OF JODY JONES
22 BY MR. MAHONEY:
23 Q. Ms. Jones, with respect to your statement today that the
24 highest elevation areas are the last to change from, I
25 guess, the impacts of global warming, is that statement

1 based on the working hypothesis of Dr. Kimball?
2 A. That's right.
3 Q. Any other basis for that?
4 A. They already are basically islands in the sky. That term
5 wasn't something we made up. They're already very limited
6 in scope. But, yes.
7 Q. Am I correct in understanding from your prefiled testimony
8 and your testimony today that Maine Audubon's opposition
9 to this project is based on the natural resource impacts?
10 A. The multiple values, yes.
11 Q. That does not include the visual impacts, does it?
12 A. We are consolidated as a team and their testimony is part
13 of ours as well.
14 Q. So Maine Audubon --
15 A. By LURC. That's where we are, yep.
16 Q. So Maine Audubon does object to the project based on
17 visual impacts?
18 A. We're a consolidated team, and I would answer that yes.
19 Q. My last question is with respect to the last portion of
20 your testimony concerning loss and degradation of habitat
21 for multiple species, and the question, I hope, is fairly
22 simple.
23 For any project that is going to be developed in an
24 area that is presently undeveloped, there will be loss and
25 degradation of habitat species; correct?

1 A. That's correct.
2 Q. So for every wind power project or any new project in an
3 undeveloped area, there will be loss of habitat and
4 degradation of habitat?
5 A. That's correct. And if I could -- I could add that that
6 has to be weighed on the site-specific basis with all the
7 other impacts associated with it.
8 MR. MAHONEY: Thank you, that's all I have.
9 THE CHAIR: It's 4 o'clock, and I think our next --
10 hopefully with a little effort.
11 I'm sorry, Rebecca, did you have a question of this
12 group before we let you go?
13 MS. KURTZ: I do.
14 EXAMINATION OF KENNETH KIMBALL
15 BY MS. KURTZ:
16 Q. I've been trying to figure out how to ask, actually. I
17 guess this would be a question for Dr. Kimball and I
18 think -- I think you said the roadless to date was done on
19 the desktop, but on the ground I have written something
20 that it's a different matter.
21 Can you explain to me sort of the significance of an
22 unfragmented roadless -- why unfragmented and roadless is
23 being brought into this protection?
24 A. It wasn't our question, but I think when you look at any
25 area and try to understand its value, its ecological

1 value, the ecological literature is very rich in the fact
2 that when you introduce roads into a system, they do start
3 to reduce species diversity and so forth.

4 If you put in an interstate, impacts, particularly on
5 amphibians and stuff that want to move.

6 The other part of that question, I think, as has been
7 presented by the applicant here and many of the
8 supporters, they put it down as though for every acre
9 that's lost, that's all that's lost.

10 I think the ecological literature is extremely rich
11 in the fact that once you open these up, you do allow
12 corridors for other species to come in. Just using birds
13 as a quick example. Species that exist deep in the woods
14 typically cannot survive on the fringe, because species
15 like blue jays and so forth, which can be extremely good
16 predators and that type of thing. That's part of the
17 reason why introducing roads dead center into the old
18 growth that now exists, the old that now exist on the
19 summit, represents not only risks to something like
20 Bicknell's thrush from the turbines, but it also
21 represents a lot of risks from introduction.

22 If you're going to have Ski-Doos going up, you allow
23 stuff like coyotes and so forth to be able to move up into
24 that area.

25 So just simply looking at it and looking at its

1 acres, and the National Academy of Sciences points this
2 out as well in the report as well.

3 Q. When a distinction is made that Black Nubble is outside of
4 the unfragmented area, how do that -- how do you --

5 A. Essentially what we did in this analysis is essentially
6 used satellite image, and the purpose of our roadless
7 study was to -- because it would be extremely sensitive to
8 go out and do a site-specific road analysis across
9 northern New Hampshire, Vermont, and Maine -- which is
10 what the purpose of the study was in the beginning -- we
11 used satellite imaginary and then we used stuff like
12 DeLorme and so forth, and we tried to reconstruct as best
13 as possible where are the areas that were least fragmented
14 by roads. Then we went back and repeated that a number of
15 years later to see how much more was roadless, because we
16 were trying to understand the rate of change that was out
17 there.

18 So when this analysis is done, there's a scale issue.
19 We're not looking at these things at high resolution.
20 When we end up looking at a project like this -- and this
21 is something that I mentioned a few minutes ago -- then
22 you move from that sort of analysis down to what's
23 actually on the ground.

24 What really impressed us when we were up there this
25 summer was the high degree of ecological integrity of that

1 high elevation area.

2 And then you actually -- just a little thing that's
3 out there isolated by itself or does it have some
4 connectivity to other areas that the have high ecological
5 value.

6 When you look down into the Navy base -- and yes
7 there is a road through there, we're not even going to
8 pretend there isn't -- but the fact is that the Navy base
9 area has not been harvested for a long time because of the
10 use, and it also has a lot of restricted uses in through
11 there, again, because of the use.

12 I think -- you know, we looked at the Fish & Wildlife
13 Service's analysis and the fact that that area -- has it
14 been harvested before? Yes. Has it been harvested a long
15 time? No.

16 And there's not a lot of that kind of habitat left,
17 so what you have on Black Nubble is essentially an area
18 that has very high quality old growth on the summit and
19 comes down. It's not exactly contiguous but it is very,
20 very close.

21 The land between, there is a fairly decent corridor
22 there that has not been monitored intensively or at all
23 because of the steepness, which I think you can see from
24 the video.

25 Q. I guess what I'm trying to get at is even though it's on

1 the "long" side of the road or inside the road, is the
2 habitat similar on both sides of this --

3 A. No --

4 Q. -- road?

5 A. -- and I think a lot of the testimony provided by the
6 applicant, and so forth, they kind of focus north of
7 Black Nubble for good reason, because that's where a lot
8 of harvesting went on.

9 The emphasis in focusing in on the SERE property into
10 the south and the types of corridors you have between that
11 and Mount Abraham, essentially the State of Maine has an
12 excellent opportunity here with its second -- probably its
13 second highest mountain area outside of Katahdin -- to
14 actually construct something that has
15 recreational/ecological value, and that's part of what is
16 the question here today, is what is going to be the fate
17 of this area in the future.

18 The building blocks are there.

19 Q. Right; I don't know if I'm asking this question right, but
20 the road going through there, has that diminished --

21 A. Through the SERE? Is that what you're talking about?

22 Q. We've got too many roads going on here. Has -- with
23 Black Nubble being outside this roadless unfragmented
24 area, has whatever road that creates that fragment, has
25 that made it such that it's ecological values are that

1 much different than what's on the inside? Do you know
2 what I mean?
3 A. If I understand what you're asking here is because it
4 didn't show up on our map exactly, does that mean it has a
5 lower value, the answer is no.

6 MS. JONES: I'd like to add to briefly in that the
7 type of road really matters when it comes to fragmentation and
8 logging roads probably have less impact than permanent roads
9 with public access in terms of, you know, a major route from
10 one location, recreational location, to another, let's say.

11 The type of road really matters in terms of its
12 impact on wildlife access, permeability, travel corridors, et
13 cetera. We're actually putting together some information that
14 would be helpful with regard to the Comprehensive Land Use
15 Plan.

16 So the type of road really matters. In this
17 situation the type of roads are not providing a permanent
18 fragmented feature between these two areas because of the type
19 of road, the logging roads, that will grow up again.

20 MS. KURTZ: I think that's where I was going.

21 MS. JONES: There are multiple logging roads to the
22 north, and there's the SERE road.

23 MS. KURTZ: Is the SERE road the one that breaks it
24 off and makes it --

25 MR. JONES: No, no, it's not.

1 MS. KURTZ: I guess that roads that are making this
2 outside the unfragmented roadless area -- I'm just not sure
3 what road it is or roads putting outside this unfragmented area
4 and the significance of what that road is.

5 DR. KIMBALL: I may not get this 100 percent accurate
6 because Dr. Publicover is the one that actually did this
7 analysis.

8 A lot of the stuff that I think was discussed earlier
9 was eroding up in this sector up here from the heavy logging
10 operation; whereas, the Navy base land is here.

11 In the aerial photo satellite images that were shown,
12 basically that road comes through this area right here.

13 EXAMINATION OF KENNETH KIMBALL

14 BY MS. KURTZ:

15 Q. Would you say that that road serves to fragment --

16 A. The one to the Navy base?

17 Q. Yes. Through the habitat such that the habitat values
18 are --

19 A. The answer, is it helpful to the habitat? The answer is
20 no.

21 You've got to remember that this is a 12,000-acre
22 block of land. Maine ecological reserves, if my memory is
23 correct, is typically about 5,000 acres in size. The
24 desire for a fully intact ecosystem is typically around
25 25,000 acres; but this is a pretty big parcel which simply

1 has one road through it.

2 As Jody pointed out -- and I think I was mentioning
3 in the beginning -- you've got to ask yourself about the
4 traffic volume and the timing and that sort of stuff on
5 the road. I'm not going to pretend that there isn't
6 traffic or that going through here, but the thing that
7 makes this area so valuable is it's basically grown into a
8 late succession stage.

9 Q. That road hasn't diminished the value, then?

10 A. No, as I said a few minutes ago, I don't want to sit here
11 and pretend that it has no diminishing factor; it's just
12 simply that when you look at the context of that whole
13 landscape, you've got very few places in the state of
14 Maine that are this size with late succession.

15 MS. SPENCER-FAMOUS: This is to get some
16 clarification on comments that Dr. Kimball made on Natural
17 Areas Program's comments because it's in the file we'll have to
18 characterize it.

19 EXAMINATION OF KENNETH KIMBALL

20 BY MS. SPENCER-FAMOUS:

21 Q. I was listening to you talk, Dr. Kimball, about a Natural
22 Areas Program comment, and what you said sounded different
23 from what I was reading in front of me, so I wanted to
24 reconcile that if I could.

25 A. Go ahead.

1 Q. You had said that they characterize the area, I think you
2 said it's an excellent example, and in here it says good
3 to fair and they very clearly explained why they said
4 that.

5 They said it was in good condition. I actually
6 called Don Cameron to make sure I understood what he was
7 saying. He said it had been cut in the past but just not
8 too recently, but then because it's a small area they gave
9 it the good to fair rating. I believe I heard you say it
10 was in excellent condition, and that's not consistent with
11 what's right here.

12 A. I think if I'm correct, in the bottom of what they filed
13 they used the term pristine, do they not?

14 Q. They did call it pristine. That's another thing I called
15 about to make sure I understood what he meant. He said
16 pristine and it hasn't been cut that much.

17 I said, well, what did you -- they went out there,
18 and I said, well, what did you mean to imply by that, and
19 he said it was just the cutting hadn't happened in as
20 long, and he did clarify in here 75 to 100 years, which I
21 would have thought that to be old growth. It isn't
22 anywhere else.

23 A. I would respectfully disagree with your last
24 characterization. Fir forests and balsam fir in general
25 is not a long-lived species. The turnover of that species

1 is somewhere in the 80 to 90 to 100 year. I think if you
2 asked any forester, he'd said the same thing.

3 The second point I would make is that when we were up
4 there, we dug around a few places in the soil and looked
5 for evidence of fire and other stuff up in there, and
6 there was no evidence of that.

7 The third point I would make is I don't think there's
8 any question that there was some logging on the edges of
9 this. This was a bigger habitat than currently exists
10 right now. But between our field observation and the fact
11 that it's in the record and labelled as pristine, you
12 don't have a lot of examples of this quality.

13 I think if you go down and look at the size
14 distribution, which I was pointing out in my testimony,
15 the next largest one that you've got in the state of Maine
16 that's documented is over 72 acres.

17 Q. They didn't label it as pristine, they talked about it.
18 It's labeled as good to fair.

19 A. Yeah, and I think -- I want -- if I understand correctly
20 the terminology the way it's actually been entered into
21 the record here, the S-1, -2, -3 is a viability of that
22 community, it is not simply a ranking of which is the best
23 to worse. Obviously the larger and more intact you have
24 ecologically, it has more value. There's no question on
25 that.

1 Q. I'm just talking about what they put in their comments,
2 that's all.

3 THE CHAIR: I think with that I'm not going to ask
4 any questions. I think I've said enough. You can take your
5 leave, I guess, and go enjoy the rest of the day somewhere.

6 It's about 10 after 4 or thereabouts. I think
7 Mr. Trafton is the next person to testify.

8 Will you try to get -- if everybody sticks to the
9 schedule as close or even moves it up a little bit, we may be
10 able to get out of here by 5 o'clock and have completed what we
11 had planned for today. If we could do that, that would be
12 helpful; if not, we'll talk about that at 5 o'clock what we do.

13 MR. TRAFTON: I'll do my part, Bart.

14 Mr. Chairman, commissioners, my name is Dain Trafton.
15 I'm from Phillips. I'm here to represent Friends of the
16 Western Mountains.

17 The theme of my prefiled testimony was that the
18 applicant has failed to provide convincing evidence to support
19 the following major claims about the benefits of their project.

20 Here are the four headings under which I would like
21 to call your attention to those claims.

22 That the applicant's claims about electrical output
23 are unsupported by wind data, and although we have no doubt
24 that the data would indicate that Maine Mountain Power will be
25 able to make a handsome profit from their project, we have

1 serious doubts about whether the data would support the claimed
2 emissions benefits or the claim that the operations of the
3 plant would reduce the cost of electricity to Maine consumers.

4 Second, we find that reference to general statements
5 about wind power cannot substitute for specific studies to
6 support the specific claims made by the applicant. This is
7 true even if the general statements are made by authorities,
8 such as the Maine Public Utilities Commission, the Maine
9 Department of Environmental Protection, or the Maine Office of
10 Energy Independence and Security.

11 Third, that the applicant's economic benefits' claims
12 are unsupported by a proper economic impact study. Moreover,
13 Friends of the Western Mountains submitted testimony in August
14 2006 suggesting strong reasons for doubting the economic
15 benefits that the applicant claim the project will have for the
16 local area.

17 And fourth, that the applicant's claims of public
18 support are countered -- notice the word, I'm not saying
19 refuted -- but they're countered by the 1864 signers of the
20 petition circulated by Friends of the Western Mountains prior
21 to the August hearing.

22 Also countered by public testimony of many people,
23 mostly local, who came to the hearings in 2006 and again last
24 night to express their strong opposition to this project.

25 I would like to point out that all of these -- all of

1 these points are in fact re-presentations of principle points
2 that we made in our prefiled and rebuttal testimony in 2006;
3 however, these are points that we feel have never been refuted
4 and we wish to remind the Commission that they are in the
5 record and should play proper role in the next decision.

6 I'll conclude by just reminding the commissioners --
7 I don't need to, but I will -- that the burden of proof lies on
8 the applicants. This is a serious business, it's about a
9 rezoning that could do serious harm to one of Maine's wild and
10 most beautiful places.

11 That's my statement. Is that brief enough?

12 THE CHAIR: Yes, very good. Thank you.

13 Rebecca or Jim, Marcia, questions?

14 EXAMINATION OF DAIN TRAFTON

15 BY MR. HARVEY:

16 Q. Let me just ask you, Mr. Trafton, on the question of
17 specific studies, is it your position that the applicant
18 is required as part of this application to provide those
19 studies, the kind of studies you're talking about, or your
20 assertion that he should have done it?

21 A. I'm not aware that there's any statute that requires
22 specifically these studies, but I would refer to the
23 burden of proof that lies on the applicant to show that
24 the benefits that are alleged are actually going to
25 happen.

1 If these benefits were not such an important part of
 2 the application, I think it would be much less important.
 3 Q. The other one, on public support, how important do you
 4 think that is in our decision making one way or the other?
 5 A. It's not for me to prescribe that, but I understood that
 6 because you've set aside ample time for the public to come
 7 in and testify, I assume you take it seriously, and I
 8 believe it is -- at least referred to under the category
 9 of ascertaining need -- that a public sense of that need
 10 ought to be present.

11 If I could just add one other point that we -- most
 12 of our support, that is, Friends of the Western Mountains'
 13 support, is from Franklin County, the vast majority of it.
 14 These are people who live here permanently or own property
 15 here or are frequent visitors. We circulated our petition
 16 here basically.

17 THE CHAIR: I think I understood that. Rebecca?

18 MS. KURTZ: Where are we in the agenda?

19 THE CHAIR: We're going to allow the applicant and
 20 the other intervenes to cross-examine Mr. Trafton if they wish.

21 So I think that -- yes, the applicant, do you have
 22 some questions, Mr. Thaler?

23 MR. THALER: We do, and Sarah Tracy will be asking
 24 them.

25 THE CHAIR: What was that again, please?

1 MR. THALER: We do have some questions, and --

2 THE CHAIR: Oh, Sarah. Thank you.

3 MR. THALER: Admission, Mr. Chairman.

4 MS. TRACY: Good afternoon.

5 MR. TRAFTON: Good afternoon.

6 EXAMINATION OF DAIN TRAFTON

7 BY MS. TRACY:

8 Q. Mr. Trafton, you stated that the general statements by the
 9 State authorities on wind power were not helpful for the
 10 Commission's decision in this proceeding, but isn't it
 11 true that this morning the PUC stated specifically that
 12 the addition of renewable wind energy, direct generation,
 13 if that's added, the Black Nubble wind farm would have the
 14 effect of lowering energy prices, electricity prices?

15 A. Well, there's no doubt that the MPUC wants to encourage
 16 the development of wind power in Maine; however, I
 17 believe -- and I think I asked Mitch this question
 18 myself -- that they have declined to take a position on
 19 this particular project.

20 Now, projects such as this, it's not quite the same
 21 thing as saying we're in favor of this particular project.

22 And I also asked Mitch whether he had done the
 23 studies that would show that this project -- and mind you,
 24 focusing on this project -- and asked him if they had done
 25 studies that would actually show that the addition of

1 electricity from a Black Nubble plant would have the
 2 effect of knocking off the top bid in the bid stack. He
 3 didn't say that it wouldn't have the effect, but he said
 4 he hadn't done the studies so he couldn't know.

5 In other words, his statements are statements that
 6 could be taken as true or as actual possibilities of wind
 7 power, but I don't believe he ever committed himself to an
 8 assertion that this plant would have that effect.

9 Q. Does the lack of a study by the MPUC in this particular
 10 case signal to you that the -- strike that.

11 Isn't it true that it is not the PUC's role to be
 12 doing particular studies on what particular power plant is
 13 bumped off in certain situation?

14 A. That might be right. I don't claim to understand entirely
 15 the new deregulated world what the role of the PUC is.

16 However, I was simply saying that no one has done it.
 17 Since we have many references in testimony by the
 18 applicant and others, too, to the effect that the MPUC
 19 supports wind power and so on, I thought I would call
 20 attention to the fact that those statements can't be
 21 properly extended to an endorsement of a particular plan.

22 The only way you could do it, in my opinion, is by
 23 having done the studies that would show that these
 24 benefits, alleged benefits, are actually going to occur.

25 Q. There are several wind power projects in the pipeline

1 right now. To your knowledge have any of these wind power
 2 projects done specific modelling such as you requested?

3 A. I don't know if they have or not. I haven't actually
 4 looked closely at all the applications.

5 Q. Did you hear the testimony of Mitch Tannenbaum this
 6 morning where he said that the methodology by which Maine
 7 Mountain Power calculated the emissions avoided figure was
 8 an appropriate and reasonable methodology?

9 A. Well, you mean using marginally emission rates?

10 Q. I do.

11 A. This is the ready and easy way to do it and it saves a lot
 12 of money for the applicant, it's often done that way. Yet
 13 we had testimony last year from a bona fide expert, namely
 14 Tom Hewson, that without doing these studies you really
 15 don't know. You're in a sense buying a pig in a poke.

16 You can accept them on the grounds that it's too much
 17 trouble to ask for them, but when there's a lot -- and
 18 maybe in some cases that doesn't matter -- but when
 19 there's a lot at stake -- namely, this beautiful area to
 20 which so many people have testified warmly -- when that's
 21 what is at stake, perhaps one should ask for a high
 22 standard.

23 That would be my response.

24 Q. You said -- and correct me if I'm wrong -- something to
 25 the effect that calculations for marginal emissions --

1 what is sort of done or normally done and you implied that
2 there's a different standard in this case.

3 Wouldn't it be fair to say, Mr. Trafton, that there
4 are always a body of people that feel warmly about their
5 particular area and that no particular project is held to
6 a higher standard just because there's opposition.

7 A. Well, I'm not sure that that would be fair to say.

8 There are a number -- a number of wind projects
9 throughout the country, indeed throughout the world, where
10 there's very little opposition, that is, nobody seems to
11 think that they have serious environmental or human/social
12 problems associated with them.

13 But there are some, like Mars Hill, for example,
14 where, you know, problems have arisen and it might have
15 been better to hold PUC to a higher standard with regard
16 to noise.

17 I would just say that I -- and by the way, I don't
18 think I did say that the marginal emissions rate was the
19 normal way in connection with wind power projects. It
20 might be, I don't know that. I cling to my point that a
21 higher standard is called for in some cases.

22 Q. Were you at the public hearing testimony last night,
23 Mr. Trafton?

24 A. I was.

25 Q. Did you hear the public testimony of Fred Hardy and Gary

1 McGrane of the Franklin County commissioners?

2 A. I did.

3 Q. Would you agree that the Franklin County commissioners are
4 a government body that has a vested interest in a strong
5 economy in this area?

6 A. I would.

7 Q. Would you agree that tourism is one component of this
8 particular economy and this particular --

9 A. I would. May I make a comment and an explanation, a brief
10 one.

11 The County commissioners were approached by Friends
12 of the Western Mountains with requests to consider our
13 testimony before they made a decision on this project.

14 They refused to see us and don't ask me why.
15 Something else was going on and I don't know what, but
16 they made up their minds behind closed doors. In fact,
17 they're not aware of some of the arguments that we've made
18 on the potential effects on tourism and so on.

19 I would just like to point that out, in my opinion
20 the County commissioners -- and I'm not the only one,
21 including some political figures -- have asked why did
22 they move so quickly, why weren't they willing to talk to
23 you.

24 Q. However, a year ago the County commissioners expressly
25 declined to support this particular project; isn't that

1 true?

2 A. That is true.

3 Q. So they've only changed their opinion as a result of the
4 fact that the project was down-sized?

5 A. I don't know that that's the only reason, but it might be.

6 Q. I would like to show you the letter that the County
7 commissioners sent out.

8 I would like to draw your attention to the first
9 paragraph. Correct me if I'm reading this wrong. It
10 says, This project is in line with our environmental and
11 economic policies for Franklin County and is consistent
12 and compatible with existing forestry and recreation
13 operations in the surrounding region. We believe that it
14 is a benefit development that will give much needed
15 economic growth while not interfering with our region's
16 important tourism and recreation industry.

17 Is that a fair characterization of that paragraph?

18 A. It's a word-for-word reading of it.

19 Q. Thank you. Did you hear the testimony of Alison
20 Hagerstrom --

21 A. Yes.

22 Q. -- of the Franklin County Development Corporation?

23 A. Yes.

24 Q. Would you agree that one of the missions of this
25 organization is to protect and enhance the economic

1 viability of this region?

2 A. I would.

3 Q. Would you agree that tourism plays a pretty big part of
4 the economic viability of this region?

5 A. I would. May I make a comment on something that
6 Ms. Hagerstrom said, which was that she was unaware of any
7 study which showed that wind plants had had a negative
8 influence or an impact on real estate values or tourism.

9 She said that same thing last year in August of 2006,
10 and I cross-examined her and called her attention to the
11 fact that there are such studies.

12 Apparently, I don't know why, she might have said I
13 hear there are some studies, I'm aware there are some
14 studies, but they don't impress me, I don't think they're
15 very good arguments.

16 Q. May I pose a question?

17 A. Yes, go ahead.

18 Q. Thank you. I assume you're getting to the point of the
19 Cape wind study?

20 A. Yes, I am. That was one of the ones I referred.

21 Q. Your argument is that the Cape wind study establishes that
22 real estate values would go down as a result of the
23 presence of wind farms?

24 A. Establishes it as a forward looking study, so, yeah.

25 Q. Didn't you commit -- criticize the applicant in your

1 pretrial testimony for using the Oregon study because it
 2 wasn't applicable to this particular region?
 3 A. Yes, it's a very different region.
 4 Q. Isn't it true that the Cape wind study that you're
 5 referring to is an offshore wind power development with
 6 130 turbines?
 7 A. It is.
 8 Q. How is that so similar to a mountainous region? Isn't it
 9 true that that is not the same as a wind power facility in
 10 a mountainous region with only -- less than half -- excuse
 11 me math?
 12 A. Maybe fewer than that. You call attention to the
 13 differences. I called attention to the similarities,
 14 which are an economy heavily based on tourism and real
 15 estate development.
 16 Mind you, I don't say that that study is the
 17 definitive study; I just say to Ms. Hagerstrom, here's a
 18 study you ought to know about, and to come back 12 months
 19 later and say exactly word-for-word what she said last
 20 summer, I am not aware of any studies. That I find hard
 21 to understand, just about as hard to understand as I do
 22 the refusal of the County commissioners to talk to us.
 23 Q. Wouldn't it be fair to say, however, Mr. Trafton, that
 24 Ms. Hagerstrom, who you admitted is part of a body that is
 25 in charge of protecting the economic viability of this

1 region, believes, and her board believes, that this
 2 project will be beneficial to the recreation and tourism
 3 industry in this area?
 4 A. I guess they do.
 5 MS. TRACY: Thank you very much.
 6 THE CHAIR: Thank you.
 7 Mr. Plouffe, does your group have any questions?
 8 MR. PLOUFFE: No, Mr. Chairman.
 9 THE CHAIR: NRCM?
 10 MR. VOORHEES: We waive our rights to that.
 11 THE CHAIR: How about the CLF?
 12 MR. MAHONEY: No questions.
 13 THE CHAIR: Well, David.
 14 MR. WILBY: We had reserved time. We yield our time
 15 back as well.
 16 THE CHAIR: Jim, or -- I know Rebecca's not going to
 17 let you off.
 18 MS. KURTZ: I have a question on the petition, you
 19 got 1864 signatures.
 20 What was the question that was actually asked in your
 21 petition?
 22 MR. TRAFTON: It wasn't a question, it was a
 23 statement and I don't have one in front of me. It was very
 24 simple. It said, We, the undersigned, urge the LURC
 25 commissioners to deny rezoning application of -- it was Maine

1 Mountain Power then -- Maine Mountain Power to rezone. It was
 2 before last August.
 3 So to rezone the peaks of Redington and Black Nubble
 4 in order to build a wind plant there.
 5 Now, so you might well ask, well, have people been
 6 flocking around to get their names taken off the petition now
 7 that it's only Black Nubble? And I have to admit that we are
 8 entirely a volunteer organization, 1864 people, it's hard to be
 9 guaranteed that you got in touch with all of them.
 10 This has been well publicized. I think we've had
 11 three people tell us that they wanted their names taken off,
 12 and I guess it's 1861 now.
 13 So perhaps we didn't do our duty to go around and
 14 call everybody and say, here's the new situation.
 15 Have I answered your question? I may have gone way
 16 beyond what you wanted.
 17 MS. KURTZ: That's fine. I guess that's probably it.
 18 THE CHAIR: All right. Well, thank you, Mr. Trafton.
 19 I guess you're off the hook.
 20 MR. TRAFTON: Thank you.
 21 THE CHAIR: Well, it's only quarter to 5. We've
 22 ended 5 minutes ahead of schedule, which is good.
 23 Now, I think all of you realize tonight we have
 24 another public session, but I'm going to suggest some things
 25 for you to think about.

1 I don't have any idea how many people are going to
 2 come and want to testify tonight, but if we only end up with
 3 three or four, I guess the question is, do any of you want to
 4 utilize a little bit of time tonight to get started instead of
 5 starting tomorrow?
 6 Do you want, for example, NRCM to provide testimony
 7 and do some of that cross-examination, or would you prefer just
 8 to do the public testimony and if it only takes ten minutes,
 9 we're all out of here.
 10 MR. THALER: Mr. Chairman, for the applicant I guess
 11 it sort of depends on NRCM because they're the ones who are
 12 supposed to be presenting.
 13 THE CHAIR: I think I'm seeing Peter tell me no, he
 14 doesn't like that idea. I guess his witnesses or whatever
 15 aren't here.
 16 MR. THALER: For a number of reasons we would prefer
 17 to go tomorrow.
 18 THE CHAIR: All right. I guess we were probably
 19 going to be here anyway, so I guess it doesn't make a whole lot
 20 of difference other than getting out of here earlier than
 21 noontime.
 22 As I said, we're here for however long it takes you
 23 to get your stuff on the table.
 24 We'll see you tonight at 6 o'clock.
 25 (The hearing was suspended on September 19, 2007 at

1 4:43 p.m. and the hearing resumed at 6:08 p.m.)

2 THE CHAIR: Just for the record, I'll state that this
3 is a continuation of a public hearing on Zoning Petition
4 ZP 702, and that I will introduce members of the LURC
5 Commission that are present this evening and the LURC staff.
6 Rebecca Kurtz; Steve Schaeffer; Amy Mills, the AG's
7 office; I'm Bart Harvey, Chairman of the Commission and the
8 presiding officer for the hearing; Catherine Carroll, to my
9 left, who is the director of LURC; Jim Nadeau, a commissioner;
10 Marcia Spencer-Famous, LURC staff; and Lisa, who is our
11 faithful court report.

12 So all of you people planning to speak tonight will
13 come up and speak in the microphone so she can capture what you
14 have to say; and Melissa on our staff out here, she's the lady
15 with the sign-up sheets. If you plan to testify tonight, we
16 would appreciate if you would sign the sheet that was out
17 there. I'm going to call you up to speak in the order which
18 you signed up, and we'll go from there.

19 Briefly what we'll do tonight is I'm going to ask the
20 Applicant to make a brief presentation about the project so
21 that we kind of all start with some level of knowledge about
22 what the project is, and then we will go right to the public
23 comment.

24 I'm going to ask if you speak you have to come down
25 front to the microphone and make your statement. If you have a

1 written statement that you want to leave with us, that's fine,
2 and give it to Marcia and we'll have it in the record. I'll
3 also remind you that -- ask you to keep your remarks to about 5
4 minutes so we can get everybody in. I'll remind you that long
5 statements aren't necessarily more effective than really short
6 ones that get right to the point.

7 That will be appreciated by members of the LURC
8 Commission that you make the statements succinct.

9 With that I'm going to ask Mr. Lee to make his
10 presentation. Thank you.

11 MR. LEE: Thank you Chairman Harvey. My name is
12 Harley Lee, and I'm the president of Endless Energy
13 Corporation. I'm going to give a brief overview of the
14 Black Nubble wind farm.

15 This is a photo taken from across the valley from the
16 Bigelows, it shows this region, and we're here, it shows
17 Sugarloaf, the base, the Crockers are here, Redington Mountain
18 is there where we no longer are promoting turbines.
19 Black Nubble is over here.

20 What we proposed is a 54-megawatt wind generation
21 facility composed of 18 wind turbines, about \$110 million
22 dollar project located on Black Nubble, and there will be about
23 6 miles of new road and 9 miles of upgraded road, and also 8
24 miles of transmission line.

25 There's a big transmission line, it goes right

1 through the valley here, and ends right about there. It serves
2 Sugarloaf and also there's a biomass plant that plugs into it.
3 That's one of the major reasons why we're at this location
4 because it's near existing development, it's near a power line,
5 and our site is right there.

6 We've put together what we think is a good team for
7 this project. Endless Energy brought this project to a certain
8 point where we thought it was viable, and we formed a joint
9 venture with Edison Mission Group, which is a California firm,
10 with a lot of experience in developing wind projects.

11 We're using Vestas wind turbines -- Vestas is the
12 largest turbine manufacturer in the world -- and Sargent, which
13 is a Maine-based company, to do our civil work. They're the
14 same company that did the roads up at Mars Hill.

15 This is the picture of the Vestas V90 in a mountain
16 setting. It's a real babe, it's a nice looking turbine. It's
17 the one we're planning on using in our project. Wind energy is
18 one of the most cost effective renewable energy sources, and I
19 think it's second only to natural gas nationwide in terms of
20 new installations. So it's really grown quite a lot in the
21 last several years, and it's a great way to harvest one of
22 Maine's most valuable untapped resources.

23 How will our project benefit Maine? We're generating
24 a lot of clean renewable energy. It's about 140 million
25 kilowatt hours and that's enough for 21,000 Maine homes.

1 It will plug right into the grid here in Maine like
2 other power plants are used in Maine; it will reduce our
3 overdependence on fossil fuels.

4 After Maine Yankee shut down, it got replaced twice
5 over with natural gas-fired plants, and right there's a very,
6 very high dependence on gas and oil in New England general and
7 Maine specific, and that's what causing generally an increase
8 in very volatile prices and actually has some significant
9 reliability issues, as well, but wind mitigate the price
10 increase, diversify the mix, and enhance reliability.

11 It will also reduce air pollution by 400,000 pounds a
12 day, and air pollution will be prevented through the output of
13 this project, which is like taking 12,000 cars off the road.

14 Last January the commissioners deliberated on our
15 two-mountain project and voted 6:1 to have a denial written up,
16 and clearly the two-mountain project was not well accepted, so
17 we went back and changed the project from two to one. What
18 that does is it moves the closest turbine one mile from the
19 Appalachian Trail network to three miles, so we tripled our
20 distance from the AT and 12 fewer turbines. Even at that size,
21 there's still pretty significant benefits. As the NRCM display
22 out front shows, it still produces more power than 95 out of
23 Maine's hundred dams.

24 Some of the basic comparisons, we've gone from about
25 300 acres of impact to 233, and an interesting statistic is

1 with that size project, footprint and 21,000, we're producing
2 enough power for 92 homes. We for every acre that we disturb,
3 we're producing enough power for 92 homes, which I think is a
4 pretty good tradeoff.

5 Yes, we're using up a little bit of land that has a
6 footprint, but we're producing a lot of benefit. We've gone
7 from 300 to 233 acres, or 92 homes per acre, above 2700 feet,
8 we've cut our impacts in half from 135 to 63. Total cleared
9 acres is now down also cut in half about 50 acres. So by going
10 from two mountains to one, it's about half our energy and cut
11 the impacts significantly.

12 Importantly, the wetlands impact, when we started
13 this project a hundred years, we had like 20 acres of wetlands
14 impact and we redesigned the roads over and over again, and we
15 kept sending out our expensive biologists to the field, but
16 we've got that down to 3/100 of an acre, which is smaller than
17 a lot of homes.

18 We think we've selected the best reasonably available
19 site. We've looked at several sites along the mountains and
20 coastal sites in New England, in four states, and we chose this
21 site because it has a strong wind resource. As I mentioned
22 before, it's near existing transmission line, and some of the
23 sites we look at were a lot more distant from transmission
24 lines, and the footprint of the line alone would have had much
25 more impact on the entire project. Some of the sites we looked

1 at, the power line alone would have been like 500 acres.

2 So it's near existing power lines. We can make use
3 of existing logging roads. The logging roads go part way up
4 Black Nubble, and we're just extending those, which is a big
5 help, and there's a lot of existing develop.

6 There's this wonderful ski resort here. Saddleback
7 is on the other side of us. Boralex plant, the Navy survival
8 school, where they land cruise missiles and shoot off machine
9 guns and eat rabbits, I understand. I heard they had to
10 actually bring rabbits to teach the guys to kill them so they
11 can survive. Anyway, it's a good place we think for a wind
12 farm.

13 It's located on the fringe of LURC jurisdiction. One
14 of the key drivers of LURC is to try to put new development
15 near existing development, and that helps preserve the core of
16 the jurisdiction, and we're on the very fringe, which makes us
17 near existing service areas, towns, two large ski areas have
18 been mentioned, biomass, Navy. 1800 acres of cleared area
19 between these two resorts, so we're a tiny fraction of the
20 existing mountain development.

21 As I mentioned, we're close to the transmission.
22 There's 330 miles of road and 1000 miles of logging roads
23 within our 15-mile siting radius. There's quite a bit of roads
24 already in development here.

25 We've worked hard to minimize the impacts in all

1 cases. We're using a larger capacity turbine. We looked at
2 the 1.5 megawatt machine, which has been used in some other
3 projects, but with the machine we would have used a third more
4 turbines and gotten a third less good energy. For us, the
5 bigger machines, is good for us and it's good for the state.

6 Carefully designed the roads for erosion control,
7 we've got this appetizing road design called a rock sandwich,
8 and we've minimized visibility and avoided wetlands. As I
9 mentioned before, we gone from 20 acres to 3/100. Avoided
10 sensitive habitat and we'll revegetate whenever we can, and
11 we've already received permits, NRPA, and site permits from the
12 DEP, from the US Army Corps, and Carrabassett Value for a
13 portion of the power line that goes through town.

14 We believe that there are no undue adverse impacts.
15 We worked very hard to design roads to minimize those impacts.
16 Very little wetland impact. We've done a phenomenal amount of
17 wildlife studies, which is an interesting -- and we've only
18 clearing 42 acres after revegetation. Importantly, we're
19 restricting development on our other mountain, 500 acres.

20 Visual impact -- what's interesting about this
21 project is it's pretty well hidden in a 15-mile radius. We
22 actually can't see it 95 percent of the area. Most locations
23 you're seeing it, it's a pretty big distance, 4 miles or more.

24 For example, the AT, there's about 34 miles of AT
25 within the 15-mile study area, and you can only see it in

1 9 percent, or 3 miles, of that section. Also I should point
2 out that we did a survey of locals and hikers and other and
3 stuff, and the hikers are every bit as supportive as the other
4 groups.

5 Closest open view is about 4 miles, and hikers also
6 see other man-made development, including the ski areas and
7 others, from up on the trail.

8 We have strong economic benefits as well provided by
9 80 construction jobs, five to ten operating jobs. This is an
10 area where there are a lot of skilled people. You can go to
11 the garage next door. There's a lot of skilled people who work
12 with mechanical equipment and electrical equipment up here, so
13 I think we'll be able to get a lot of our windsmiths from the
14 area and train them.

15 New property taxes, about half a million dollars a
16 year. Land lease payments, purchase of local goods and
17 services, and once again, 90 percent of Black Nubble will
18 remain untouched, and 100 percent of Redington; so we're
19 leaving 90 percent or more of total acreage untouched.

20 We'll provide recreation and education opportunities.
21 Larry Warren, who's here tonight, described how he insisted on
22 putting the hut and trail system not around our mountain but
23 right up through the middle of it, including the turbines,
24 because he thought that would be of interest to the users of
25 this trail. That's not inconsistent. The Mars Hill project is

1 right along the International Appalachian Trail. Interesting,
2 the Pacific Crest Trail is the same thing. It trail goes right
3 through the middle of a wind farm. So we think it's consistent
4 with local recreation, and we'll obviously provide tours for
5 schools and other groups that are interested.

6 We did a poll about our project a year ago and for
7 every opponent of the project, there's nine supporters. We
8 were very encouraged by it. We have over 2000 people signed
9 our support petition, and we've got 20 of Maine's leading
10 environmental groups and other organizations, and we've also
11 have very strong editorial support, NRCM mentioned those, which
12 is very encouraging.

13 In summary, we think the western mountains have a
14 very strong wind regime. It's a good place for developing wind
15 power, and we think Black Nubble is an ideal location to
16 harvest those wind resources. It's near the fringe, close to
17 transmission lines, and will provide a lot of clean energy,
18 reduce dependence on fossil fuels, reduce air pollution, and
19 lots of economic benefits and recreational.

20 So it's a well designed project with minimal impacts,
21 and we have a good team to make it happen. Thank you very
22 much.

23 THE CHAIR: Thank you. Before we start the public
24 piece I do need -- there's one more thing we need to do, and
25 that is that all of you who wish to testify need to be sworn in

1 so I guess I need to ask all of us to stand one more time.

2 (Witnesses were sworn en masse.)

3 THE CHAIR: We can begin. As I said, I'm going to
4 follow this sheet, and the first person is Nancy O'Toole and
5 she will be followed by Hellmut Bitterhuf. I hope I pronounced
6 that correctly.

7 Nancy, go ahead. Speak right into the microphone.
8 Make it clear so we can hear you.

9 MS. O'TOOLE: Good evening. My name is Nancy
10 O'Toole, and I'm an environmental engineer living in Phillips.

11 I have years of on-the-ground experience with road
12 construction in environmentally sensitive locations in
13 mountainous country. I oppose the proposed zone change in the
14 high elevations of Maine mountains.

15 These are -- these areas are presently protected from
16 all development. Your predecessors did their research and
17 decided that it was in Maine's and New England's best interest
18 to place these fragile places off limits and preserve them as
19 they are.

20 With respect to this project, the burden of proof is
21 on the applicant to prove that their project is indeed in
22 compliance with the LURC requirements and standards for
23 development in the sensitive area. I don't believe they have
24 met the requirements, and thus far they are unwilling or unable
25 to provide satisfactory information proving to me that they

1 have.

2 As an example, stated in the application is a saving
3 of 400,000 pounds of emissions per day. Where's the proof?

4 High among my concerns are the following. Pictures
5 of existing wind generators show slim towers rising clearly
6 from the landscape or hovering faintly in the distant haze with
7 soft clouds behind them.

8 In the real world, especially at the top of our
9 mountains, are 400-foot towers supporting turbine housing the
10 size of a bus and three 150-foot rotor blades requires a solid
11 foundation. A 1.5-megawatt generator assembly, including the
12 tower, 163 tons, the turbine itself, 56 tons, the blade
13 assembly, 36 tons, is huge, heavy, and by definition must deal
14 with enormous constant wind pressure.

15 At Buffalo Mountain, Tennessee, each foundation is 30
16 feet deep, contains up to 3500 cubic yards of concrete, the
17 production of which is a major source of CO₂, and approximately
18 2600 pounds of reinforced steel. I would like proof that they
19 don't need to blast off the mountaintop to support such load.
20 I want proof.

21 Existing roads and all new roads will need to have --
22 and this is conservative -- 50- to 70-ton capacity to
23 accommodate the construction machinery, concrete trucks, and
24 flatbed trucks carrying raw materials and necessary parts and
25 components. These roads must be built into and on slopes of up

1 to -- we don't know. At this point there is no final design
2 for professional inspection.

3 Since there is no complete design, there's no way
4 impartial engineers can give experienced-based opinions as to
5 whether it will work or is it a disaster waiting to happen. We
6 just don't and can't know if trapped rocked sandwich layers,
7 cross grain, filter cloth, geotextile fabrics, reinforced,
8 turf, erosion control mesh, and geogrid will e sufficient to
9 contain the steep slopes, seeps, and erosion during rain
10 storms.

11 Each item sounds very usable; each solution to a
12 given situation sounds convincing. However, in the real world,
13 a box of parts does not equal a completed solution. They must
14 present the final design for professional scrutiny. They must
15 not be allowed to build by the toolbox method. This could, and
16 almost certainly will, be disastrous.

17 The placement of underground utilities between
18 turbines and out to the collection station increases the
19 disturbance to the soil and slopes.

20 Where will they be buried? How deep will they be
21 buried? How much extra excavation will be required above and
22 beyond that for the pads and the roads?

23 Yesterday in testimony it was stated that
24 approximately 250,000 cubic yards of rock and soil would have
25 to be disturbed or removed. Since there is no complete plan, I

1 find this figure to be meaningless. Given that roads will be
2 built, the number of pass through sites and the amount of land
3 required as construction support space, I believe the amount
4 will triple.

5 The claim has been made that the 32-foot wide
6 construction road is to be reduced and revegetated to 12 feet
7 once construction is completed. There will never be a need for
8 a wider road?

9 What about when significant parts for the project
10 need to be replaced on dismantled? Who is going to pay to
11 widen the roads to disassemble the wind turbine structures and
12 bring them off the mountain? It makes no sense to rip the
13 mountainside apart, make efforts to heal them, and then tear
14 them open again. In either case, it is the burden and
15 requirement to set aside money for demolition and removal now,
16 not later.

17 This brings me to why they came up with the toolbox
18 approach on such a large-scale project. The developers have
19 gotten a deal that promises them a subsidy of between 50 and 75
20 percent of the cost of electricity production over a ten-year
21 period. This amount amounts to 1.9 cents per kilowatt hour.
22 Add to that the market price for free wind power. Typical
23 energy production costs are around 2 to 4 cents per kilowatt
24 hour, so this means you have yourself a money maker.

25 Now all the developer needs to do is to find a way

1 around the minor details of convincing the Commission and the
2 public that they really can build and utilize this project
3 safely and effectively. This type of incentive results in some
4 truly creative engineering proposal, hence, toolbox design
5 scheme. If you paid me enough money, I'll do a triple bypass
6 on your heart, figure out solutions to problems as they arise.
7 Makes good sense to me, how about to you?

8 In all of the environmentally sensitive projects I
9 have worked out there, have always been approved, always have
10 had approved designs any permits were granted, waivers were
11 given, or licenses were issued.

12 The project inspectors were very familiar with the
13 design. Even before they went out on the site, everyone was
14 prepared for foreseeable contingencies. There will always be
15 surprises in a project. That's where the toolbox comes in
16 handy, not as the basis for the whole project plan.

17 Setting aside all these questions, with enough money
18 a road to the top of Black Nubble can be built but at what cost
19 to the mountain and to the people who live and hike in that
20 area.

21 The ability for our transmission system to handle the
22 heavy flows that occur only a few times a year is decreasing.
23 The nation's transmission network is a primary cause of power
24 outages. Now the utilities maintain the electrical power grid
25 must meet a new requirement that the wires to the customers be

1 available for delivering power produced by others who won't
2 maintain the delivery networks. The costs of those
3 requirements is placed on the transmission owner, not the wind
4 generator. This means the transmission network upgrade costs
5 are our burden.

6 This brings me to my final statement of global
7 warming. Let's fix what's already running. Give the wind
8 subsidies to the coal-fired plants and install scrubbers and
9 filters on the stacks. Set higher standards for all cars and
10 SUVs, give subsidies to homeowners for going green.

11 I have a solar hot water heater that is entirely
12 sufficient 90 percent of the time. My car get 35 miles to the
13 gallon. There are many ways to curtail global warming before
14 we start destroying our mountains. Let's give it a try first,
15 and in the meantime, consider carefully our options and
16 locations for wind power.

17 As a gentleman said yesterday, we need to act big and
18 bold to curb global warming. Yes, we do. But we need to not
19 be reckless and reactive. If a pollster called me and asked me
20 if I support wind power, I would say yes. If they asked me if
21 I supported the Black Nubble proposal, I would have to say no.
22 Thank you.

23 THE CHAIR: Thank you, Nancy.

24 I repeat my admonition of last night that clapping
25 doesn't help bolster Nancy's statement any. She made it a well

1 organized statement to us and it should stand on its own merit.
2 I would appreciate it if we don't applaud. Thank you.

3 Are you Hellmut?

4 MR. BITTERHUF: Yes.

5 THE CHAIR: Okay, Hellmut. After you is Fred
6 Huntress.

7 MR. BITTERHUF: Dear LURC commissioners and staff.
8 My name is Hellmut Bitterhuf, and I live in New Sharon. We
9 moved to Farmington in 1978 and raised four children with the
10 help of these mountains. We hiked, skied, and camped. We
11 enjoy the beauty of this mountain. A tragic accident reminds
12 us how dangerous this beautiful area can be.

13 I will omit the next part of my statement because it
14 was said all much better by Nancy just right now, so we'll just
15 have my conclusion.

16 We're all concerned about climate change, so if 18
17 wind turbines built in pristine mountain areas can stem the
18 trend, would it not be more beneficial to build hundreds or
19 thousands of windmills on developed land along the coast or
20 northern Maine, as is it done in other states or countries.

21 This 18-windmill band-aid solution reminds me of a
22 story about a fat man with an ever increasing appetite who's
23 told to make a pill made from some rare plant. He should not
24 worry about the fate of plant because it grows in a different
25 part of the state. The pill might only add a minuscule amount

1 to his intake, but it make him feel so good that he will have
2 an extra serving of bacon.

3 Windmills on the top of high mountains are not the
4 solution. Thank you.

5 THE CHAIR: Thank you Hellmut. You can leave your
6 statement with Marcia.

7 Fred. Following Fred is Sharon Tisher.

8 MR. HUNTRESS: Good evening commissioners. My name
9 is Fred Huntress, I live in Poland Spring, Maine. I've been a
10 forester, land surveyor for a little over 50 years, pretty well
11 retired now. I own land in several Maine towns, which is
12 certified tree farms, and I also own half of a 1000-foot
13 mountain down in Casco. It's called Rattle Snake Mountain, so
14 I'm a little bit familiar with mountains.

15 You wonder why a guy from Poland Spring is interested
16 in Black Nubble, but I got started in the mountains back when I
17 was 19 years old. In college I worked for a lumber company in
18 Colorado and we went logging in the mountains, which were very
19 steep and somewhat similar to here, so I -- and I've done a few
20 timber sales up in the mountains.

21 I'm very much opposed to this project. In spite --
22 I'll read because I can't remember everything I want to say, so
23 I'll just read it.

24 In spite of all the discussion about using wind power
25 to save the planet, this hearing is about protecting the tops

1 of fragile mountains from commercial development. The reason
2 these mountains were zoned mountain protection P-MA is due to
3 the very fragile nature of these areas. It's taken over 10,000
4 years since the last glacier to produce enough soil to grow a
5 tree. This project would destroy the mountains of hundreds of
6 years.

7 I've seen pictures of the Mars Hill project up there,
8 and it's anything but light industry; it's heavy industry. As
9 the previous speaker said, it's going to basically have to blow
10 the top off that mountain just to do what they want to do.

11 They're going to have to blast tremendous holes in there and
12 fill them with iron and concrete. So it's not your little
13 light project. It's got nothing -- like timber harvesting, you
14 do allow some timber harvesting in these high peaks. When
15 timber harvesting is done properly, it leaves almost no lasting
16 effects on the mountain.

17 But this thing, I've been down to the coast -- maybe
18 you have -- some of the old gun placements and forts they had
19 back in the Civil War, first World War, they're still there.
20 They don't go away. This thing, once you put it there, it's
21 there forever.

22 I hope you realize the magnitude of this proposed
23 wind power project. Just building a road up the mountain,
24 which is suitable for transporting the towers and blades,
25 require a massive road with earth moving in steep cuts and many

1 culverts. Rainfall and snow melt, which is now absorbed and
2 slowed by the forest, will rush down the valleys causing
3 siltation. The tops of the mountains will have to be cleared
4 of vegetation and huge holes be blasted. Transmission lines
5 will need to be carved out of the forest for several miles,
6 leaving the barren landscape, which will not produce any timber
7 or provide habitat for wildlife.

8 No, this is not just another small factory in an
9 industrial park; it is a gross invasion of a wild and fragile
10 area far from any existing infrastructure.

11 What we really need, if we need some electricity, is
12 the continuation of the biomass boilers, which we started in
13 Maine. Probably you know, we had a lot of them on line and all
14 the companies and oil went up and the power companies bought
15 out their contracts. But those that are in business now, I
16 understand, are doing well.

17 There's a big demand for electricity, but that would
18 provide a market to people like myself who own timber. The
19 paper companies are on kind of shaky footing right now. If we
20 lose our pulp markets, we won't have any market for our timber.

21 Timber is renewable. As you know, we can produce a
22 tremendous amount of electricity through judicious forest
23 management without destroying the tops of the mountains. We
24 shouldn't be logging up there. There's plenty of timber to be
25 logged at other places.

1 I'm not here to argue the merits of wind power and
2 save the planet. I think this hearing is about saving our
3 mountains, and they're zoned for protection, and I think that's
4 really what we should be discussing, whether or not we're going
5 to save the mountains or we're going to destroy them.

6 I get a kick out of comparing the two projects, the
7 big project and a little project. The way I look at it, if a
8 whole cup of poison is lethal, is half a cup going to be any
9 less lethal? So we're not going to solve anything by cutting
10 the project in half. So I'll ask you to vote no on this
11 project. Thank you.

12 THE CHAIR: Thank you. Sharon. And then following
13 Sharon is Iver, if he's here.

14 MS. TISHER: Good afternoon. My name is Sharon
15 Tisher from Orono, and I'm here to strongly support the
16 Black Nubble project because I'm concerned about the big
17 picture and about the future of snow at Sugarloaf and Maine and
18 the rest of New England.

19 A little personal story, I'm an avid skate skier at
20 Sugarloaf's ski touring center. It's the best place in the
21 world, I know, to do that. For many years my husband and I
22 have had a nice affordable deal on a condo on the mountainside,
23 and we have reserved that for five or six weekends every
24 winter.

25 A few weeks we sat around the kitchen table and

1 decided this year it wasn't going to happen. We weren't going
 2 to spend a lot of time up here without the snow we needed to
 3 ski at the ski touring center. It was pretty miserable the
 4 last two winters.

5 Now, a good sign, the Farmer's Almanac says there's
 6 supposed to be lots of snow this winter and I hope they're
 7 right, but I know as well as you do that all credible science
 8 says that if we keep using and producing electricity and energy
 9 as we are now, snow as we know it in Maine a going to vanish,
 10 and winter as we know it is going to vanish.

11 Now, on one of those snowless ski-less days last
 12 winter, my husband and I took some telemark gear and climbed up
 13 most of the mountain. We didn't make it to the very top, but
 14 we went up to the ridge there, and we looked across over at
 15 Redington. I asked my husband, well, what would you feel about
 16 some big turbines, wind turbines, over there, and he said, that
 17 would be fine, that would be great, and I agree.

18 We've seen huge wind turbines towering over a
 19 wildlife migratory bird sanctuary in the Netherlands. They
 20 were really big and we thought they were really beautiful.

21 The birds, there were hundreds of migratory birds
 22 flocking beneath them, they seems very happy to be there, very
 23 undisturbed by the turbines, and we thought that they were a
 24 beautiful thing.

25 Now, I teach environmental law at the University of

1 Maine, and I thought a lot about the problem of climate change
 2 as I'm sure all of you have. I think that if humanity is
 3 successful in getting together from community-to-community from
 4 nation-to-nation across the globe to tackle all of the
 5 complicated pieces of this very big problem and to roll back
 6 the clock on global warming, it will be the most impressive and
 7 important thing that the human race has ever accomplished.

8 I also believe that we can do this, but whether we
 9 will do it, whether we collectively have the will to do it, I
 10 don't know and I'm sure you don't know either.

11 The one thing I want to say is that if you approve
 12 the Black Nubble project, you will bring us a little bit closer
 13 from the "can" to the "will" in this big picture, and I think
 14 that's terribly important. Thank you.

15 THE CHAIR: Thank you Sharon.
 16 Iver. And following Iver is Larry Warren.

17 MR. LOFVING: Hi, my name is Iver Lofving from the
 18 Central Maine Peak Oil Group.

19 The reason I'm here today to talk in favor of the
 20 Black Nubble wind farm, the Maine utility grid is very reliance
 21 on natural gas right now, which is a resource which is in steep
 22 decline in North America.

23 Natural gas, we have built a lot of natural gas-fired
 24 turbines right around here, and they were getting a lot of gas
 25 from the Sable Island Gas gas wells up in Nova Scotia. Well,

1 that is now in decline, and there's much than it had been. You
 2 notice that Calpine had a big natural gas plant in Rumford,
 3 Maine and that has gone under.

4 You'll notice in the back of the newspapers they talk
 5 about they're not going to put natural gas lines up to
 6 Vassalborough, a lot of other places in central Maine because
 7 we just don't have the natural gas to do it.

8 The price is going to go up and the natural gas is
 9 going to come from LNG or lines that come all the way from
 10 Boston, and, of course, further on down the Gulf Coast. So
 11 prices could very well spike for natural gas very, very soon.

12 We need to diversify our supply. Clean renewable
 13 like wind will help us out. The greatest most stress in Maine
 14 is in the coldest part of the winter, which is also when wind
 15 is screaming out of the northeast. If we have wind in your
 16 mix, we'll be much less vulnerable to power outages and loads
 17 during cold snaps.

18 Our state has a history of making a living from
 19 natural resources, and wind is never going to stop blowing.
 20 Natural gas could be cut off by any number of unfortunate
 21 events very, very far away, and I just wonder, do we want to
 22 put ourselves in that position.

23 Black Nubble could help out the environment, put lots
 24 of people to work, and keep the lights on. It's a win/win
 25 situation for Maine and Mainers. With our can-do attitude, we

1 can make this state work for us and for our children. Thank
 2 you.

3 THE CHAIR: Thank you Iver. Larry; and following
 4 Larry is, I think it's Lauri. I'm having trouble reading the
 5 name.

6 MR. WARREN: Mr. Chairman, my name is Larry Warren.
 7 I live in New Portland, Maine, and I'm president of a local
 8 nonprofit organization named the Western Mountains Foundation.

9 Our foundation is not an advocacy organization, we're
 10 not in a position where we support or oppose development
 11 projects throughout the state, but I'm here tonight basically
 12 to indicate that our project involves the construction of a
 13 number of -- 200 miles, approximately, of trails that are
 14 projected to run from the Newry area to Moosehead Lake.

15 Approximately every 12 miles we're proposing a lodge
 16 for people who use these facilities. The trail will be people
 17 powered only, anticipating providing opportunities for hikers,
 18 cross country skiers -- in certain areas mountain bikers --
 19 section of our corridor will be available for paddling,
 20 rafting, mountain biking.

21 Over the course of the last year we've had a number
 22 of discussions with Harley Lee, Endless Energy, and Maine
 23 Mountain Power regarding acquiring easements and access to pass
 24 through their property, and we're very appreciative of the fact
 25 that Mr. Lee, Maine Mountain Power, and Endless Energy have

1 granted easements for our trail to connect from Carrabasset
2 Valley to the Rangeley area.
3 Now, we recognize that the issues that confront the
4 Commission regarding permitting wind power are highly
5 contentious. We feel that there are an equal number of
6 supporters and opposers to these projects, and that if wind
7 power is going to become a part of the landscape in the state
8 of Maine, hiking institutions and organizations and people that
9 use the mountains are going to have to acclimate to their
10 presence.

11 From a realistic point of view, we feel that exposure
12 of these facilities and the ability of people to be upfront and
13 personal and close to these will be informative, and we
14 recognize that there will be a certain curiosity level and
15 educational level regarding the benefits and the drawbacks for
16 these particular projects.

17 With that said, we appreciate this company's
18 cooperation in providing access, and we wish the Land Use
19 Regulation Commission the best in making the appropriate
20 decision. Thank you.

21 THE CHAIR: Thank you, Larry. Following this
22 speaker -- since I haven't got his name straight yet -- is
23 Penelope.

24 MR. SPAULDING [phonetic]: I'm Lauri Spaulding from
25 Phillips. I oppose a change in zoning of highlands above 2700

1 feet in western Maine. Please do not give the wind power
2 generation projects, plural, any variances that allow them to
3 mess around with the mountains.

4 I oppose this in similar located wind farms for the
5 following reasons: In the '70s the State of Maine's
6 legislature and LURC and other interested parties determined
7 that the highlands should not be open to develop for many, many
8 reasons. All of these reasons are as valid today as they were
9 30 years ago. I'm going to touch on just a couple points.

10 There is no reason to inflict irreversible damage to
11 the summits and ridgelines of our high ranges, and I keep using
12 the plural because there's a second project. I'm scared to
13 death that if you find it in your hearts to approve this one,
14 it's going to be a lot harder to not approve another, much
15 bigger. So I'll use plural.

16 There are many venues where wind can be used to
17 generate electrical energy that are not among the most fragile,
18 the most inaccessible, and the most inhospitable to man-made
19 machinery.

20 One of the leading executives in the wind generation
21 efforts admitted that that particular project has an
22 approximately 50-year lifespan. I can't understand why anyone
23 would want to build a wind farm that's going to permanently
24 scar up these mountains and leave nothing but rutted tracks,
25 rusted metal, and cracked concrete in my lifetime. I have some

1 long lived genes in my family, and I might see 50 years from
2 now.

3 If wind farms are so ecologically friendly and such
4 good neighbors to the communities they're placed in, why aren't
5 they being located in such utterly and hospitable places? Why
6 aren't the promoters of these installations building them in
7 locations that are close to large capacity transmission lines
8 that aren't almost full, with easy access to construction and
9 maintenance, and that will be of minimal impact on the
10 environment.

11 If these turbines are truly as non intrusive as their
12 promoters claim, I would rather have two turbines on the top of
13 my hill in Phillips -- assuming I had the wind -- than one up
14 here on one of these mountains. My hill is just a few thousand
15 yards from power lines. There's already a road to within a
16 quarter of a mile to the summit of the hill, and it's not very
17 steep compared to this. Piece of cake to get up there.

18 As I understand it, the former potato country in
19 Aroostook County has dependable wind, as so does the coast.
20 Just to put a little piece here on this global warming issue --
21 so does the coast of Rhode Island and Massachusetts and
22 Connecticut and Long Island -- all of the coast of the United
23 States has very good wind.

24 Put these power plants where they're accessible and
25 with good wind, not on the top of our mountains.

1 I really can't see why it would make -- I'll skip
2 that.

3 I want my mountains for Maine whole and stable, as
4 able as possible to face the climatic changes that are coming
5 whether we farm Maine's wind or not. I'm not opposed to wind
6 power; I'm opposed to irresponsibly located wind farms.

7 It is not the job of the State of Maine or your
8 Commission to make allowances because a developer wants to use
9 the absolute highest wind flows in the state. If they must
10 make due with lower wind speeds, therefore, installing two
11 lesser turbines in the place of one, that's their problem.

12 If the truth is that a wind farm really is a nasty
13 neighbor -- loud, strobe flashing blades, vibrating, and stress
14 inducing, as I heard the Mars Hill operation is to the close
15 neighbors -- then the developer must engineer the system to be
16 more community friendly.

17 If the profit margin is too thin to allow for these
18 adjustments, then Maine does not need wind power, especially if
19 wind farms will result in kicking aside hydro that already
20 exists, a biomass plant that already exists, and the like.

21 It's not our responsibility to give the developer the
22 location they want. Let them figure out how to fit into the
23 state of Maine, not us figure out how to fit Maine into their
24 schemes, et cetera, et cetera. Thank you.

25 THE CHAIR: Thank you. Penelope, are you here? And

1 following Penelope is Louise Tesseo.
 2 MS. DIBOLD: I'm Penelope Dibold and I'm from
 3 Phillips. One stands in silence as we behold the panoramic
 4 views of Black Nubble. For me, and for the many visitors who
 5 travel long distances, to experience this miracle of
 6 Black Nubble views, there is a rare moment of being touched
 7 without electrical wires crisscrossing between ourselves and
 8 the other wilderness areas.

9 There is a moment of unbreakable silence, a moment
 10 where the chaos of the world has not been imprinted by the
 11 world of technology.

12 This is not the right site for this project. Thank
 13 you.

14 THE CHAIR: Thank you Penelope. Louise. And
 15 following that is Terry.

16 MS. TESSEO: Good evening. My name is Louise Tesseo
 17 and I live in Copland Plantation.

18 I strongly oppose this industrial wind farm. These
 19 are just a few of my thoughts that pop into my head when I look
 20 at Black Nubble out my window. Our beautiful mountain will be
 21 gone forever. The flawless night sky will be covered by lines
 22 of light across the ridgeline. The constant rumble of truck
 23 traffic 24 hours a day, seven days a week, on top of Poland
 24 Spring trucks that never go away, not to mention the day they
 25 start blasting 18 huge holes on top of Black Nubble.

1 Life as I know it will forever change and my heart
 2 sinks with that thought. Our mountains are special places that
 3 should be left alone for the health of our children and planet
 4 earth. We should tramp lightly.

5 Politics and money should not dictate what happens to
 6 Black Nubble or any other protected mountain range. It's
 7 protected about 2700 feet, it's as simple as that.

8 LURC was formed to protect what is dear to the state
 9 of Maine and it would be a crime to allow a project such as
 10 this to happen.

11 The global warming hysteria has clouded some minds
 12 and has lined the projects of others. Get the facts before we
 13 destroy this entire state. Maine is under assault. Make
 14 history. Shut down this project to save Maine's mountains.
 15 Please feel free to come and gaze at the stars, as I do, and
 16 then make your decision. Thank you for letting me speak.

17 THE CHAIR: Thank you Louise. Terry. And following
 18 Terry is Adrienne.

19 MR. TESSEO: My name is Terry Tesseo, I live in
 20 Copland Plantation, as well. My wife and I have lived in this
 21 area for over 30 years, and I oppose the zoning change to
 22 Black Nubble. Twenty-seven hundred feet above this state is
 23 protected. That, and that alone, should be enough to deny the
 24 zoning change.

25 Also, let me say, I've read everything I can get my

1 hands on in the few years about wind power, and it really vexes
 2 me when I hear over and over again how much global warming
 3 gasses are going to be saved because of this thing.

4 Let me tell you, no place anywhere on the planet has
 5 a fossil fuel power plant ever been shut down because they
 6 installed a wind plant, nowhere in the world.

7 Having said that, Holland and Denmark and Germany
 8 where they have thousands of these things installed, there has
 9 been little or no change to any carbon emissions, and no power
 10 plants have been shut down.

11 So that 400,000 pounds daily being saved by this
 12 little minuscule wind plant at Black Nubble is a false claim.
 13 You know what that means is wind plants will not stop any
 14 greenhouse gases or slow global warming. Nowhere in the world
 15 has this happened, nowhere in the world.

16 You have to have back-up power all the time that the
 17 wind turbines spinning because they're unreliable and
 18 uncontrollable. You cannot have wind power spinning and not
 19 have back-up power for those. That's why the greenhouse gases
 20 will not go away. It's a false claim.

21 Oh, yeah, the tourism thing. I don't know anybody,
 22 but how many people are going to say, let's go up to Maine and
 23 check out the windmills? This is not what people come to Maine
 24 for, and people that live in this area, that's not why we live
 25 here. That's not why tourists come here. We come here for the

1 beauty of the area, and the beauty of the area is pen stroke
 2 away from being destroyed. To me it's a shame.

3 Another thing that really tickled me -- and I heard
 4 it three or four times last year, I heard it a couple time this
 5 year -- where if you hold out your hand, it's only a half an
 6 inch tall. Well, what they fail to understand is, the whole
 7 mountain is only 2 inches.

8 So you have a 400-foot tall windmill on top of this
 9 mountain where trees, I don't think, say they're 30 feet tall,
 10 and when you ride up the ski lift the trees get shorter and
 11 shorter and shorter; so we have this thing up there that is a
 12 quarter as high of the mountains with flashing red lights at
 13 night, flickering blades in the daytime, and that's going to
 14 fit harmoniously into the natural environment?

15 Well, thanks for letting me speak.

16 THE CHAIR: Thank you, Terry. Adrienne. And
 17 following her is Ray.

18 MS. ROLLO: My name is Adrienne Rollo, and I am
 19 highly opposed to the Black Nubble wind farm.

20 I have been a permanent resident of New Vineyard
 21 since 2000 and a camp owner in Phillips since 1987. I have
 22 been visiting the Rangeley lakes region of Maine since I was a
 23 child. It's been that lifelong love of the mountains that has
 24 brought me here tonight.

25 I grew up in Massachusetts, and if that wasn't bad

1 enough, I moved to nearby Rhode Island and made my living there
2 for the next 30 years. My family and I witnessed uncontrolled
3 development year after year from developers who made promises
4 to residents that their projects would have little impact on
5 their day-to-day lives.

6 What they delivered were shopping mall after shopping
7 mall for miles and miles. They delivered 300- and 400-home
8 subdivisions in every town, it never ended. They delivered
9 unspeakable traffic congestion. They delivered a quality of
10 life that was so stressful, the only saving grace that we could
11 periodically escape to Maine to enjoy its beauty. It has
12 recently been predicted that Rhode Island will be the first
13 completely deforested state in the United States by the year
14 2050.

15 Rhode Island is symbolic of all heavily populated
16 areas, whether it be Massachusetts, New York, or Connecticut
17 where day-to-day life is pressure packed. For the last 40
18 years, my family travelled to Maine at least five or six times
19 a year to swim in her crystal clear lakes, hike her mountains,
20 and drink in her majestic scenery.

21 We called it recharging our batteries from living in
22 a very stressful world, and Black Nubble has been a part of
23 that history. The incredible beauty of this region is what
24 beckons tourists, just as it beckoned to us. Once it's gone,
25 it's gone forever.

1 Tourists will continue to seek out the quiet places.
2 They won't be coming to this area to look at a blighted
3 landscape. They'll go someplace else.

4 I support wind power but not in an environmentally
5 sensitive region. I do support offshore wind farms where the
6 wind is constant, and if I may add -- it's not in my paper --
7 but let them go to Rhode Island, the whole state is ruined
8 anyway.

9 I would like to, at this time, quote Maine's very
10 distinguished senator, George J. Mitchell, who once wrote, and
11 quote, "We have an obligation to leave for future generations
12 the very basics of human life on earth: Clean air, pure water,
13 unpoisoned land."

14 Thank you.

15 THE CHAIR: Thank you. Ray. And following Ray is
16 Emerson Dyer.

17 MR. CRAEMER: Good evening. My name is Raymond
18 Craemer. I am a resident of Eustis, Maine, and I am speaking
19 to you in opposition to the Black Nubble project.

20 You made what I feel was the correct decision on the
21 Redington project. The reasons for that denial are every bit
22 as valid for this proposal, and it should have the same thing.
23 To approve this would require that you violate the principles
24 that you were created to protect. There is no significant
25 economic benefit to the local area, and that is one of the

1 criteria, not any perceived benefit to some other place in the
2 state or the country. Jobs will be few, if any, and only for
3 the duration of construction. There will be very few permanent
4 jobs.

5 The proponents of the project do not state how many
6 jobs will be created. The track record on other projects
7 reveals that only a very few, mostly low paying jobs, will be
8 created locally. The bulk of the work will be done by
9 specialists from away.

10 A project of this size will, based on other bigger
11 projects, create only five or six full-time jobs, and most of
12 them will be at the home office.

13 We stand to gain one permanent worker, almost
14 certainly a technician from away.

15 The State of Pennsylvania has wrestled with the same
16 problem and sees a reduction in visitors and property values in
17 the areas of windmills. The Eustis/Stratton area needs a
18 permanent tax base created by more vacation homes. People will
19 not build an expensive vacation home to look at wind turbines.

20 I live on Eustis Ridge, 13 miles from where we are
21 today. I have no problems seeing Stratton, Crocker, Redington,
22 Black Nubble, and the Saddlebacks from my deck. There are two
23 developments in process in front of me, two more planned.

24 These are 400,000-plus vacation homes.

25 Since this came up, none of them have been started,

1 no land has been sold. People will not build an expensive
2 vacation home to look at wind turbines.

3 The Mars Hill project is causing lots of local
4 distress. I don't know how much power is being produced and
5 the local residents feel it is worth it. They are learning the
6 hard way, that low frequency noise travels a lot farther than a
7 decibel. The US Navy talks to its submarines under water
8 thousands of miles from the transmitter with low frequency
9 radio waves. I suspect Stratton will be able to hear the
10 turbine blades.

11 The proponents of this project continue to say that
12 they will build a 54-megawatt operation. As we all know,
13 windmill farms only produce 30 percent of the rated output as a
14 national average. A little over 30 percent in the Midwest, a
15 little less in the east. They should be straight with us on
16 this. Everything that they do, we should divide by three.

17 No wind farms have yet been built in subarctic areas,
18 so we don't know if they will work. The State of Vermont has
19 studied this, as they are dealing with wind issues, too. They
20 determined that any wind project above 3400 feet would not be
21 feasible due to high winter winds and icing.

22 As a note, the radio tower on the top of Sugarloaf is
23 126 feet tall. It is rated to withstand 100-plus-mile power
24 wind and a foot of ice. These slender turbines will be 400
25 feet tall with no ice protection.

1 When Lake Region Air, the Rangeley based aviation
2 company, was in business, I flew many of the summer fire
3 patrols. Our last leg of the patrol was from Bingham up over
4 the very area we are talking about. You would be astonished to
5 see the number of trees that are blown over by winter winds.
6 As a result, I doubt this operation will be near 30 percent
7 productive.

8 NIMBYs. The people from away call us NIMBYs because
9 we do not want a wind farm in our backyard, but they are the
10 NIMBYs, not us; we don't want them period. Too costly for too
11 little return. Funny, they don't seem to think that the
12 coastline would be suitable or the Eastern Promenade.

13 In closing, I feel that the State of Maine needs to
14 change a lot of the things we deal with. I am all for cleaning
15 the environment and reducing our dependence on oil, but I want
16 to take a little time to chart our course. It's far better to
17 avoid problems than fix them. If wind farms are really the
18 best things since sliced bread, they will still be a good deal
19 in five years. If they are not, we will be holding a large
20 smelly bag.

21 All that aside, your charge is to study just this
22 proposal and decide on its merits or lack thereof. Thank you.

23 THE CHAIR: Thank you Ray. Emerson. And following
24 Emerson is Harry Tiffany.

25 MR. DYER: Good evening. I'm Emerson Dyer, I live in

1 Eustis, Maine. I've only lived there permanently about three
2 years now, but the first time I visited was in 1949 when I was
3 less than a year old, and I have three generations of my family
4 buried in the cemetery across the street from where I live.

5 As you already know, the real issue of this hearing
6 is not about global warming, the generally presumed benefits of
7 wind power, nor the reduction of carbon emitted into the
8 atmosphere. It concerns whether or not it is best for
9 Black Nubble and the surrounding areas of Black Nubble to
10 remain a protected mountain zone above 2700 feet or to be
11 rezoned to industrial to allow the construction of a wind power
12 project.

13 After much discussion and careful analysis, this
14 fragile and unique land was wisely protected by law over 30
15 years ago, and it is now in your charge to determine its fate.

16 Your decision on this matter has the potential to not
17 only alter the character of this particular mountain but all of
18 the mountains in western Maine.

19 I've heard it said that because of global warming,
20 wind power should trump all other environmental, social, and
21 political issues; but after listening to the conflicting
22 testimony these past two days and doing some reading, I have
23 come to some conclusions.

24 Due to different claims in the literature by Maine
25 Mountain Power and TransCanada about the total pounds or tons

1 of carbon that their perspective project would prevent each
2 year, I can't give you an exact figure, but the amount of
3 carbon this project might reduce compared to the total for all
4 energy sources of carbon that produce carbon would be somewhere
5 the range of only several hundredths to possibly 1/10 of 1
6 percent and significant when weighed against the damage that
7 would be done to the Black Nubble ecosystem.

8 Some of the things that wind power will not do, it
9 will not stop or slow down coal mining in Texas or Tennessee.
10 In fact, the very idea of destroying the tops of the mountains
11 and ridges in Maine to save the tops of the mountains in other
12 states seems a fairly faulty logic to me.

13 It will not shut down any specific carbon producing
14 plants. In fact, they will at times sit idling. They will
15 still be producing some carbon but no electricity, while
16 awaiting to ramp up. Also, the plants most likely, by the
17 testimony that we heard, most likely to idle would be the
18 cleaner burning gas plants rather than the dirty coal-fired
19 plants.

20 Mr. Harvey, you asked an excellent question this
21 morning. You asked if Kibby and Black Nubble were both running
22 and offering their power at zero percent and there was a
23 congestion at the substation, which one would get the priority
24 on the power, and they said they could not answer your
25 question.

1 I can answer it for you. The source that would be
2 bumped off of that would be the Stratton biomass station or the
3 Wyman dam because both of those are offering their power at a
4 cost, so it would not be either of the wind power plants.

5 Also, in all likelihood it will not produce permanent
6 local jobs. In fact, less than two months ago a Mars Hill city
7 official said that only two people have been hired there for
8 permanent power, wind power jobs: One from California and one
9 from Boston, Massachusetts.

10 It will not supply power to local homes. In fact, it
11 was stated in testimony yesterday, most of the power now
12 passing through the tie-in station now is sent out of the area
13 except a small amount that serves this local area.

14 Wind power does, however, have the largest footprint
15 per megawatt hour of any power producing plant, which is why
16 this project will take up so many acres of land. Wind power
17 will leave a permanent mark. For the applicant to compare a
18 34-foot wide road built to accommodate machinery weighing
19 hundreds of thousands of pounds on the steeper and more fragile
20 slopes, to compare them to temporary logging roads, is not an
21 accurate comparison. The trees will grow back in areas logged
22 and you won't even be able to find the roads.

23 I'm sure the people of Mars Hill were assured that
24 the project there would have a minimum disturbance on their
25 ridgeline; but you've seen a slide of what was done there. I

1 heard sworn testimony yesterday that Maine Mountain Power would
2 "not blow -- be blowing the top off the mountain." Then they
3 went on to say that they would be using explosives to flatten
4 some areas for towers.

5 If that is not lying, it is at least quibbling about
6 the permanent destruction that will occur during this project.
7 Once you flatten the ridgeline and put a road and huge concrete
8 pads on top of it, you can't put any of it back.

9 Wind power will have a large visual impact on the
10 area. Maine Mountain Power, in their testimony, should have
11 just said, if you let us put up these towers, they will be the
12 most prominent features seen for miles, and this is one of the
13 costs of clean energy, instead of trying to convince us how
14 nice the King's clothes look.

15 These large bright white lighted towers with 400 feet
16 of rotating blades -- and I emphasis rotating because motion is
17 what catches our attention -- that will reflect sunlight at
18 times, will be impossible to not notice.

19 If I owned the camera that Maine Mountain Power used
20 to take their hazy, grainy, washed-out, monochromatic photos
21 that they used, I'd throw the camera out and get a new one.

22 Who do they think they're fooling with this?

23 What they also failed to mention -- Terry, you kind
24 of took the wind out of my sails here -- their little relative
25 height diagram, he said exactly what I did. That little

1 half-inch wind tower is sitting on a mountain which is
2 perceived anywhere from 2.5 to 1.5 inches. The ridgelines
3 would be about an inch and a half. It would be somewhere
4 between 1/5 and 1/3 of the height of the mountains that you can
5 see, and you have to admit that that is going to be noticeable,
6 even from 20 or 30 miles away.

7 When this Commission did the tour on Kibby Mountain
8 recently, I noticed that we could see Sugarloaf, and you can
9 discern that there are towers on top of Sugarloaf even from
10 that distance. They're only a hundred feet, you can't make
11 them out clearly, but you can see that they're there. If it
12 had 400-foot towers on top, you would be able to see them
13 clearly, especially if the light was reflecting off of the --
14 the sun reflecting off of the blades.

15 I'd also like to address their comments about the
16 lighting and how they tried to downplay the brightness of the
17 lighting.

18 I was a pilot in the Air Force, and the reason for
19 those lights are to prevent pilots from flying into them at
20 night, so they have to be seen at a great distance so a high
21 speed aircraft can see them. If they're as dim as they claim,
22 the FAA will make them replace them and put bright lights on
23 it.

24 The next thing I want to convey to you is something
25 that disturbed me at the January meeting, at your hearing.

1 Now, I hope to express this without appearing how to tell you
2 how to do your jobs or -- I don't mean to insult the
3 Commission, it's just something it was the first hearing I went
4 to, and it rather took me aback, so I'm going to bring it up
5 now.

6 THE CHAIR: You won't be the first person to tell us
7 how to do our jobs.

8 MR. DYER: I'm hoping I'm not telling you how to do
9 your jobs.

10 THE CHAIR: You kind of do need to wrap up.

11 MR. DYER: First I would like to commend you for the
12 vote in spite of what seemed to me a very stacked deck working
13 against you.

14 I was surprised to observe that commissioners
15 apparently do not control the format that the staff uses to
16 prepare your recommendations, nor the directions of their
17 contents.

18 Specifically, the manner in which the information
19 from all those in opposition to the project was relegated to an
20 addendum in the back of the report and the fact that a large
21 section of your own rules related to ridgeline development,
22 specifically slope and soil depths, were not even addressed.

23 I think I have a clear understanding of what caused
24 this to happen, but I do sincerely hope that the process for
25 preparing your recommendations will include more input from

1 you, commissioners, itself and will result in a more balanced
2 and objective product from the staff.

3 Finally, your fiduciary duty is to be the stewards of
4 the lands in Maine that are under your jurisdiction. I don't
5 pretend to know all of the ins and outs of the laws and rules
6 that you are working with, but I hope that when you evaluate
7 this rezoning request, you will find that it does not meet the
8 criteria for approval.

9 Your decision could potentially open the door that
10 would change the entire character of Maine's western mountains,
11 which are among the last mountains on the entire east coast not
12 industrialized or heavily developed.

13 Thank you.

14 THE CHAIR: Okay. Thank you Emerson. Harry.
15 Following him would be Eleanor Kinney I believe it is.

16 MR. TIFFANY: Harry Tiffany, I live in Freeman
17 Township. We've been coming to this area for winter sports
18 since the middle '70s. We bought a home in '94 in Freeman and
19 have lived there year-round since then.

20 We have a small footprint on the land of Maine and
21 use as little energy as we very possibly can.

22 We pay the taxes in the State of Maine, of which we,
23 being in an unorganized territory, actually receive nothing for
24 our taxes with the exception of keeping our road open during
25 the summer and the winter.

1 We don't quibble over this expense. We enjoy Maine,
2 and the reason we've been coming to Maine is the fact of this
3 grand area that we have here.

4 I was an employee for 37 years with Philadelphia
5 Electric & Gas Company. The elephant that should be in this
6 room is the federal government. I've been with commissions --
7 State, federal commissions -- all their grandioso programs that
8 the federal government has given to the electrical industry
9 over all these years, and where are the federal government
10 programs today? They've all bowed out of them.

11 We went through a Clean Air Act in 1972. They
12 grandfathered coal-powered plants in the Midwest. They said
13 they were going to be old and would be out of service within
14 ten years. We still have those same coal-fired plants in the
15 Midwest emitting pollution, which is coming over our area.

16 We had -- pollution credits were given for things
17 that you would do in different areas, of which the company sold
18 to other companies or traded to other companies in order for
19 them to continue using their dirty fuel.

20 This wind power situation we're going through today
21 it's just another one of the federal government's boondoggles.
22 It's another one of those things that, hey, financially you
23 can't get anybody to build any generation today because it's
24 not financially feasible to do so, so the government says we're
25 going to give you something for it. We're going to give you

1 accelerated depreciation so your investors will get their money
2 back within a short period of time. We'll also give you green
3 credits, of which, hey, why do you think big power people are
4 here tonight?

5 It's all money, it's all money we're talking about.
6 They want these credits. That's where the economics is. This
7 project was turned down and at that time before it was turned
8 down was -- a proposal was to break the project down into one
9 mountain instead of two.

10 They said it was uneconomical to do it. Now they
11 come back and they're giving you another proposal with maybe
12 it's not quite half of what it was before; but where is the
13 economics? Why would you invest in a company that you're only
14 going to get 35 to 40 percent out of? There's got to be
15 something underlying here.

16 Sure there is. The money is beneficial to the bottom
17 line, these credits. Do you think they talk about global
18 warming, it's going to help. These credits are going to go to
19 keep those fossil fuel dirty plants to continue to operate or
20 to build newer coal-fired or oil plants.

21 That's where these credits are; that's where the
22 money is. This is an industrial site being put in an area that
23 should never even be considered.

24 Now, you talk about the other day there was a person
25 who came here and said about the economic growth of Franklin

1 County. The economic growth of Franklin County is going to be
2 in retired people, people who have been coming to this area for
3 years for vacation. The baby boomers, it's the biggest group
4 of people who are going to retire. They're looking for places
5 to move to to get away from where they've been for the rest of
6 their life.

7 Who is the best ambassadors to bring these people?
8 It's people who live here, people who enjoy this area, people
9 who can related to these people to tell them, we have an area
10 that's different than anyplace else. There's your economical
11 thing and it's going to grow in this area and it's going to
12 grow over a long period of time. It's not going to be the five
13 jobs that's going to be here for 50 years because you've got
14 some wind turbines here.

15 Now, I have a little thing to say about this
16 grandioso photography we've got over here. I'm not a
17 photographer, but I have two eyes. I walk around these
18 mountains -- maybe not as much as I used to, maybe I drive
19 around them more -- I come up from Freeman up 27 yesterday and
20 also tonight. We've got these great blue skies, the sun is
21 shining, the trees are green. I don't see a green tree. I
22 don't see any sun. I don't see any blue sky.

23 At night, people will come to our house, we have a
24 large family, come and visit us, we have friends that come to
25 visit us, they're amazed at how quiet and the stars and the

1 darkness the skies are.

2 We're going to have these strobe lights on top of
3 these windmills that are going to flash at night, and you talk
4 about pollution? That's going to be light pollution for this
5 area.

6 Not only that, but who benefits by those big bright
7 lights? Why are those big bright lights there? Do we have a
8 lot of Maine recreational fliers flying around at night that
9 would bump into these towers? I don't think so. I don't think
10 we do.

11 They have to put lights on these big structures
12 because we have another thing that's being pressed in the State
13 of Maine, and that is the Massachusetts National Guard. They
14 want to fly low flying maneuvers over our mountains, and is it
15 going to be only in the daytime? I don't think so. They don't
16 go to war only in the daytime. They have to have maneuvers at
17 night, too.

18 Those lights are sure -- just like the previous
19 speaker said -- they are going to be bright, and when you see a
20 blue sky, green trees, white towers, and those rotating blades
21 that don't spin like an airplane propeller, which blurs them
22 out, they're slowly spinning, you're going to see light
23 reflections off of those, so I say this is an industrial site
24 that is going to be detrimental to Franklin County and should
25 not be built. Thank you.

1 THE CHAIR: Thank you Harry. I guess we certainly
2 understand your position. Eleanor.

3 MS. KINNEY: Good evening. My name is Eleanor
4 Kinney, and I live in Freeman, Maine. I have three small
5 children and theoretically a stay-at-home mom. I spend a lot
6 of time working on environmental and land use issues.

7 I'm testifying tonight in support of the Black Nubble
8 wind farm. This project has a long history and has generated
9 its share of controversy.

10 But the option on the table, the Black Nubble-only
11 development, represents a solution, a compromise that balances
12 the competing values of clean energy production and the
13 protection of fragile and scenic landscapes.

14 In the country the discussion around climate change
15 has finally shifted from a debate about the science to a
16 realization that we need to act. On the action front, it is
17 states like Maine, not the federal government, that have been
18 making the way. Maine's climate action plan and our
19 participation in the Regional Greenhouse Gas Initiative are
20 national models demonstrating our commitment to reducing
21 greenhouse gas emissions.

22 If Maine is going to be the regional leader in wind
23 power development, we have to encourage and support
24 appropriately sited projects. Maine Mountain Power's
25 scaled-back proposal addresses many of the siting concerns by

1 protecting Redington Mountain, while remaining economically
2 viable and producing a significant amount of clean energy.

3 If permitted and built, Black Nubble will be the
4 largest wind power project in New England, and there are more
5 wind projects in the pipeline. The development of clean
6 renewable energy in Maine integrates key environmental
7 priorities with emerging economic opportunity.

8 As we've seen from the pulp and paper industry,
9 Maine's traditional natural resource industries are in decline.
10 We need to use our natural resources in new innovative ways if
11 we're to succeed in a 21st Century global.

12 Investment in energy efficiency, renewable energy,
13 and other green technologies is essential for Maine to be
14 economically competitive, environmentally responsible, and
15 ultimately prosperous.

16 Approval of the Black Nubble wind farm is needed to
17 demonstrate the State's commitment to wind power and to move us
18 forward in increasing our energy independence while reducing
19 our carbon footprint.

20 On a final note, I just want to say that I'm a hiker
21 and a skier, and I certainly value mountain views that are
22 undiminished by development; but the threat of climate change
23 and our overreliance on fossil fuels are so compelling and
24 require that we be creative, we find solutions, and we modify
25 our own behavior.

1 We're going to have to make a lot of choices, big and
2 small, if we're going to make a difference. I hope that on
3 this project that you will choose to approve the Black Nubble
4 wind farm. Thank you.

5 THE CHAIR: Thank you Eleanor. Next is Basil Powers.
6 Is Basil here tonight? He stayed tonight. Good. And
7 following Basil is Nick Whittemore.

8 MR. POWERS: I brought my sign because I would like
9 you to tell me if what I have stated here is true or not.
10 Otherwise, I'm going to destroy this sign. I carried it on the
11 streets in Farmington and I've carried here several times. I
12 don't know if you people have read it, some have. Is it true
13 or is it not?

14 THE CHAIR: Basil, can you speak into the microphone
15 so we make sure that Lisa can hear you, although I don't think
16 that's a problem.

17 You want us to answer that question is what you're
18 saying?

19 MR. POWERS: I am Basil Powers, I live in Coplin
20 Plantation.

21 THE CHAIR: Thank you.

22 MR. POWERS: 55 years now on the South Branch of the
23 Dead River. Yes, answer my question, please.

24 THE CHAIR: Basil, I have an attorney over here that
25 said I'm not supposed to answer that question. We'll answer it

1 on the record.

2 MR. POWERS: I just wanted to know. I don't want to
3 be carrying around something that's a false statement. I've
4 always been quite truthful and quite frank with everything I
5 say and do. What I do say comes usually from the heart.

6 Why I came forward, my wife could not be here tonight
7 because she's the chief cook and bottle washer and she just
8 could not be here, but she did have a statement, and it's with
9 your permission I would like to read it to you.

10 THE CHAIR: You can read it on her behalf?

11 MR. POWERS: Yes.

12 THE CHAIR: Yes, go ahead.

13 MR. POWERS: I'll read. My name is Harriet Powers, I
14 live in Copland Plantation with a beautiful view of
15 Black Nubble from my picture window.

16 I have testified before at a hearing for this project
17 for Maine Mountain Power on Black Nubble, and I would like to
18 ask the LURC committee what has changed.

19 The law protecting our mountains from development of
20 any kind above the 2700-foot mark is still in effect and should
21 certainly stay there.

22 In my August Central Maine Power company bill, which
23 most of you must also received, Central Maine delivery prices
24 have gone down and are steadily dropping. Enclosed with my
25 testimony is a copy for LURC members to view.

1 If this project on Black Nubble was to be approved by
2 LURC, they would be breaking their own law and our mountain
3 majesty would be forever gone.

4 I recently watched a video of the Mars Hill wind farm
5 development with a group of people, and when we saw the way the
6 hilltop was blasted away and destroyed, and then they did not
7 anchor a windmill there but just moved on and left the mess,
8 grown men and women in the audience watching that video cried
9 and wiped tears from their eyes, it was sad.

10 Do we really need to allow Maine Mountain Power to
11 blast off the top of Black Nubble to a few kilowatts of
12 electricity, which our tax dollars will have to go to pay that
13 tax incentive to enrich the company's pockets. Thank you.

14 THE CHAIR: Thank you, Basil.

15 MR. POWERS: This is my wife's statement. I would
16 like to make a couple of my own.

17 I heard you last night telling the great benefits to
18 Franklin County from this project. Well, I travel around a
19 little bit, not much, but I don't come in contact with anybody
20 that's willing to work that don't already have a job. So where
21 the hell are they talking about people that are in so bad need
22 of a job that we've got to blow a mountain apart to put them to
23 work.

24 Everybody that wants to work and will work has got a
25 job, so that's foolish.

1 I also heard them say here last night how terribly
2 our air is polluted. Well, let me ask you something, you step
3 right out that door and anybody here step out that door and you
4 take two or three real deep breaths, and then you tell me that
5 that's not the cleanest and the purist air that you ever sucked
6 into your lungs.

7 We don't have air pollution here. Sure they do in
8 some places, but it's their fault, and I don't know why we need
9 to sacrifice our beautiful mountains or any of our beautiful
10 landscape for those poor people that can't help themselves.

11 I do know that there is projects in the making in the
12 pipeline that's going to make these windmills obsolete. In
13 California where they have a lot of problems with power,
14 they've gone out onto the desert, they've had huge glass tubes
15 laying on the sand, and they're producing electricity from the
16 ultraviolet light, somehow -- don't ask me how, I'm not a
17 scientist -- but I'll tell you, I saw it on the national news,
18 so I don't believe it was a misstatement.

19 They already have in place a plant producing
20 electricity from the sun that will produce enough for 140,000
21 dwellings. If that be true, we've got deserts enough in the
22 world to generate all the electricity for the world. There's
23 no trees there that have got to be cut, no roadways, no
24 blasting that's going to tear up the ground.

25 I know that you people have heard enough of this, I'm

1 not going to believe you anymore. You've heard it over and
2 over and over. But I caution you, if you give them a variance
3 to put these towers on Black Nubble Mountain, it will haunt you
4 the rest of your days I'm sure.

5 I'm going to quit because people are waiting to speak
6 and I know you heard this over many times.

7 But please do not give them a go ahead for
8 Black Nubble. I get up sometimes in the morning before the sun
9 does, not always. When the sun comes up behind Black Nubble,
10 because it's right near my front yard, we live right in the
11 shadow of that mountain, I have got some of the most
12 spectacular sunrises coming up behind that mountain, and I wish
13 I could have brought them to prove it to you.

14 I'm also up sometime during the night when the moon
15 comes up behind Black Nubble, and I grab my camera and I go
16 outside. That moon coming up behind there, that huge golden
17 globe, and I wait until it gets right to the very top of that
18 mountain. It's like a big Christmas ball. I have it.

19 Please do not destroy something that is so
20 breathtaking and so beautiful, I beg of you.

21 Thank you very much.

22 THE CHAIR: Thank you Basil. Nick Whittemore,
23 please, if he's still here. Following him is Guy Griscom.

24 MR. WHITTEMORE: Hi, I'm Nick Whittemore and I live
25 down in New Sharon where I have lived since 1972. I'm here to

1 support the application to rezone Black Nubble.

2 I'm one of the investors in Redington Mountain wind
3 power, which is the entity that owns the land that the
4 Black Nubble project is proposed to be sited on. My father and
5 I were two of the original investors back in 1991, and actually
6 I have been interested in wind power before that, the
7 possibility being the proposed on a cross country ski trip up
8 the Caribou Valley Road.

9 So I've -- aside from Harley here, I've been with
10 this project as long as just about anybody. I've seen it grow
11 to what it is today, mostly from Maine residents who have
12 contributed their support financially and volunteer labor.

13 I've been up on Redington -- I don't know how many
14 times all seasons of the year, Black Nubble also -- and I can
15 appreciate the beauty. But I also feel we need to do something
16 besides talk about how bad the coal plants are and the
17 dependence on OPEC oil. I don't like paying the wrong price
18 for oil, as a matter of fact, I use very little of it.

19 The two considerations which I think are most
20 important to this rezoning are the view from the Appalachian
21 Trail and the effects to the environment. What I would say is
22 that back six or seven years ago in the Maine Times newspaper
23 there was a -- they did an interview of H. C. Haynes, logging
24 contractor up in Wynn, Maine, and they quoted him as saying
25 that the time to buy land is when it's available.

1 Now, I know a little bit of the history of what we
2 went through, and we bought Redington twice in the '90s and
3 Black Nubble once. The first time we got an option on
4 Redington was because we saw a notice in the newspaper, and --
5 so we had an option on it for a few years, but we ran into
6 trouble with our big institutional investor and the partnership
7 unraveled.

8 After that paper company land up there,
9 Georgia-Pacific, divested itself and the Dallas Company, the
10 Brochu people up in Stratton bought it, we were very lucky to
11 get that mountain back about 1998 after a lot of persistent
12 negotiations, and soon after we got Black Nubble.

13 So what I'm getting at is that we've heard a lot of
14 whining and crying tonight about the possible effects, but back
15 when those mountains were available, nobody but us stepped up
16 and put their money down to do anything about them. So I don't
17 feel too bad. As a matter of fact, I like the look of
18 windmills.

19 Back in the year 2000 I took a snowmobile trip around
20 the Gaspé peninsula, and one of the things that I was most
21 anxious to see was the wind farm up on -- it's on the south
22 shore of the St. Laurence, and the snowmobile trail actually
23 went right through it. I was able to see what it looked like,
24 and the blades were turning, there was a little grinding but it
25 was no great noise, and I was thrilled to see clean renewable

1 energy being produced.

2 It's too bad it was up in Canada. I'd like to see it
3 here. I think that we need to do something, and I moved here
4 in 1972 as part of what they call the "back to the land"
5 movement, and I grow a big garden, cut my own firewood, done
6 some farming down there, was in the chainsaw business. Anybody
7 who cut wood back in the late '70s/early '80s probably came
8 into my shop. I was a Husky dealer down in Farmington.

9 But as a farmer I've seen what's happened, and it got
10 progressively harder and harder to grow crops. My land was
11 down on the Sandy River, and it would flood unexpectedly, it
12 got hot, it got cold, got rainy, there were bugs, there were
13 weeds; and now I don't do much farming, but I do have a big
14 garden. This year for the first time, 35 years, the garden was
15 a total bust. After a lot of work finally it looked like there
16 was going to be a crop, and we got hailstorm that flattened
17 everything that was above ground.

18 Now, I'm a little bit tired of this global warming,
19 and I know that we can't do anything about what goes on in
20 China and we can't do anything about what goes on down in the
21 coal country, but we can do something right here at home, and
22 that is start taking charge of our own affairs and start
23 generating our own electricity. When we were up in the Gaspé
24 we stayed in motels, and every single one of them except one
25 was heated by electricity. The other one had an outside

1 boiler.

2 I know people here in Franklin County that live in
3 trailers out of necessity, and you can't have a wood stove in a
4 trailer because the trailer park personnel prohibit it and it's
5 dangerous. And I really feel for these people who are
6 dependent upon imported energy or gas or whatnot. I really
7 hope that we can put together an alternative to this situation.

8 I would like to see home-grown locally grown
9 electricity owned by a Maine company, that's our company here,
10 of which most of the people are Maine residents, and made
11 locally available.

12 Now, that's what the plan calls for right now.
13 Electricity generated by this project is -- the contract is
14 with Constellation New Energy, and their plan is to make it
15 available first to Maine businesses. Whether they buy it or
16 not remains up in the air. But the aim is try and generate
17 this stuff here in Franklin County and use it right here in
18 Maine.

19 Now, how it works, I don't know, but we've got to
20 make an effort to get this going. I don't know what more I can
21 say. I like the looks of -- they don't bother me a bit.

22 As far as the scare tactics about strobe lights and
23 all of that nonsense, when I asked that question at one of our
24 meetings, the answer I got was that these lights will be slow
25 pulsing red lights, the same as you see on the cell towers.

1 Now, I had a cell tower go up where I live, and my
2 first reaction was not favorable, but I've lived with it for a
3 few years now and I don't find that that red pulsing light to
4 be too offensive, I can live with it.

5 I don't know how to summarize this, but I think this
6 is an excellent project. Harley is thorough, he does a
7 thorough job on anything he does, and I think that -- well, let
8 me just go back a little bit.

9 When I was up in Caribou Valley back around 1990, it
10 had been flattened. There were skidder ruts all over the place
11 and the trees were gone. A few years ago when I was up there,
12 everything had healed up, and the crews had been through with
13 thinning saws to thin out the fir.

14 I think that that area up there is way more resilient
15 than people give it credit for.

16 THE CHAIR: Are you kind of winding down?

17 MR. WHITTEMORE: I guess now is a good time to break
18 it off because I lost my train of thought. I urge you to
19 approve this application. Thank you.

20 THE CHAIR: Thank you. Guy. And following Guy is
21 Pam Prodan.

22 MR. Griscom: Good evening. My name is Guy Griscom,
23 I live in Avon, Maine, and I have a whole number of things I
24 was going to say until I realized looking at this pamphlet
25 about what your actual charge is that you are not responsible

1 for global warming or solving many of the other problems that
2 we have discussed.

3 I really comes down to, does the Black Nubble
4 project, as it is proposed, how it has been revised, does it
5 meet with the environmental standard that you believe as
6 members of the Commission that this project will not have an
7 adverse effect on the environment.

8 Whether you're in favor of wind power -- which I
9 am -- or not, the real question and the question before you, as
10 far as I understand it looking at this pamphlet, is that it has
11 to do with, is the project as it is presented to you, looking
12 at the facts, knowing what you know, hearing all of the expert
13 testimony, then I believe that you will decide in favor, at
14 least I hope so, but I know that it will be done based on the
15 facts, the facts of the environmental impacts of this project.

16 I think the other items, like global and how we can
17 solve the world's problems we'll leave for another day. Thank
18 you very much.

19 THE CHAIR: Thank you, Guy. Pamela, is she here?
20 And after Pam is John Hellie.

21 MS. PRODAN: Good evening. I'm Pamela Prodan, and
22 I'm speaking solely for myself this evening as an individual.
23 And I hope you don't mind if I speak, but I want to go on
24 record as being in opposition to this project.

25 I am fortunate to have been able to move to Franklin

1 County over 35 years ago, and I live in the midst of the
2 mountains and the intervale of Wilton, Maine, so I have been
3 deeply influenced over the past 35 years by the mountain.

4 I started working a little over 20 years ago to try
5 to protect the western mountains from energy developments when
6 I represented a group called No Thank You, Hydro Quebec before
7 the Maine Public Utilities Commission, and we successfully
8 stopped a massive power line from being built through western
9 Maine to serve markets in southern New England and southern
10 Maine.

11 Over ten years ago I successfully represented
12 National Audubon Society, and Western Maine Audubon Society,
13 and some other groups and individuals who were opposing the
14 Kenetech project, which I view in the same light as being an
15 attempt to use the western mountains to create energy --
16 electricity for export from the region.

17 I will continue to do that work, as you know, because
18 I feel very strongly about the mountains and their values, and
19 I hope that you will uphold the standards that apply to you in
20 judging this project. Thank you.

21 THE CHAIR: Thank you Pam. John, are you here?
22 Okay. Then Linda after you. Somebody you know I take it.

23 MR. HELLIE: My name is John Hellie. I am from the
24 township of Lang, which is kind of nestled between Copland
25 Plantation and Dallas Plantation.

1 Commission and chairman, thank you for letting me
2 speak, and if I talk too long you're welcome to throw a pen at
3 me or something.

4 Here we are again. Boy, I'm starting to get to know
5 you folks. It's kind of ironic that we are discussing the same
6 thing that was voted down once, and at one point in time I
7 think that LURC was even trying to entertain a down-sizing of
8 the project.

9 At that point in time the investors were saying no,
10 it's not cost efficient, I'll take my toys and go home. Well,
11 it was voted down. Now, all of is sudden, it's become cost
12 efficient again.

13 I really have a hard time with something that has
14 been voted down in entirety and then an investor and group of
15 investors -- of course every one of them listed up there in
16 support, is going to make a lot of money off of it -- comes
17 back and says, well, we'll just do a little bit.

18 Well, no, it was all voted down. A mountain is a
19 mountain, a hill is a hill. We voted down the mountains. We
20 have the law, we have LURC in place establish that this is
21 abided by because it is something that needs to be protected.

22 Global warming. Can anybody say ethenol? See the
23 price of corn, yeah. Government throws money at it, government
24 throws funds and grants at it, let's just all hop on it, but
25 corn isn't even the best way to get ethenol.

1 Okay, if Maine wants to start establishing something,
2 maybe we should all take a step back and take a real good look
3 at how we use our resources. Maybe we should take a good look
4 at how we're going to mutilate our mountain.

5 It's really important to really go back and look --
6 and I really wish I could go back and say please look at what I
7 said on transcript No. 634 out of probably 10,000 -- it was
8 voted down.

9 The mountains were to be protected and all I ask is,
10 look back at what you said and why you said no before, because
11 it is the same mountain, it's just only one as opposed to two.
12 Thank you.

13 THE CHAIR: Thank you, John.
14 (There was a break in the hearing at 7:56 p.m. and
15 the hearing resumed at 8:15 p.m.)

16 MS. HELLIE: My name is Linda Hellie, and I live in
17 Lang Township. About the same time last night I took a break,
18 I went over there and I looked at the displays that they had,
19 and I was really dumb founded when I saw this particular one.

20 This one here shows the wind power calculation and
21 this was provided by Harley Lee or his organization.

22 The darker areas are the best areas for wind power
23 and the lighter areas are poor. So I was looking at this, and
24 Black Nubble wind farm has an arrow, and I was looking and I
25 decided to bring the magnifying glass because you can hardly

1 see any dark areas. But you look down here along the coast,
2 and you see all these really dark areas. I'm sure you can
3 probably see them from where you're sitting.

4 So the question I ask is, why are we putting
5 windmills on top of Black Nubble when there are better
6 locations than on top of a mountain that's going to be
7 destroyed.

8 From what I've heard in the last two nights -- I
9 heard it last year -- how that mountain is unstable, why we are
10 doing this. I just don't understand it. It cost \$110 million
11 I don't know about you guys, but that's a lot of money to be.
12 Why don't we put our money where it can be best used. Down
13 here you can see, look how wide these gaps are, for the best
14 wind power.

15 Please don't put those wind turbines on Black Nubble.
16 Thank you.

17 THE CHAIR: Thank you Linda. Neil Iverson, please,
18 and then Bruce Bell will follow.

19 MR. IVERSON: My name is Neil Iverson, I live in
20 Eustis, and I come to speak against the proposed windmill
21 project on Black Nubble Mountain.

22 Actually, I'm surprised that we are here at all. We
23 heard all these arguments before, and you, the members of LURC,
24 after careful weighing of the evidence, made your decision and
25 you made the right decision.

1 Black Nubble is not an appropriate site for the
2 placing of windmills. The costs far outweigh the benefits to
3 the people of Maine and especially to the people of Franklin
4 County.

5 Maine is blessed with beauty and treasures for our
6 use. We have a beautiful coastline, and the state has worked
7 vigorously to protect it from pollution and callous
8 overdevelopment.

9 Maine has beautiful lakes like Rangeley and Sebago,
10 and again the State conducts an intensive program to protect
11 them against milfoil and other threats that will destroy them
12 or diminish their value.

13 Then we have our beautiful mountains, like
14 Black Nubble. Who in the state of Maine is going to project
15 those? What part of our State government is going to have the
16 courage and the wisdom to protect these treasures from
17 overzealous development by those seeking profit for themselves?

18 You, as LURC members, are the last defense against
19 the utter destruction of those very peaks that you have chosen
20 to protect decades ago.

21 One of the difficulties of your decision is not
22 knowing exactly the future consequences of your actions. I'd
23 like to take a minute to tell you a story. I grew up in
24 Scarborough just outside of Portland. One of the landmarks in
25 our state at that time was built in Portland in 1888. It was a

1 huge granite and marble railroad station, Union Station in
2 Portland, and it was visited by thousands of people every week.
3 If you were going to Boston or New York by train, you
4 went to Union Station. Some of you here may be too young to
5 remember, so I brought a picture of it to show you.

6 This is Union Station. It was built in 1888. Then
7 in 1961 a developer bought the land and levelled Union Station,
8 that landmark, to make a parking lot for a strip mall. That
9 strip mall was to be anchored by Arlin's Department Store.
10 Arlin's no longer exists, it went out of business.

11 Now 50 years later people still regret the decision
12 to destroy that landmark but there is no going back. It's gone
13 forever. And the people of Maine are poorer because of its
14 loss.

15 I fear the same thing will happen to our mountain if
16 windmills are put on the top of it. Years from now people are
17 going to say, how did that happen? Why did that happen? It's
18 never coming back.

19 I urge you to consider the future -- 20, 30, 50 years
20 from now. Consider the value of these mountains and the
21 treasure they present to all who visit and all who live here.
22 You have already made the decision once. Nothing has changed
23 to alter that decision.

24 I urge you to vote this down and to keep the
25 protection in the zoning the way it is. Thank you.

1 THE CHAIR: Thank you, Neil. Bruce. And then after
2 Bruce is Marcia. Marcia White, sorry.

3 MR. BELL: Chairman Harvey, members of the
4 Commission, my name is Bruce Bell and I'm a farmer from Leeds,
5 Maine. I'm here to speak in favor of this project.

6 I don't think I can tell you anything you haven't
7 heard before, so I won't waste your time any further except to
8 throw in one kicker.

9 I think you should -- I would urge you to vote in
10 favor of the original application, the two-mountain
11 application. I believe it's still before you. Thank you for
12 your time.

13 THE CHAIR: Thank you, Bruce. Marcia, is she still
14 here? There we go. And after Marcia a Steve Barr.

15 MS. WHITE: My name is Marcia. I was born and raised
16 in Augusta but home has been in Wyman Township with my husband
17 for a little over 30 years.

18 Our two children are very proud to say they were
19 raised in unorganized territory, and a home built by their dad
20 high on a ridge a half a mile in the woods. We're proud to
21 support them in their current pursuits at the University of
22 Maine at Orono and Bates College. All four of us support the
23 Black Nubble wind farm, which would be built in what we
24 consider our backyard.

25 We're members of the Natural Resources Council of

1 Maine, Maine Appalachian Trail Club, we're also advocates for
2 many environmental and conservation organizations. We're avid
3 skiers, golfers, hikers, and cyclists. I've ridden in the last
4 nine treks across Maine as Captain of the Sugarloaf Community
5 team, the past eight, alongside my son on five raising money
6 for the American Lung Association of Maine, whose missions and
7 causes I thoroughly support.

8 It's a shame we have neglected the quality of our
9 air, but it's been easy to do because we couldn't see the
10 damage being done. We had to begin to address the land and
11 water pollution issues, as the seeping landfills and foamy
12 rivers floating with dead fish were impossible to ignore. I
13 grew up by the Kennebec back in the '60s.

14 But the air, out of sight, out of mind and taken for
15 granted.

16 For the most part the actual damage we've done to our
17 atmosphere is still out of sight, but the wake-up call has come
18 and the scientific data grows more overwhelming with each day.
19 We can now see the repercussions as global warming leaves its
20 mark on our weather patterns, our melting icecaps, disappear
21 corral reefs and coastlines, changing plants and animal
22 habitats, and a declining population of polar bears.

23 It was polar bears we were talking about one day this
24 summer at Outdoor Adventure Camp, which is our Carrabassett
25 Valley-based day camp that I manage as part of my job here at

1 Sugarloaf as children services director.

2 On any given day we have between 70 and 100 campers
3 ages 4 to 13 taking part in our program. It was just after a
4 report had come out predicting that polar bears would be
5 extinct in the wild by 2050 because their natural habitat would
6 be gone.

7 Kids were upset. Kids were mad. Kids wanted
8 answers. 10-year-old Ryan guaranteed, his hand was up, if you
9 grown-ups know that burning fossil fuels is causing global
10 warming and killing the polar bears, why don't you stop?

11 At that moment with my eyes locked with this
12 articulate boy asking an obvious question, expecting a black
13 and white answer, I felt personally responsible for all global
14 warming.

15 Here was a 10-year-old calling it like it is and
16 recognizing us grown-ups as being the ones to hold accountable
17 for the damage. I couldn't answer his question. I couldn't
18 think of one valid reason or even a weak excuse to justify our
19 generation's feeble attempts to turn things around against the
20 weight of this impending doom.

21 A comment was made last night about the companies
22 involved in this project making a profit from its operation.
23 I'm thankful there is a profit perspective for private
24 companies to be working on clean energy proposals. If not, few
25 people would be doing anything. Are we waiting for our

1 government to take more action in favor of renewable clean
2 energy? If so, first we have to stop from subsidizing one of
3 the biggest parts of the problem: \$17 billion in federal tax
4 subsidies for oil and gas companies last year alone.

5 Couldn't it be better spent supporting clean energy
6 development than prolonging our dependency on petroleum
7 products? It's our money, we're grown-ups, and our children's
8 and grandchildren's future. We may be the most powerful nation
9 in the world, but we are definitely the most power hungry and
10 we're not doing enough to change that.

11 In the 2005 Environmental Sustainability Impacts
12 Report done by Yale and Columbia Universities in collaboration
13 with the World Economics Forum and the joint research done by
14 the European Commission, the United States ranks 45 out of 146
15 nations rated. We should be ashamed of this rating and at the
16 same time called to action.

17 Conservation was mentioned by many people who have
18 spoken against this project as a solution, and it is part of a
19 solution, but I don't think it will ever become mainstream
20 until it's mandated or made more economically feasible.

21 Incentives and tax breaks for green building and
22 environmentally friendly cars aren't enough to sway the
23 multitudes. We need to start charging more for the gas
24 guzzlers or mandating green elements in new construction.

25 I'm sure many of you have seen the "what if" Irving

1 commercials on TV. My "what if" for an Irving station is three
2 lanes: Pull into Lane 3 with your Suburban and fill up your
3 tank for \$7 a gallon; Lane 2 for the Subaru, \$4 a gallon; Lane
4 1 for your hybrid where we'll pump it for you for a buck and a
5 quarter. It's time to think outside of our conventional boxes.

6 Black Nubble wind farm is a start, and I believe that
7 after all these years of planning and revising, that their
8 proposal must have crossed every T and dotted every I at least
9 a dozen times over. This project will fall under more scrutiny
10 by the public and all who oversee it than any other project yet
11 undertaken in any Maine unorganized territory.

12 In the end I believe it will cause less permanent
13 site damage than many of our local logging operations, which
14 have left acres of permanently scarred land in their yard areas
15 and easy access to many delicate back country terrain areas for
16 other motorized traffic on hundreds of miles of abandoned
17 roads.

18 I've also heard from both loggers and suppliers that
19 thousands of gallons of diesel fuel and hydraulic fluid are
20 spilled and left in our woods every year. But that's a
21 different problem. Also out of site and probably out of mind
22 until it shows up in the Poland Spring water.

23 Another argument has been the views that some say
24 will be ruined by the turbines. We won't see the turbines from
25 our house in Wyman Township, instead, we look in one direction,

1 we see the plume from Stratton biomass. In the other direction
 2 we look across Stoney Brook ravine at what locals call the
 3 Crocker Slide, which is caused by stripping a sensitive area
 4 and one heavy rainfall event. It's a scar on the land that
 5 will never heal, and I would trade it for a view of an
 6 operating wind turbine any day.

7 I wonder what the people of Appalachia and Utah would
 8 say as they look at their hundreds of desecrated coal-mined
 9 mountains. Speaking of those, they know who have died or
 10 suffered in the process to power the plant, but still in the
 11 face of all we know, provide too much of our country's
 12 electricity. Anyone want to make that trade?

13 So please, commissioners, give Maine Mountain Power
 14 the green light. Nothing beats the view from the top. It's
 15 the mantra for our peak bagger program, which is for campers 8
 16 and up at Outdoor Adventure Camp who get to hike a mountain and
 17 bag a peak each week. I'm wearing this year's peak bagger's
 18 shirt, and I'm sure everyone behind me has been able to
 19 memorize all the peaks that our kids concurred this year. And
 20 now you get to see.

21 I hope to stand on future peak bagger designations on
 22 clear days when we can see Mt. Katahdin and Washington in the
 23 distance, something that has become a rarity during the summer
 24 months due to smog, with my lungs full of clean mountain air,
 25 and to point out to campers the wind turbines on Black Nubble,

1 and finally be able to answer Ryan's question. We did stop and
 2 over there is one of the places where that stopping started.

3 I don't envy you for the decision you have been in
 4 charge to make and what you've got in front of you, but I hope
 5 you make the decision that's best for the big picture, for the
 6 kids, for all of us, and for the polar bears, thank you.

7 THE CHAIR: Okay, thank you Marcia. Steve Barr, are
 8 you here? Did I get that name wrong.

9 DR. SAYER: My name is Dr. Suzanne Sayer, and I'm
 10 here to speak for a physician by the name of Stephen Barr, who
 11 is in practice in Portland. But I feel sorry for you guys so
 12 I'm just going to say it.

13 He didn't say anything more other than his
 14 grandmother or somebody else lived here and he lived here, so
 15 I'm just going to give it to Marcia to put in the record.

16 THE CHAIR: Okay, thank you.

17 DR. SAYER: He's one of the nine people to the one
 18 against for the wind farm, and I just wanted to tell you that
 19 it's very hard to get people here when they've got a full-time
 20 job helping people being physicians. It's very hard to get
 21 them here when they've got something that they feel is very
 22 important, but they want you to know that they want to support
 23 it.

24 THE CHAIR: John Diller, are you here somewhere? I
 25 guess if he's not here.

1 MS. LIBITZ: I'm speaking on his behalf. I'm from
 2 Caribou, Maine, and I'm speaking on behalf of John Diller,
 3 who's president of Sugarloaf who could not be here tonight.
 4 I'm reading a letter.

5 Dear commissioners: Over the past several months
 6 I've had the opportunity to speak with many in the Sugarloaf
 7 community about the Black Nubble wind project. In those
 8 conversations I'm most often asked why are we doing this and do
 9 we need it.

10 These are both excellent questions that require what
 11 I call "big picture" answers. We all know there's an energy
 12 crisis in the world, and in this long time to explore
 13 alternative energy resources.

14 The present high price for all types of fuel is a
 15 reflection of supply and demand economics and prices are being
 16 stretched further as China and India advance their economic
 17 system.

18 Conventional electric generation in the northeast is
 19 more and more dependent on natural gas. Natural gas has
 20 drastically increased in price and it's forecasted to impact
 21 both commercial and residential power rates by as much as 30
 22 percent in the coming year alone.

23 Fossil fuel continues to be the major energy sources
 24 in the Midwest and the major contributor to acid rain here in
 25 the east. The bottom line is, we need more efficient and

1 cleaner energy generation. So I ask the question: Is wind
 2 power clean? Yes. Does it have a visual impact? Yes.

3 However, having seen the economic program in southern Vermont
 4 15 years ago, I think it is minimal.

5 I would also add that this is perhaps relegated to
 6 the eye of the beholder. I have spent most of my adult life at
 7 Sugarloaf looking at man-made equipment, chair lifts and
 8 towers, that have blended into the landscape. Our collective
 9 need for energy requires us all to make concessions and embrace
 10 change.

11 The Black Nubble offers the necessary geography and
 12 proximity to existing infrastructure that allows us to add wind
 13 to our energy mix. Change may be unwelcome, as evidenced by
 14 the popular, not in my backyard, but current geopolitical and
 15 environmental challenges implore us to look at our collective
 16 backyard in a quest for energy self sufficiency. We will all
 17 be the beneficiaries.

18 I encourage you to support entrepreneurial
 19 initiatives to bring wind and other clean sources of energy to
 20 fruition for Maine's future. Thank you for your consideration.
 21 John Diller, president, Sugarloaf USA.

22 THE CHAIR: Thank you. Tony Barrett.

23 MR. BARRETT: My name is Tony Barrett, I live in
 24 Harpswell, Maine, and I'm here to speak in opposition to
 25 Black Nubble.

1 First I want to say thanks to the commissioners for
2 being here. I appreciate that you're spending yet another full
3 day of your time on this application.

4 I've been interested in wind power projects for a
5 long time. I visited Altima in California back in the '70s,
6 and I have visited projects in North America and in Europe. I
7 stood underneath the wind tower in Hull, Massachusetts and
8 driven by the one in Dorchester. It seems like these projects
9 are sited in a variety of places, both rural and urban and on
10 the coast and inland.

11 However, I don't understand why Maine Mountain
12 Power's project needs to be sited on the relatively undeveloped
13 mountains of western Maine.

14 There are many places in the United States where wind
15 resources can be harnessed without the consummate loss to the
16 landscape without losing the quality of place that this site
17 holds. Are we going to industrialize all of Maine over 2700
18 feet in elevation in the name of global warming? Should
19 Black Nubble be approved no matter what the subsequent cost?

20 I understand that wind resource is an important
21 economic criteria; however, Katahdin probably has a greater
22 wind source than Black Nubble. Cadillac Mountain probably has
23 a greater wind source than Black Nubble as well.

24 Would we place wind towers on top of those mountains?
25 The answer is no, because the quality of place is too valued.

1 The tradeoff of the perceived benefits of wind power
2 versus the land costs is just not appropriate.

3 I've walked on many of the high ridgelines in
4 New England and it's not uncommon that you see cell towers and
5 ski lift towers and you see development. It's not bothered --
6 it doesn't bother me because down in the valleys there's towns
7 and highways and villages since the 1700s.

8 However, the Black Nubble area is one of the few
9 large areas in our part of the woods where a person can walk
10 and not see development.

11 Is this a wilderness? No, far from it. But this
12 working forest provides the perception of a remote untouched
13 landscape surrounded by 4000-foot peaks. It has a high quality
14 place. I value this quality of place and I ask you not to
15 approve the application that would ruin the quality of this
16 place. Thank you.

17 THE CHAIR: Thank you, Tony. Peter Arnold, are you
18 here somewhere?

19 MR. ARNOLD: Yes. Thank you for all staying so late.
20 I know it's part of your job but I appreciate it a lot.

21 I would like to do two things, speak for myself and
22 then also read a letter from Dana Conors. I think Dana is the
23 next one on the list, if I remember correctly.

24 Peter Arnold, and I'm the sustainability coordinator
25 for the Chewonki Foundation down in Wiscasset and I'm speaking

1 in favor of the Black Nubble project.

2 This morning we started working with our students to
3 think about their future in relation to the environmental
4 changes that are anticipated over the next while, and we looked
5 at two projects. This was one and then we also -- because we
6 come from Wiscasset -- we were thinking about the juxtaposition
7 of the proposed coal gasification plant there, and two
8 environmental issues came up for us.

9 The first is the effect of putting a wind farm on to
10 this ridgeline, and the comparison was what would happen with a
11 coal gasification plant that captured and sequestered carbon
12 and then we needed to find a place to sequester that carbon if
13 we were going to build that plant.

14 We and the students decided that we wanted to
15 recommend this project as something that was an acceptable use
16 of this land and was a sound use that would come under your
17 jurisdiction. And when we thought about the alternative, where
18 to store however many tons of carbon dioxide in another
19 location that might come up for you in the future, we decided
20 that this is what we wanted to recommend.

21 This is what Dana had to say. Dear LURC
22 Commissioners: The Maine State Chamber of Commerce strongly
23 supports the Black Nubble wind project and urge the Maine Land
24 Use Regulation Commission to approve the zoning change that
25 will allow this critical development to move forward.

1 There is no question that in the coming years Maine
2 and the region will need to generate more electricity in order
3 to ensure continued economic growth. ISO New England has
4 forecast the regional need at additional nearly 5,000 megawatts
5 of additional electric power by 2015. Due to the potential
6 effect of global warming, that power must come from clean
7 renewable sources of energy, such as the Black Nubble wind
8 power project.

9 For a whole host of reasons -- economic,
10 environmental, geopolitical -- we must as a nation wean
11 ourselves from our dependency on fossil fuels. This will
12 require bold action and a willingness to compromise.

13 Maine Mountain Power's revised proposal from two
14 mountains with 30 turbines to one mountain with 18 turbines
15 exemplifies both. The company has considered views and
16 consensus of the opponents and proposed a reasonable and but
17 still vital wind power generating project that has far fewer
18 impacts than originally conceived.

19 The potential effects of global warming will have a
20 devastating impact on many of our most cherished industries:
21 Tourism, recreation, fishing, and farming. Air pollution is
22 ruining people's health, which in turn is leading to higher
23 health care costs for individuals and businesses.

24 We simply don't have the luxury to wait for a new
25 energy breakthrough, a magic bullet that will save our energy

1 needs -- that will solve our energy needs and pollution
2 problems. The time to act is now.
3 The Black Nubble wind power project is a small but
4 necessary step toward our new energy future. Your approval of
5 this project will send an important message that Maine intends
6 to be a leader in the development of clean renewable forms of
7 energy while at the same time respecting our natural
8 environment.

9 There are tradeoffs to be sure, but the choice is not
10 simply between seeing wind turbines on the horizon or not
11 seeing them. The choice is between winds turbines or a greater
12 dependency on fossil fuels, more air pollution, and higher
13 energy costs.

14 The Black Nubble project will move us closer to the
15 energy future that we know awaits us. We have to get there,
16 and you can start right there by approving this important
17 project. Thank you very much.

18 THE CHAIR: Thank you Peter. The next person on my
19 list is Senator Strimling. Is he here?

20 DR. SAYER: My name is Suzanne Sayer, I'm a friend of
21 Ethan Strimling. I'm going to make this brief. I hate to do
22 this to the Senator because he put a lot of time into this.

23 He's a supporter of the wind power plant, and he
24 said, as you have probably already come to realize, while some
25 see these turbines as a visual intrusion on the area's natural

1 beauty, others see them as an extension of the natural
2 environment blending into the landscape while utilizing a
3 natural resource, the wind, to everyone's benefit.

4 I don't believe for a minute that the Black Nubble
5 project alone will address all of these many problems, but it's
6 a start. Approving the project will demonstrate and resolve in
7 our State's resolve to confront the crisis and become a leader
8 in the quest of clean renewable sources of energy.

9 I understand and respect the views of those who
10 vigorously oppose the Black Nubble project; however, I looked
11 at this project as a very temporarily inconvenience. We need
12 to take the long view. We often think that our time on this
13 planet is long. But compared to the mountains themselves, our
14 time is scarcely a blink of an eye.

15 Changes to the landscape that have taken place on
16 these mountains over hundreds and even thousands of years --
17 some of them by nature, some of them by humans -- have been far
18 more destructive and obtrusive than what's being proposed here.

19 We will solve our energy problems and our global
20 warming crisis, perhaps with new renewable energy sources that
21 we haven't begun to imagine. When we do, the Black Nubble
22 turbines will come down and the area will return to a more
23 natural state just as it has after the all the logging
24 operations and clearcuts that have dotted these mountains for
25 generations.

1 Thank you very much. He had some more things to say.
2 I feel sorry for him.

3 THE CHAIR: Thank you. Steve Bien, it's B-i-e-n.
4 Are you here, Steve?

5 MR. BIEN: Appreciate your patience. My name is
6 Steve Bien and I'm opposed to this project even though the
7 project sponsors presented a mitigating compromise. I feel
8 that even in its reduced form, Black Nubble wind farms fails to
9 cross the threshold that should be required and allowed the
10 rezoning of this protected mountain area.

11 I am a 25-year resident of Franklin County residing
12 full time in Jay. I'm a local physician, and I have been a
13 registered Maine guide. I've also hiked the Appalachian Trail
14 many times, including the area in Saddleback/Redington region
15 at all times of the year, so I've very familiar with the
16 viewscapes up and down the state.

17 I also have a strong interest in renewable energy,
18 believing that shrinking that carbon footprint is vital to the
19 health of your state and our planet; however, I do not feel
20 that this project will make a significant contribution and that
21 a vital scenic and recreational treasure will be sacrificed
22 unnecessarily.

23 Balancing economic and conservations needs, which is
24 your charge, is a very difficult undertaking, especially now
25 with the face of Maine changing more rapidly than ever. The

1 recent Brookings report charting Maine's future spent a great
2 deal of time detailing the sprawl and suburbanization as a
3 threat to the culture of recreation and economic prospects for
4 our state.

5 You are no doubt familiar with the term Maine brand
6 used throughout the report. It would be crass to look at our
7 wild lands as simply props for our brand, but at the same time
8 it would be foolish to ignore the economic value and the
9 central role they play in our state's future.

10 Indeed our economic future depends as much upon our
11 projection of the integrity of these areas, which constitute
12 our brand, but it does when developing our educational and
13 technical infrastructures.

14 Maine is famous for its scenic beauty and undeveloped
15 vistas. If we are to attract young talented people, it will
16 certainly be for the lifestyles and recreational opportunities
17 that Maine can offer. Being will to sacrifice in areas such as
18 this, which in my view will be degraded by an industrial site
19 on Black Nubble, is a step in the wrong direction.

20 Much has been made of renewable energy potential the
21 Black Nubble Range site offers and how important this is to our
22 environmental health. Yet, the challenges raised to the
23 projections of this project have yet to be answered.

24 Last summer's hearing, Tom Hewson, an expert witness,
25 pointed out the transmission limitations of the power lines in

1 western Maine and predicted that there be no net green or
2 renewable output that cause the configuration of our lines and
3 the distance for power must travel to misplace its use. In
4 effect, the renewable inputs will compete against existing
5 hydro and biomass power for transmission.

6 To my knowledge this argument has not been answered.
7 It has also been pointed out that the output predictions given
8 for this project were based on unquestioned suppositions and
9 not on hard calculations that a project of this scope and
10 consequence to Mainers.

11 It is my understanding that where possible
12 development -- especially industrial development such as
13 this -- should be clustered, adjacent to, or near other areas
14 of development to prevent sprawl.

15 Black Nubble Range project does not follow this
16 developmental guideline. Indeed, its isolation and distance
17 from population centers makes power transmission all the more
18 expensive and inefficient and contributes to sprawl of the
19 worse kind.

20 Renewable energy alone will not get us out of the
21 energy difficulties we face. Without a comprehensive energy
22 plan by our State and attention to the management, no amount of
23 wind power will successfully offset enough carbon to help us
24 towards our target of abatement.

25 Energy conservation is the fastest growing and most

1 economical new energy source being developed today and is the
2 only one that saves us money. Absent serious attention to this
3 side of the energy balance, it's unlikely that projects like
4 Black Nubble will have any substantial effect either in or out
5 of Maine.

6 It is an irony to me that the ills of mountaintop
7 removals are featured in many of the presentations by
8 supporters of this project. Mountaintop removal is a bad
9 practice without question, but putting wind towers on a
10 protected mountain ridge is another kind of mountaintop
11 removal.

12 Would we allow strip mining of our Maine mountaintops
13 if they could provide us with high quality low sulfur coal? I
14 hope not. In sum, I feel that the Black Nubble project does
15 not fulfill the development standards that must be set to allow
16 its destruction in the protected mountain zone. The operator's
17 energy projections are weakly supported by data that has not
18 been adequately scrutinized, questions about capability of
19 existing transmission infrastructure have not been answered,
20 and the reasons that while more suitable sites have not been
21 given.

22 While some parts of the Redington region have been
23 heavily logged, trees and scenery are resilient and will
24 recover with time, but the concrete pads and wind towers and
25 the power lines that serve them are all structures that are not

1 easily removed should our needs or the technology change. I
2 believe this remote area should be protected from this
3 industrial development. Thank you.

4 THE CHAIR: Suzanne, are you going to speak again?

5 DR. SAYER: Yes.

6 THE CHAIR: This is your third bite at the apple.

7 This is yours, I take it.

8 DR. SAYER: This is mine.

9 THE CHAIR: You're not going to read that whole book,
10 are you?

11 DR. SAYER: No. I'm Suzanne Sayer. I have a Ph.D.
12 in environmental geophysics, and I have a degree that's very
13 similar to that of Cameron Wake. I'm going to skip a lot of my
14 stuff, too, because I feel sorry for all of you.

15 I came to the hearing last summer, and I spoke about
16 the earth and how it's the only planet that I know that
17 supports life.

18 After listening to the testimony last year, I felt
19 torn about the impact of views those huge tremendous turbines
20 would have on the scenery; but I also know what's going to
21 happen to our planet if we don't do something drastic to help
22 solve the global climate issue, and I also know about peak oil,
23 I have a degree in geophysics.

24 After all of the statement by opponents of wind farms
25 that might have been true, I went back and I did research.

1 That's this [indicates]. I did research to find out if any of
2 the opponents had this information. The only conclusion I came
3 up with is that either you like wind turbines or you don't like
4 them. There's a global climate change issue, and I agree with
5 Cameron Wake.

6 Black Nubble is a well intentioned compromise, but
7 already it's a fruitless attempt to curb the might of the bog
8 lemming and the Bicknell's thrush, the three-toed woodpecker,
9 the spring salamander. All those animals that you're afraid of
10 dying are going to die because of what is already in the
11 pipeline as far as carbon dioxide.

12 We need to work on all the wedges that Dr. Wake
13 talked about, including the megawatts which would mean not
14 using energy. We have to get improved automobiles, we have to
15 start car pooling, we have to get rail transport, we have to
16 harness tidal power, we have to get efficient housing,
17 down-size our housing. No \$400,000 homes. Those are
18 ridiculous.

19 We have to do carbon sequestration, we have to do
20 carbon infusion into the soil. We have to do nuclear energy.
21 I know Cameron does not like that one. Carbon we have to do
22 carbon tax and cap, we have to use less water. We have to do
23 agricultural products differently, and we have to eat locally.

24 New England is ranked the seventh largest generator
25 of carbon dioxide. If it was a country on its own, it would be

1 the seventh largest producer of carbon dioxide in the world.
2 If we don't do something in New England -- if New England is
3 the seventh largest generator of carbon dioxide, can't do
4 something to curb our use, then we're all in trouble.

5 I have a list of 12 different reports that have come
6 out in this year, in the 13 months since I was here, that talk
7 about global warming, peak oil, and these are reports by the
8 British, Americans, and several other countries.

9 Since last year Mexico has started going to a peak
10 decline of its oil, and last Thursday, September 13st, the
11 price of oil passed \$80 a barrel for the first time ever. I'll
12 turn this in in a revised format.

13 I also want you to know that I support the whole
14 two-mountain project because after what Phyllis Upton [sic],
15 the forest lady said, that the Black Nubble is a weak
16 compromise. If it's that weak, then I support the two-mountain
17 project. I think we need both of them. Thank you very much
18 for your time and your understanding.

19 THE CHAIR: Thank you, Suzanne. Mary Lou Sayer, did
20 you intend to testify? Come right down here, Marilyn. Speak
21 right into the microphone.

22 MS. SAYER: My name is Mary Lou Sayer. I
23 congratulate all of you for putting up with this as long as you
24 have. You have a tremendous job to do.

25 I'm in favor 100 percent of the proposition that is

1 before you, and I you hope you will pass it. Thank you very
2 much.

3 THE CHAIR: Thank you. Well, I don't have anybody
4 else on my list, and I'm not going to ask if anybody else wants
5 to speak.

6 MR. WEINGARTEN: Can I speak?

7 THE CHAIR: Come on down Bob. Have you been sworn
8 in?

9 MR. WEINGARTEN: Yes. My name is Bob Weingarten from
10 Vienna, Maine. What I want to say is, first of all I am
11 opposed to the Black Nubble project. I'm opposed because I
12 don't believe we should rezone the mountains of Maine above
13 2700 feet.

14 I also want to say that I believe that the Commission
15 should take a look seriously at a moratorium at this moment in
16 time on any rezoning projects, no matter where they are in the
17 pipeline.

18 Yesterday in the Lewiston Sun Journal there was an
19 editorial calling for a moratorium. I think that the evidence
20 shows from last summer all through this year to this hearing
21 and the hearing that's going to happen in two weeks on the
22 Kibby project that we need to have a rational plan to deal with
23 these issues.

24 There is a wind power siting task force that is
25 meeting. I have spoken to so many people who say it makes no

1 sense to have a siting task force that is supposed to be
2 determining the criteria for siting while these other projects
3 are going through the pipeline. It's closing the barn door
4 after the animals have escaped.

5 I believe that your mission and the values that you
6 have to protect in the unorganized territory arise to the
7 occasion that says you have to have a moratorium on all these
8 projects while a rational plan is developed for the state of
9 Maine. Thank you very much.

10 THE CHAIR: Thank you, Bob. I guess that we have
11 heard everybody that wants to be heard, and we will adjourn the
12 hearing for this evening and we'll be back here at 8:30
13 tomorrow morning for -- I'm sorry, I'm being reminded that just
14 so you -- if you're not coming back tomorrow, I will --
15 somewhere I've got a date here -- it's right in here
16 Catherine -- just to remind you, if you want to submit written
17 testimony, if you want to send additional material to us,
18 you're going to have a couple of weeks to do that. I'll give
19 you the date here in a minute as soon as we find it. I think
20 it's October 10th.

21 Ten days until October 1st, yeah, I was pretty wrong.

22 The record will be open until October 1st if you want
23 to submit additional material.

24 If you just send it to LURC in Augusta, and then
25 there will be -- the thing is, anything you send in, if you

1 want to go through the record, you can rebut stuff that
2 somebody else has sent in, and that rebuttal period lasts
3 another week, another ten days -- another seven days, I'm
4 sorry, until October 8th.

5 Keep in mind you've got until the 1st of October to
6 submit any more written testimony that you didn't give us
7 already.

8 The end of the rebuttal period is October 9th, not
9 October 8th.

10 With that, we're adjourned.

11 * * * * *

12 (The hearing was suspended on September 20, 2007 at
13 9:01 p.m.)

14 * * * * *

15 (The hearing resumed on September 21, 2007 at
16 8:40 a.m.)

17 * * * * *

18 THE CHAIR: Good morning everyone. For the record,
19 this is a continuation of our public hearing on Zoning Petition
20 ZP 702. And this morning commissioners present today, Steve
21 Schaefer, Jim Nadeau, and Bart Harvey, and along with the LURC
22 staff that has been present for the balance of the hearing.

23 Before we begin with the testimony of the intervenor,
24 Natural Resources Council, the Commission would like to resolve
25 one of the issues that was brought up by Attorney Plouffe

1 concerning the ex parte communications issues, and that was the
2 one about the -- his request that the Commission deliberate
3 without a staff recommendation. I believe that was the essence
4 of what he asked for.

5 I wonder if he -- I would just -- we would kind of
6 like resolve that before we leave today so you all know where
7 we're going, and so I would ask if he, Mr. Plouffe, has any
8 additional things he needs to say about that or any of the
9 attorneys, the intervenors, an opportunity to comment.

10 MR. PLOUFFE: Thank you Mr. Chairman. I don't intend
11 to go into the reasons why I asked for that in my letter. I
12 laid all of that out and will just say again, there's nothing
13 dramatic about this decision making. It's used by some other
14 State agencies, it's used by planning boards and zoning boards,
15 local and all over this state, and what I have in mind is the
16 Commission deliberating on central issues that are involved in
17 this case, with staff taking notes and listening, and then
18 staff go back and draft a decision that parallels the critical
19 decisions, if you will, on key issues that have been made by
20 the Commission.

21 Staff would come back with a draft order, findings of
22 fact, conclusions of law, which will be reviewed by the
23 Commission to see whether or not they represent what the
24 Commission reached, conclusions reached in its deliberations,
25 and then you would vote on that.

1 It's done very often, and I don't think you'll do it
2 in this case. I think that will be beneficial to everyone.

3 THE CHAIR: Thank you.

4 MR. THALER: Thank you Mr. Chairman and members of
5 the Commission. For the record, Jeff Thaler for the applicant.

6 I think to put in context as we're nearing the end of
7 the hearing, the circumstances of Mr. Plouffe's request, he
8 requested that there not be a staff-recommended decision to the
9 Commission, which is the norm of the staff to do that, as you
10 know.

11 He suggested in his eight-page letter that several
12 commissioners and staff were biased and could not be objective.
13 As I said on Wednesday morning, we strongly disagree with those
14 accusations, and commissioners stated on the record their
15 ability to be objective and impartial and fair, and we said on
16 behalf of the applicant that we take you for your word. We
17 also believe that staff can be objective and fair and do their
18 jobs as professionals.

19 We think it's an unfortunate pattern in this
20 proceeding that it seems like whenever anyone expresses support
21 for the project -- be it a commissioner in a vote or a staff
22 recommendation or the Natural Resources Council of Maine
23 supporting a one-mountain-only project -- they're accused of
24 being biased or true believers or zealots or something like
25 that. I think it's really regrettable.

1 We are comfortable with staff -- the normal LURC
2 process, but I would say that if -- I'm also mindful of the
3 fact that you have a lot on your plate. The Commission has a
4 lot on its plate. It's no secret that you have another wind
5 project hearing coming up in less than two weeks, that you have
6 the Plum Creek hearings, endurance contests, whatever you want
7 to call them coming up November.

8 You have a small staff, you have almost a volunteer
9 Commission, and that if the Commission in its discretion
10 decides that as a matter of still due process but efficiency to
11 have preliminary deliberations -- the record will close
12 October 9th, you could schedule -- and as Bill said there is
13 precedent that Board of Mountain Protection does this -- you
14 schedule, say, for early November, before Plum Creek hopefully
15 before your brains get fried with Plum Creek, you can have at
16 your next Commission meeting a public discussion.

17 The record's closed, the parties may have five-minute
18 closing arguments as you did before. The Commission does
19 general deliberations, and you give direction to staff on what
20 kind of order you want to see, and then staff can go and draft
21 it.

22 If you want to go in that direction as a matter of
23 efficiency and time management and to keep things going, I
24 mean, the applicant is certainly supportive of that goal and
25 mindful of your concerns; however, we would not want you to do

1 that on the basis of not trusting your staff or on somehow the
2 notion the staff is biased. Thank you.

3 THE CHAIR: Thank you. Any of you -- do the rest of
4 you want to weigh in on this?

5 MS. BROWNE: Juliet Browne for TransCanada. I just
6 would like clarification. The BEP in the past has done it in
7 one of two ways. When they have that initial deliberative
8 session, they actually take a straw vote.

9 More recently they have moved to a process where they
10 have a deliberative session and they give some direction to the
11 staff for a draft recommendation, but it's not actually a vote.
12 I'm just curious which way, if you make a decision to go one
13 way or the other, that that's clear.

14 THE CHAIR: Thank you. Anybody else? It's my
15 understanding that as presiding officer and chairman of the
16 Commission I have the discretion to make this decision on
17 behalf of the Commission, and I think that we're going to
18 proceed in that direction.

19 We will hold deliberations absent the staff
20 recommendation on this project and possibly others. I guess
21 that will be a judgment we have to reach in each one.

22 I don't think I need to expand on that at all.
23 That's the direction we should count on in this case.

24 MR. THALER: Thank you Mr. Chairman, that's fine with
25 the applicant.

1 MR. PLOUFFE: Thank you.
 2 THE CHAIR: Very good. We're proceeding now with the
 3 testimony of the Natural Resources Council and their witness.
 4 We have set aside 20 minutes.
 5 (Witness was sworn.)
 6 MR. DIDISHEIM: Mr. Chairman, members of the
 7 Commission and those in the audience, NRCM is here to today to
 8 testify in support of the Black Nubble wind farm. We're doing
 9 so as an organization with a deep tradition and a record of
 10 working to protect Maine's natural resources and environment,
 11 including Maine's mountains.
 12 We're also an organization deeply involved in efforts
 13 to help the threat of global warming and our dependence on
 14 fossil fuels. Our members are passionate, you might even say
 15 they're zealous, about both of these priorities. We do not
 16 believe that global warming trumps other values within LURC's
 17 jurisdiction, which is why NRCM opposed the original project.
 18 But our members also believe that visual impacts do not trump
 19 our need to move forward with wind power. We need to strike a
 20 balance.
 21 As I said in my comments last January to the
 22 Commission, you have a hard job, but this isn't just your job,
 23 this is our job. We have a hard job. Although two sides are
 24 pitted against each other in this proceeding, we're all in this
 25 together.

1 We have a common challenge of figuring out how to
 2 shift away from an energy system that currently is causing
 3 widespread harm to the environment and public health. We have
 4 an addiction to fossil fuels, and we would like an easy answer,
 5 but there are no easy answers, and this decision is a hard one.
 6 NRCM appreciates the time and effort that you and
 7 everyone else has devoted to this. NRCM has concluded and
 8 strongly believes that voting for the Black Nubble project is
 9 the right decision.
 10 Compared with the original project, this project has
 11 reduced environmental impacts, reduced visual impacts as a
 12 result of protection of Redington Mountain for wind power
 13 development and generate a significant amount of clean power.
 14 We firmly believe the project is consistent with LURC
 15 criteria and State policy and is in the best collective
 16 interests -- the best collective interests -- of all the people
 17 in Maine and our environment.
 18 So what is different about the new project? Well,
 19 obviously the big difference is that the 12 turbines on
 20 Redington have been removed and all of the associated roads are
 21 off of Redington.
 22 This chart, which I showed you before, shows the
 23 highest mountains in the state of Maine, Redington Pond Range.
 24 Other than Sugarloaf, it's the only one that currently is not
 25 projected.

1 It is a high value, possibly the most high value,
 2 mountain range unprotected in the state, and we've negotiated a
 3 restriction agreement that would protect it. And that would
 4 provide permanent enforceable protection, which I would be glad
 5 to get into later.
 6 Redington Pond Range is very different than Redington
 7 within Black Nubble. Redington is higher elevation, larger
 8 subalpine forest, more significant Bicknell's thrush habitat,
 9 bog lemming habitat is there, high elevation wetlands,
 10 Redington is a hiking destination. Essentially across the
 11 board, Redington has higher resource values and Redington will
 12 be protected if a project is built on Black Nubble.
 13 I just want you to recognize that this is Redington
 14 viewed from Black Nubble, and you can see on this blank of
 15 Black Nubble that it's been cut pretty hard. As I'll show
 16 later, there is a substantial section of Black Nubble where
 17 turbines have been significantly disrupted from timber
 18 harvesting, and that's Redington in the background.
 19 Does Black Nubble strike the right balance from our
 20 perspective? We believe that there's little impacts to the
 21 P-MA zone above 2700 feet. Only 64 acres will be cleared.
 22 Some of that will revegetate, but there will be 64 acres
 23 cleared. This is out of 139,201 acres, according to LURC, that
 24 currently is in P-MA zone above 2700 feet. So this a .05
 25 percent impact, 64 acres out of 139,000.

1 It's important to recognize that P-MA is not a zone
 2 that is protected from disruption. This has been substantially
 3 disrupted. Wildlife habitat has been disrupted; 21,300 acres
 4 have been cut since 1974, according to more than NRCM's
 5 analysis, more than 4500 acres in Redington Township alone,
 6 including in the project area, 1900 acres on Black Nubble, 700
 7 acres on Crocker, 1100 acres on Mt. Abram.
 8 The Black Nubble project will have a reduced impact.
 9 There's no northern bog lemming habitat. This was a major
 10 concern in the original proposal. An expert witness, John
 11 Albright, delivered entire testimony about the bog lemming
 12 habitat. He's not here in this proceeding, and that means a
 13 lot.
 14 Black Nubble has lower natural resource values. The
 15 record and the facts clearly document that Redington is one of
 16 the most significant unprotected mountains in the state
 17 ecologically, also in terms of recreation values.
 18 It's further from the Appalachian Trail, as we have
 19 already discussed. Many of the viewpoints will have reduced
 20 visibility -- I'll be glad to get into that in more detail with
 21 you -- and some significant stretches down to Sugarloaf Cirque
 22 the project has disappeared completely from the hiker's
 23 experience.
 24 We believe that Dr. Wells will substantiate that
 25 there's no undue adverse impact on Bicknell's thrush. It will

1 be a minor habitat loss, .02 percent of US habitat, and in
2 there's other threats to Bicknell's thrush in the larger
3 context that must be factored in as you consider risks
4 associated with Bicknell's thrush posed by this project.

5 So this is a depiction of the project on
6 Black Nubble. The green is what currently exists as uncut
7 forests, the yellow is land that has been disturbed by logging.
8 The orange line is the 2700-foot elevation line.

9 All of the red turbines are on or adjacent to land
10 that has been recently cut, fairly recently cut, through
11 logging operations. Ten of the 18 turbines will be in areas
12 that have been cut. Like that image I showed you earlier, only
13 eight of the turbines will be in the green area, the forested
14 area. Sixty-four total acres will be cleared for the project,
15 only 35 of those acres are in the subalpine forest.

16 There's been discussion about the S-3 subalpine fir
17 forest in Maine. This is the chart that shows the ranking.
18 Redington Pond Range has an A excellent rating with 761 acres
19 on the top of Redington Pond Range. The top of Redington Pond
20 Range will be protected.

21 Black Nubble recently has been given a B, C rating
22 down here, good or fair, with 300 acres. There's a total of
23 24,243 acres of this type of habitat in the state of Maine.

24 The building of this project is not going to take
25 Black Nubble off this chart. It may affect where it is on this

1 chart. There are some habitats here with as little as 6 acres,
2 52 acres, 72 acres. As I mentioned in a previous slide, only
3 35 acres of that 300 are expected to be cleared.

4 As I've said in our testimony, this is a significant
5 amount of renewable energy. This is a good way to look at it.
6 These are hydro dams in the state of Maine. This is their
7 annual generation. This isn't about capacity factors, it isn't
8 about megawatt, name plate capacity. This is about how much
9 energy comes out.

10 Black Nubble will be right up there with the largest
11 hydro dams in the state. There are no major renewable energy
12 projects coming forward right now other than wind power, and
13 Black Nubble would provide a significant amount of wind power.

14 It's consistent with State policy, as you've heard
15 repeatedly, both from us and others since. And we believe that
16 this project will provide a meaningful amount of renewable
17 energy.

18 These are 23 organizations that represent more than
19 75,000 members, supporters, more than 5000 Maine businesses,
20 600 churches, 12 Maine colleges and universities that have
21 endorsed the Black Nubble project.

22 This is the largest showing of support ever in the
23 state of Maine for a -- probably for any renewable energy
24 project, but certainly for any wind power project. And as you
25 have heard, a public opinion polling showed that 85 percent of

1 Maine people, when asked about wind power -- specifically about
2 the development of wind power in LURC jurisdiction -- is how
3 the question was asked, 85 percent are supportive, 11 percent
4 opposed. We believe that the majority of the Maine people by
5 and large margin support wind power development.

6 The role of wind power, its environmental benefits
7 are real and meaningful. NRCM has focused on wind power and
8 energy considerably. It's a major part of our expertise. We
9 believe that the benefits are real and meaningful.

10 It must, however, be part of a broader energy
11 strategy that has to include energy efficiency. Energy
12 efficiency is no silver bullet either. It will take heroic
13 efforts just to eliminate demand, but then we're still left
14 with all of the existing harm caused by the current forms of
15 power generation.

16 So we have to do pretty much everything, all the
17 efficiency we can, and introduce clean power appropriately and
18 expeditiously. There's no silver bullet. We need to do them
19 all. We probably have to do 25 percent solutions to deal with
20 the issues that we have in front of us, and clean energy has
21 become a critical strategy for the long-term protection of LURC
22 jurisdiction values.

23 Global warming is a threat to LURC jurisdiction
24 values. It's NRCM's love for the landscape and the resources
25 in LURC jurisdiction that drive us to support wind power

1 development. We're not interested in wind power development
2 for wind power development sake. It's because we care about
3 our natural resource environment.

4 In summary, we believe that the Black Nubble wind
5 farm deserves your support. It provides protection for
6 Redington. Redington Mountain is a privately owned mountain.
7 It will remain a privately owned mountain in the absence of a
8 protection agreement as was put forward. People should not be
9 complacent in thinking that that is protected in its current
10 zoning situation from a future wind power project.

11 There's reduced ecological impacts, there's no
12 northern bog lemming, it's reduced visual impacts resulting
13 from this project. It's outside the 35,000 acres of mapped
14 roadless area.

15 It's a significant amount of clean power that will
16 reduce our dependence on fossil fuel, and it is in the best
17 interest, we believe, of the people of Maine.

18 It may seem like you have had two worlds, different
19 worlds, in this proceeding, but as I said, we're all in this
20 together. We do have an addiction to fossil fuels. We would
21 like easy answers. If there were any easy answers, we would
22 have done them already. This project is not a panacea, wind
23 power itself is not a panacea, and we don't have any panaceas,
24 regrettably. But it does help put us on a path to reducing the
25 harm from our current forms of energy generation, and we need

1 to get on a more sustainable path.

2 I'm going to pass along the mic to Jeff Wells, and
3 Dr. Jeff Wells is an expert on Bicknell's thrush.

4 DR. WELLS: My name is Jeff Wells. I was asked by
5 NRCM to testify to provide my comments on the -- my opinion
6 about the impacts of the Black Nubble project on Bicknell's
7 thrush.

8 This is my first formal LURC hearing, and I've been
9 impressed by the deliberations and by the amount of effort that
10 goes into this, and I appreciate especially the difficult
11 decision that you commissioners have in front of you. I know
12 this is not easy and I really appreciate your service.

13 I'm going to give a quick summary of the testimony
14 that I submitted, and I won't go over fully my background, but
15 I do want to say that what has compelled me to participate in
16 my first LURC hearing in my 20-plus years of experience in
17 conservation work, and in particular, the work that I just
18 completed recently for a book in which I analyzed the
19 overarching big picture threats to birds in the United States
20 and in North America. It gave me a picture that I think was
21 somewhat unique to conservation of bird communities in the US
22 and allowed me to really look at the threats in the proper
23 context.

24 My own interests in bird conservation is really
25 related to trying to -- my broad goal is trying to see that the

1 organizations that I'm working for and the activities that I'm
2 involved in are preventing any further human cause declines in
3 birds. So we've heard over the last couple of days a lot about
4 visual impacts from this project. My own interest is in what
5 impact this would have on Bicknell's thrush and wildlife and
6 the environment.

7 The Bicknell's thrush, you've probably heard in some
8 of the previous testimony, is a bird that is restricted to the
9 northeast US and adjacent Canada, breeds at high elevations and
10 winters in the Caribbean. It's in the Greater Antilles, higher
11 elevation forests there. Unfortunately, it's that habitat
12 where it winters that has put it at greatest risk.

13 The loss of forests in its wintering -- this a map
14 showing the Dominican Republic on the island of Hispaniola and
15 the remaining forest there, the habitat loss in the Caribbean
16 is dramatic and the loss of forested habitat in places like
17 Haiti is nearly 100 percent.

18 If you've ever flown over the area, it's a stark
19 contrast -- if you look at the line between the Dominican
20 Republic and Haiti, it's almost all gone in Haiti.

21 In the Dominican Republic, though, over 90 percent of
22 the habitat is gone, 80 to 85 percent in Cuba, and 75 percent
23 in Jamaica. This is the sole area where the species lives and
24 as we speak, forests are continually being lost. This isn't
25 something that happened in the past. It's happening now.

1 The habitat is lost to clearing for agriculture,
2 burning for charcoal, and unfortunately after it's gone, it
3 doesn't regenerate. It's not like the forests up here, because
4 it's continually kept in agriculture and oftentimes it's
5 destroyed in this burning process, so when they have storms and
6 things like that, it just erodes away.

7 We're talking about habitat loss that really puts the
8 species at greatest risk. This is well documented in a number
9 of papers that are cited in my testimony.

10 On the breeding grounds, the species is really pretty
11 well protected. It's sort of a paradox in that you tend to
12 think of -- when you're trying to protect a species that you
13 try to go and protect its breeding habitat. Most of its
14 breeding habitat is actually already within protected areas.

15 So the greatest threat on the breeding grounds is
16 actually coming from atmospheric deposition problems related to
17 burning fuels, mercury, bioaccumulation, and acid rain effects
18 that can deplete calcium and make it difficult for the birds to
19 reproduce, not enough calcium to produce eggs or healthy eggs.

20 The species' greatest threat is really from these
21 factors that are related to dirty energy production.

22 I note in my testimony there is a recent study just
23 done a couple of years ago found that the Bicknell's thrush had
24 the highest levels of mercury in their bodies of any of the
25 high elevation song birds. We really do know that these birds

1 are being impacted by these factors.

2 Sadly, the biggest long-term threat to Bicknell's
3 thrush is the same threat that's impacting most of the wildlife
4 on the planet is global warming. You've heard lots of
5 testimony about this, but in the case of Bicknell's thrush,
6 modelling efforts have shown that we're expected to lose over
7 90 percent of the balsam fir elevation habitat, and clearly
8 loss of that much habitat is going to cause a serious decline
9 in Bicknell's thrush and will highly increase the species' risk
10 of global extinction.

11 As part of my work to try to assess the current
12 presence and absence of Bicknell's thrush on Black Nubble and
13 Redington, I did carry out surveys in June of this year
14 following the established protocols of the Vermont Institute of
15 Natural Science, which is the experts on Bicknell's thrush and
16 high elevation birds, and I carried out two sets of surveys on
17 Black Nubble and one set of surveys on Redington.

18 I did find -- I surveyed 24 locations on Black Nubble
19 and did find Bicknell's thrush at three locations. The red
20 spots in this map are the locations where I found single
21 Bicknell's thrush, and the yellow places are the other places
22 that I surveyed and did not find. All of these are in the
23 same.

24 So for my work on Black Nubble and Redington, it
25 appears that Redington provides more significant and higher

1 value habitat. You've already heard Pete talk about that and
2 it's in the testimony.

3 I wanted to look at specifically what impact the
4 project would have on any Bicknell's thrushes that were on
5 Black Nubble, so I did some simple calculations based on the
6 maximal possible impact of habitat loss and based on the sort
7 of maximum number of Bicknell's thrushes that could occur on
8 the site.

9 Again, I only found three that I could document
10 there, but if you look at the amount of habitat and the
11 territory size of the birds, you could have up to six males
12 that would be impacted within the 64 acres that are going to be
13 cleared on Black Nubble.

14 If you look at that in the perspective of the total
15 global population, that's about .103 percent of the global
16 population impact. This is just a Google earth image of
17 Black Nubble.

18 I also considered the potential impacts of the wind
19 turbines on Bicknell's thrush at the site. The birds are
20 famous among bird watchers because they love to stay very low
21 and hidden in the low vegetation. In general their behavior
22 makes them at low risk from being struck by a blade.

23 They do have one behavior, which has been mentioned,
24 in which the males occasionally do flight displays that move
25 them up into an area where they could be within the blades.

1 In talking to the experts at Vermont Institute of
2 Natural Sciences, they characterize the extent of that behavior
3 as something that happens in a 10- to 20-minute period each
4 day, usually just in the evening, over about a two- to
5 four-week period, and usually one to two males engage in those
6 20-minute periods.

7 The proportion of time that the birds would be at
8 risk is quite small, and birds are well documented to be able
9 to visualize and see these blades and avoid them.

10 So I said -- I pointed out that the protected habitat
11 loss of 64 acres on Black Nubble is a space that could
12 theoretically support six males. In contrast, the area that's
13 proposed for protection on Redington is a space that could
14 encompass 47 males.

15 On Redington, work from the applicant has clearly
16 documented a long-term population that has existed at the site.
17 My bottom line from that is clearly Redington is going to
18 provide some significant habitat protection for Bicknell's
19 thrush. That would be one of the major benefits.

20 Finally, as I said before, in my work for my recent
21 book, I really had a chance to look at the broad context of
22 what is impacting America's birds, including Bicknell's thrush,
23 which is one of the birds I profiled in the book, and we've
24 already heard about the major likely impacts from global
25 warming and habitat loss.

1 The other major impacts on North America's birds,
2 including many of the birds that we love here that are
3 migrating through here right now, they come from places that
4 are being heavily impacted by mining, by oil and gas
5 exploration, by dirty energy, by mountaintop removal, mining.
6 In these cases we're talking about places that have extensive
7 habitat that would be destroyed or removed in the ranges of
8 millions of acres.

9 That's really what -- when I look at the contrast
10 between what we're doing to the habitat for our energy needs in
11 other parts of the world and literally talking about places
12 like in the Appalachians, thousands and millions of acres are
13 being completely removed, places in Canada that have involved
14 upwards of 10 and 20 million acres of habitat that will be
15 removed, all impacting, again, birds that we enjoy as migrants
16 in Maine jurisdiction, as well as causing further impacts on
17 birds like Bicknell's thrush and other high elevation birds.

18 Thank you.

19 THE CHAIR: Thank you, Dr. Wells. Do you have
20 anything else, Peter, or can we proceed to the questioning?

21 MR. THALER: You can proceed.

22 THE CHAIR: Would you like to let the other people
23 question and we kind of come in at the end?

24 It's kind of a path we followed yesterday, it kind of
25 gives us the last word.

1 Let's see, according to my schedule I guess the
2 applicant has the right for the first crack at you. Who's
3 going to do that?

4 MR. THALER: I am. I have no objection to your
5 having the last word, Mr. Chairman.

6 THE CHAIR: Thank you. You wouldn't prevail anyway.
7 You have 30 minutes.

8 MR. THALER: I will probably use less than that. I
9 know I will use less than that because I will not use more than
10 that.

11 Good morning. Dr. Wells, I'll start with you first.
12 I have a personal interest in some of your testimony and
13 background.

14 EXAMINATION OF JEFF WELLS

15 BY MR. THALER:

16 Q. Can you just briefly tell the Commission what your
17 credentials are, education, and where you work now?

18 A. I received my Ph.D. and masters degrees from Cornell
19 University. I have my doctor's degree from the University
20 of Maine in Farmington, not far from here obviously, and I
21 work as a senior scientist for a nonprofit called Royal
22 Songbird Initiative, as well as another nonprofit. I'm on
23 the National Board of Conservation campaign.

24 Q. Doctor, the reason I'm personally interested in part is
25 because I grew up in Ithaca and my family's connected with

1 the ornithology lab at Cornell.
 2 Did you work at one point for the National Audubon
 3 Society?
 4 A. Yes, I did.
 5 Q. What was your position with the National Audubon Society?
 6 A. I was the State bird conservation director for New York
 7 state and then the National Bird Conservation director.
 8 Q. Has National Audubon Society given you an award?
 9 A. I received a New Star Award as it was called when I worked
 10 there, yes.
 11 Q. Have you published books on the topics that you're
 12 testifying to the Commission about this morning?
 13 A. Yes, I have.
 14 Q. What was the most recent book that you published and the
 15 topic?
 16 A. It's called Birder's Conservation Handbook: 100 North
 17 American Birds at Risk, published by Princeton University
 18 coming out in about a week.
 19 Q. Have you written about, in book or articles, Bicknell's
 20 thrush?
 21 A. Yes, I have. I have in several academic publications
 22 related to conservation concerns of the northeast US in
 23 this book.
 24 The book looks at this data, threats, and
 25 conservation needs and actions for 100 birds of

1 conservation concern in North America, and Bicknell's
 2 thrushes is included within that.
 3 Q. Let's turn then to your opinions concerning this project
 4 and the two mountains that have been talked about during
 5 this hearing, the Redington Mountain and the Black Nubble
 6 Mountain.
 7 Of the two ridgetops, Black Nubble and Redington, do
 8 you have an opinion as to which one offers the better
 9 Bicknell's habitat than the other?
 10 A. Yes, I think that Redington offers better and more habitat
 11 for Bicknell's thrush.
 12 Q. Therefore, would eliminating wind development on Redington
 13 Mountain if this project is approved be significant in
 14 terms of maintaining high value Bicknell's thrush habitat?
 15 A. Yes, absolutely. Yes.
 16 Q. Your testimony -- I think you indicated in writing and a
 17 little bit this morning, but I wanted to clarify so I
 18 understand -- your testimony said in writing that the
 19 collision risk for Bicknell's thrush from turbine blades
 20 is minimal.
 21 Can you explain in more detail the basis for that
 22 opinion?
 23 A. Yes, the birds spend the vast majority of their time close
 24 to the ground within zones that would never take them
 25 within the areas where the blades are spinning.

1 The one behavior in which have they engage -- the
 2 males engage only -- in the flight display behavior, which
 3 I explained earlier, and that behavior is really quite a
 4 very small part of the time budget of the birds.
 5 As I said, it occurs in about a two- to four-week
 6 period when the birds have 10 or 20 minutes where a couple
 7 of birds may engage in the behavior, and my opinion is the
 8 risk from that -- not only from the fact that they engage
 9 in it for such a short time, but also that the birds can
 10 actually see the blades from the information that we have
 11 about the visual acuity of birds suggests that they will
 12 be at low risk from collisions.
 13 Q. Just one or two more questions before I turn to
 14 Mr. Didisheim, Doctor. If this Commission approves the
 15 proposed wind project on Black Nubble, will Bicknell's
 16 thrush continue to use Black Nubble for habitat?
 17 A. Certainly, yes.
 18 Q. There were some questions yesterday about roads. Would
 19 the presence of a road going up to the turbine sites or
 20 turbine pads themselves cause Bicknell's to abandon
 21 Black Nubble?
 22 A. I don't think there's any evidence to suggest that, no.
 23 Q. The last question -- and I'll go to Mr. Didisheim.
 24 You had something in your prefiled about Partners in
 25 Flight. Can you explain to us what that is and your

1 involvement with it?
 2 A. Partners in Flight is a coalition of government and non
 3 governmental groups that have been working together over
 4 the last ten or 15 years to try to develop and -- to
 5 develop bird conservation initiatives and plans for
 6 songbirds, in particular, land birds and to collectively
 7 find ways to increase funding and resources and develop
 8 plans that make things better for birds.
 9 I've been involved in that coalition for roughly ten
 10 years or so and was the chair of the northeast working
 11 group for Partners in Flight for a number of years, which
 12 during that time we were working develop and bring forward
 13 a number of management and conservation plans for parts of
 14 the northeast US.
 15 MR. THALER: Thank you. If you could give that mic
 16 to Pete.
 17
 18 MR. THALER: Mr. Chairman, how much time do I have
 19 left?
 20 THE CHAIR: 20 minutes.
 21 MR. THALER: Thank you. That should be plenty.
 22 EXAMINATION OF PETER DIDISHEIM
 23 BY MR. THALER:
 24 Q. Pete, first of all, there was some testimony from
 25 opponents over the last day or two about the restriction

1 agreement between Maine Mountain Power and NRCM on the
2 Redington project -- Redington Mountain.

3 The first question is, the agreement says that NRCM
4 can enforce the agreement, and I believe Mr. Horn, in his
5 prefiled, said, well, NRCM doesn't have experience doing
6 that and questioned the value.

7 Can you respond to that?

8 A. Sure. Page 3 of the agreement is very clear that the
9 agreement can be transferred to the State of Maine or the
10 New England Forestry Foundation.

11 It was the preference of the parties and the intent
12 of the parties to seek transfer of the enforcement
13 responsibilities of its restriction agreement to the
14 State. That would have required legislative action, which
15 was not achievable in the time frame or appropriate until
16 a project had been permitted.

17 So we are not an organization like a land trust, but
18 it's the preference of the parties and the intent to
19 transfer these responsibilities.

20 Q. There was also testimony yesterday that this restrictive
21 agreement is -- I think the word was hollow or lacks
22 value.

23 What is your position on that?

24 A. That's a very unfortunate description of it because it's
25 not accurate at all.

1 This is a privately owned mountaintop and it will
2 remain a privately owned mountaintop in the absence of
3 this restriction agreement.

4 If this project is defeated, the owners of this
5 mountain, Redington Mountain, wind farm who are patient
6 owners -- they have demonstrated that over the last ten or
7 12 years -- they have an interest on return on investment
8 on the top of this mountain, and they have a particular
9 passion in their -- they're zealous about it -- about
10 building a wind farm on the top of Redington Mountain.

11 Over the course of ten years, 13 years, we know that
12 things change. The Kibby wind farm is returning to the
13 Kenetech site, where the project previously died. Five
14 years ago people may have thought that that was protected
15 from wind.

16 Over the next ten, 15, 20 years, LURC commissioners
17 will change, State policy will change, the regulatory
18 environment will change. It may well be that our
19 awareness of the imperative to deal with global warming
20 changes to the point that at some point in the future,
21 absent this restriction agreement, global warming does
22 trump the resource values on the top of Redington and a
23 project would be built there.

24 NRCM believes that this is an enforceable and
25 permanent restriction on wind power development on a very

1 precious part of Maine's mountain landscape and it is
2 anything but hollow.

3 Q. Let's turn to sort of what I'll call on-the-ground issues.

4 The Commission heard testimony over the last day or
5 two as to which experts have hiked where. I think you
6 used some photographs in cross-examining some witnesses.

7 What's your personal experience in terms of this
8 section of the trail, the area roughly 34 miles or so, we
9 talked about the study area, particularly, summits that
10 have been the subject of the visual impact assessments?

11 A. This is one of my favorite places in the state of Maine.
12 I've hiked every 4000-foot peak in this area, I've hiked
13 the entire Appalachian Trail, I have backpacked it
14 recently between Route 4 and 27. I have summited many of
15 these peaks multiple times. I've hiked the Bigelow Range.
16 I have seen Redington and Black Nubble from all vantage
17 points that have been discussed.

18 Q. Can you tell us, then, in your view given your experience
19 and knowing what's at contention in this case and now
20 hotly contested as your assessment of what the impact
21 would be of seeing 18 wind turbines on Black Nubble from
22 the various viewpoints that you've hiked?

23 A. I can only speak for why my perceptions are, and I think
24 everybody who hikes this trail probably has a different
25 experience. That's what's so beautiful about hiking

1 trails.

2 The Appalachian Trail is a magnificent natural
3 resource, there's no question about that. There are some
4 wonderful views from this stretch of the Appalachian
5 Trail. The reality of hiking this trail, for those who
6 have not hiked it, is that you're mostly in the woods.
7 That's the truth.

8 You are walking through woods -- and you can be in
9 the woods for the better part of an entire day. Some of
10 the views that have been brought forward -- Spaulding,
11 Poplar Ridge, and Crocker, walking down a surveyor's
12 cut -- these are not destination summits.

13 I have been to Half Dome. I have backpacked in ten
14 states over the last 30 years. Many of the views that
15 have been brought forward as ones that will be harmed are
16 highly filtered views. These are not -- some of them are
17 not spectacular. Other views are very significant.

18 The top of Sugarloaf, as I mentioned yesterday, you
19 are surrounded by cell towers, buildings, humming
20 buildings. That is not a place where the viewer -- and
21 the majority of people that will see the wind farm,
22 Redington in the foreground, Black Nubble in the
23 background -- will be skiers.

24 They're going to have chair lifts, they're going to
25 have skis attached to them. That's the majority of

1 people.

2 For the hiker's experience, the real impact -- and

3 NRCM does not deny that there's a visual impact -- the

4 real impact will be on the Saddleback to Saddleback Junior

5 stretch.

6 On that stretch you will see turbines and you'll see

7 them at a distance that is generally in the mid ground to

8 background. If mid ground to background is not acceptable

9 in Maine from a hiking destination and Maine is filled

10 beautiful places, then I think we're going to have a

11 really difficult time building any wind power in the state

12 of Maine.

13 Q. Can you explain, there's also been testimony and maybe

14 questions about if Black Nubble is only 54 megawatts,

15 wouldn't that be a minuscule amount in terms of dealing

16 with global warming and climate change? That's what

17 Dr. Wells just talked about.

18 Why is NRCM supporting given the proposed size of the

19 project?

20 A. In terms of a renewable energy plan, it will be one of the

21 biggest in the state, first. So unless we think we can

22 get rid of all our large dams and that isn't significant,

23 then this is significant.

24 As I pointed out in my testimony, the amount of

25 electricity generated by this, it is the economics. It

1 can't be dismissed as a trivial calculation that the

2 National Park Service has suggested.

3 The replacement of 3 million compact fluorescent

4 bulbs -- it's easy for somebody to say, well, let's just

5 go do that. It is incredibly difficult to get energy

6 efficiency implemented. NRCM knows, it's one of our

7 highest priorities, and there are few groups, if any in

8 the state, that are working harder to improve energy

9 efficiency.

10 This is a very significant amount of clean renewable

11 power. Just to put it in maybe Sugarloaf terms, I'm

12 looking here at Sugarloaf and I look over here and it says

13 Sugarloaf Goes Green, Powered by Wind. It's not powered

14 by wind from Maine. They have bought renewable energy

15 credits from out in the Midwest because there isn't any

16 renewable energy to buy here.

17 Throughout this area and Sunday River, we are

18 informed that they are powered by wind.

19 Sugarloaf and Sunday River combined purchased 30

20 million megawatt hours of renewable energy.

21 MR. PLOUFFE: Is this cross-examination or is this

22 further direct testimony?

23 I'm not hearing a question here.

24 MR. THALER: I did ask a question. Maybe the

25 answer's going on longer. It's not my fault, Bill.

1 MR. DIDISHEIM: That's fair. I was going on.

2 BY MR. THALER:

3 Q. Peter, last night in public comment the night before

4 during the day, people have said that if the Commission

5 were to approve this project, that that would be a

6 precedent and have suggested that that would lead to a

7 flood of other developments in the western Maine

8 mountains.

9 Does NRCM have a concern about what precedent this

10 Commission might be setting in deciding this proceeding

11 and what is that concern or position?

12 A. Well, I think the question of precedent cuts both ways. I

13 think in saying no to this project, you would send a

14 signal out to developers that -- I can't say how they

15 would interpret it -- but they wouldn't interpret it real

16 positively.

17 I think there's a different question that also needs

18 to be considered, and if you say yes to this project, you

19 are in effect saying no to Redington at the same time

20 you're saying yes to Black Nubble.

21 You're saying no to Redington in a way that is much

22 more firm and establishing a line of what's acceptable and

23 what is not consistent with what the CLUP directs you to

24 do. It's much more significant than a 6:1 preliminary

25 vote on a project that isn't even before you anymore.

1 So I think the real precedent to think about would be

2 that one, that you would be defining a line that would

3 protect Redington.

4 Q. Mr. Horn, in his prefiled for the Appalachian Trail

5 Conference, mentioned the Burnt Jacket subdivision

6 proposal that has been before LURC.

7 Have you personally on behalf of NRCM been involved

8 in the LURC proceedings on that project?

9 A. I personally was not involved. I helped manage NRCM's

10 involvement in that matter.

11 Q. Mr. Horn was talking about adjacency in the Burnt Jacket

12 project. Were you generally familiar with the arguments

13 about adjacency in that proceeding?

14 A. Well, sure, it was a significant part of that proceeding.

15 Q. Well, is what the Commission decided in that proceeding on

16 adjacency have any relevance to issues being on the fringe

17 or remoteness or anything in this proceeding?

18 A. Well, no, adjacency used in the Burnt Jacket context is

19 within the context of a sub development, and the one-mile

20 adjacency rule that pertains to that type of rezoning has

21 nothing to do with the type of rezoning here.

22 D-PD does not have adjacency a requirement. In fact,

23 the D-PD is specifically intended to be for places that

24 have -- that are resource dependent, which may be away

25 from any sort of subdivisions.

1 Q. Let me just -- putting up on the screen here, this was in
 2 the PowerPoint presentation from the first day of our
 3 proceeding, and during the construction panel Dwight
 4 Anderson, it was Slide 13. This is a Google earth view --
 5 just for the audience, entitled Existing Aerial View of
 6 the Black Nubble Area.
 7 THE CHAIR: Jeff, excuse me. Do you have a question,
 8 Mr. Plouffe?
 9 MR. PLOUFFE: Yes. Mr. Chairman, I think at the
 10 beginning of Jeff's cross he said he had 30 minutes.
 11 THE CHAIR: Yes.
 12 MR. PLOUFFE: I think the prehearing notice says he
 13 has 15, in which he is already over.
 14 MR. THALER: I was mislead by the Chair. I'm sure
 15 it's inadvertent. I only have a couple more questions. I was
 16 going on the assumption of what the Chair said.
 17 THE CHAIR: I misstated, you're right. I read my
 18 time wrong. I'm sorry.
 19 MR. THALER: I only have a couple of questions.
 20 THE CHAIR: Since it's my fault, I'll have to live
 21 with it. I appreciate your pointing it out. I'm not going to
 22 go back on what I told him.
 23 MR. THALER: I will try not to exploit that.
 24 THE CHAIR: And I will be generous with you, as well.
 25 I don't know what you were given, but you had 15 minutes, so

1 I'll give you 30 if you need them.
 2 BY MR. THALER:
 3 Q. 13 is an aerial view of the existing 2003 logging roads,
 4 the SERE Navy facility that we've heard about, this is the
 5 Dallas Road that we've heard about.
 6 Have you generally hiked and seen some of this area?
 7 A. Well, I've certainly hiked up Black Nubble and hiked the
 8 entire length of Black Nubble.
 9 Black Nubble is not a destination for hiking; but
 10 yes, I have been on those logging roads.
 11 Q. In your personal opinion, is that area pristine,
 12 undeveloped, untouched by humans?
 13 A. Well, the 300 acres on the top of Black Nubble are not
 14 logged over. I wouldn't -- you could potentially use the
 15 word pristine.
 16 The rest of the area, only the top of the dome, the
 17 rest of the area has been an industrial -- it's industrial
 18 timberland. There's no question about it.
 19 To the south is the SERE facility, and you can look
 20 over there, you can see the roads. I don't think they
 21 have logging in there, but the effect of logging
 22 operations are visible throughout that area.
 23 Q. Again, to wind up one or two more questions, in your
 24 prefiled testimony I think you have some discussions and
 25 photographs about coal and coal mining in the Virginia

1 area.
 2 Is it your testimony that this project would displace
 3 coal and stop strip mining in the Virginia, West Virginia,
 4 Kentucky area?
 5 A. No, that's not what my testimony says. My testimony is
 6 not saying that this project will displace coal. It
 7 does -- it is making the point, as Jeff Wells did, that we
 8 are causing very significant harm in the name of our
 9 energy needs.
 10 Today we do know that wind power will displace
 11 natural gas. We don't know what the future brings. We
 12 went from zero natural gas to 60 percent natural gas in
 13 eight years. There's a coal-fired coal power plant
 14 proposed for 100 miles in here in Wiscasset that will take
 15 barges of coal from northern Appalachia if it was
 16 approved.
 17 We do have concerns about the potential for coal in
 18 the state of Maine, and over the next ten, 15 years, it
 19 could be possible that wind power does start to displace
 20 coal if the regulatory environment starts to internalize
 21 the real cost of coal in terms of mountaintop removal and
 22 harm to the environment. We wish wind would start to
 23 displace coal.
 24 MR. THALER: Mr. Chairman, two more questions and you
 25 can hold me to that.

1 BY MR. THALER:
 2 Q. Pete, yesterday morning at the commencement of the
 3 National Park Service testimony, Pam Underhill said to
 4 this Commission that you, NRCM, threw National Park
 5 Service "under the bus" and that she and National Park
 6 Service would not forget that and one can assume not
 7 forgive either.
 8 Has NRCM ever -- or you while you've been with
 9 NRCM -- received a threat like that from a federal agency
 10 or official?
 11 A. Absolutely not. I'm not aware of anybody at NRCM who has.
 12 We worked with the National Park Service in the past. Our
 13 members love the Appalachian Trail, so that was a threat,
 14 not just to me, but to the 10,000 members and supporters
 15 of our organization which is very unfortunate.
 16 We need a civil discussion. This is a difficult
 17 issue. Personal attacks don't belong in this at all.
 18 MR. THALER: He answered what I was going to ask for
 19 my last question, so I only had one question and I'm done.
 20 Thank you Mr. Chairman.
 21 THE CHAIR: Thank you. Mr. Plouffe.
 22 EXAMINATION OF PETER DIDISHEIM
 23 BY MR. PLOUFFE:
 24 Q. Pete, you've made several comments on Redington about
 25 visual impacts, and you've talked about there not trumping

1 a need for clean energy, and you made some other comments
2 in response to other questions from Jeff Thaler.

3 If the Bigelow Mountain Range out here were privately
4 owned, would NRCM support 18 windmills along the ridge?

5 A. It's not privately owned; NRCM helps protect the Bigelows.

6 Q. You didn't answer my question. If it were privately
7 owned, would you support the erection of 18 windmills
8 along the ridge of the Bigelows?

9 A. It's an irrelevant hypothetical to this debate.

10 Q. So you refuse to answer the question?

11 A. There's no --

12 Q. Do you refuse to answer the question?

13 MR. THALER: Excuse me.

14 MR. PLOUFFE: He won't answer the question.

15 MR. THALER: Excuse me. I think this is not Law and
16 Order, as Bill said the other day.

17 I think the witness should be allowed to answer the
18 question before he is attacked by the next question. I think
19 it's unfair to not let Mr. Didisheim respond.

20 THE CHAIR: You all can't talk at once because Lisa's
21 got to try to record this.

22 Try and answer the question.

23 THE WITNESS: We do not take a position on any wind
24 power proposal until we see an application.

25 BY MR. PLOUFFE:

1 Q. So you couldn't answer the question regarding any other
2 mountain, including, for example, Mt. Kineo?

3 A. We have not taken a position on any wind power project
4 until we have seen an application.

5 Q. Then what visual impact assessment does NRCM do in
6 connection with wind power developments?

7 A. What visual impact assessment do we do?

8 Q. Let me be more specific. What visual impact assessment
9 did NRCM do with respect to Black Nubble?

10 A. Our decision was based on site visits of staff, real-world
11 experience hiking on the trail, visiting all the sites
12 that have been identified.

13 As has been said by visual experts who have not been
14 to those sites who have provided expert witness testimony
15 to you, the real eye is better than simulations, and we
16 have based it on actually what seeing what the world looks
17 like.

18 I personally hiked this with the photo simulations in
19 my hands and looked at the viewshed and looked at the
20 sites, and I have to tell you, some of those photo
21 simulations don't look anything like the real world.

22 Q. So you didn't hire a visual impact analysis expert of any
23 kind?

24 A. We did not.

25 Q. Okay, thanks.

1 Are you suggesting that the visual impacts of wind
2 farms should be assessed differently by this Commission
3 from the visual impacts of other types of development?

4 A. We haven't said that.

5 Q. Well, I thought that you said at the beginning that they
6 should not trump -- the visual impact issue should not
7 trump renewable energy projects?

8 A. And the word trump means in all cases, so I would say
9 global warming does not trump in all cases natural
10 resource concerns, and visual impacts should not trump in
11 all cases global warming concerns.

12 The LURC criteria, all of them are a balancing.

13 Q. So the regulation which talks about undue adverse impacts
14 on scenic resources when applied to renewable resource
15 projects should be interpreted differently from how it's
16 interpreted on non renewable resource projects?

17 A. No, we thought a lot about the word undue. What is undue?

18 Right now we are doing a lot of visual impacts in the
19 name of energy development that we're responsible to and
20 is helping provide the energy in this room.

21 Again, it's a balancing of impacts against what our
22 awareness is in the larger context of impacts.

23 Q. I'm asking you whether or not NRCM's position is that this
24 board -- this Commission -- should apply the standard
25 differently looking at wind power projects than how it

1 applies it in other cases, for example, subdivisions?

2 A. We haven't said one way or another on that.

3 Q. So you wouldn't disagree with me if I were to say that it
4 ought to be applied the same way as it is applied to all
5 projects?

6 A. There should be a visual analysis that's part of their
7 deliberations and it is.

8 Q. So you would not disagree with me?

9 A. I guess I do not disagree with you.

10 Q. Thank you. Do you recall that you and I were at a
11 meeting, Department of Conservation, called by LURC staff
12 in late 2005 regarding the Redington project to meet with
13 agency staff and to hear Mr. Lee do a presentation, and
14 you and I had a very brief discussion -- I had only met
15 you once or twice, so it may have been an unremarkable
16 discussion to you -- we talked about the issue of
17 decommissioning.

18 I said to you something along the lines of, don't you
19 think decommissioning ought to be a part of this plan, and
20 you said to me, in light of what happened in Kenetech
21 after they went bankrupt, I agree with that, or words to
22 that effect.

23 Do you remember that conversation?

24 A. I really don't. I don't but I don't dispute that it
25 happened.

- 1 Q. Where's the decommissioning plan in this project which
2 NRCM supports so strongly?
- 3 A. Well, the applicant has made clear that they are committed
4 to provide the funds necessary for decommissioning.
- 5 Q. Is this decommissioning -- is that decommissioning plan,
6 which I quite frankly don't understand, different from the
7 decommissioning plan that's proposed by TransCanada?
- 8 A. I haven't done a side-by-side real closely.
- 9 Q. But you know enough about them to know whether or not it's
10 different?
- 11 A. Since 2005 I have spent a little time looking at
12 decommissioning, not a lot; but what I have --
- 13 Q. Is it different than TransCanada?
- 14 A. I can't answer the question. I haven't looked at it
15 side-by-side.
- 16 Q. Is it different from the decommissioning plan for the
17 Stetson Mountain project?
- 18 A. I think it's fairly close.
- 19 Q. There are no guarantees or third-party guarantees in
20 Stetson. Is there an escrow account established in
21 Stetson?
- 22 A. I don't know.
- 23 Q. Have you seen any figures produced by this applicant as to
24 what the cost of decommissioning of a project on
25 Black Nubble would be?

- 1 A. I haven't; but I do know that the value of turbines is
2 quite high and the financial incentive to remove them and
3 to gain value from them is also quite high.
- 4 A speculation about turbines being left up there
5 abandoned and not be decommissioned I think seems
6 unreasonable speculation.
- 7 Q. So you're talking about turbines that still have a lot of
8 useful life?
- 9 A. They're steel.
- 10 Q. So you're talking about the scrap value?
- 11 A. This site will not be very far from logging roads. You'll
12 have an easy access to get them out of there.
- 13 Q. So you're talking about the scrap value of the turbines
14 and towers funding the decommissioning of the project; is
15 that what you're saying?
- 16 A. The funding to decommissioning, I don't know if that's how
17 it would be structured. That would be more appropriate
18 for the applicant.
- 19 Q. But NRCM is not just supporting this; you say in your
20 testimony you're strongly supporting this project.
- 21 A. Yeah, and we believe that if it's built, we think the
22 likelihood is that we're going to continue to need
23 renewable power, that if this site is viable -- and we've
24 done an economic viability analysis -- as you know some of
25 it suggests it is, we think it will continue to generate

- 1 power, and fossil fuel prices will continue to increase,
2 so the economics there, we believe, suggest the
3 decommissioning is probably not going to happen.
- 4 Q. So you're satisfied with whatever Edison has put on Maine
5 Mountain Power as offered here as a decommissioning plan?
- 6 A. We're satisfied with that.
- 7 Q. Jeff Thaler asked you something about this. Your
8 Exhibit H to your prefiled was the West Virginia coal
9 mining, strip mining, and you've testified today in
10 response to Jeff's question that you understand that this
11 project will not displace coal; am I correct?
- 12 A. Yeah, today.
- 13 Q. So why did you put Exhibit H on here?
- 14 A. I think my testimony is quite clear why I put it in there.
15 We are currently dependent on an energy generation system
16 all inclusive of fossil fuels that's causing substantial
17 harm, and we are paying much attention to it.
- 18 In fact, we don't really want to know about it.
- 19 Q. You're not suggesting -- I just want to be clear here --
20 A. You heard my answer.
- 21 Q. Your inclusion of this photograph was not suggesting to
22 this Commission that this project has anything to do with
23 strip mining in West Virginia?
- 24 A. No.
- 25 Q. Okay. That's fair enough. I'd like to talk a little bit

- 1 about the old growth community, which you said -- what you
2 say arguably could be pristine or arguably could be said
3 to be pristine at some other certain location.
- 4 Isn't old growth not in the mind of Natural Resources
5 Council of Maine? I'm talking about the 300 acres on the
6 top of Black Nubble?
- 7 A. It's at least late successional. Whether it's old growth,
8 it's not clear. Whether the top of that has never been
9 harvested is unlikely. There's very little old growth.
- 10 Q. How old are the trees, do you think, on the top of
11 Black Nubble?
- 12 A. 80, 100 years.
- 13 Q. Isn't that pretty much the life span of that species of
14 tree?
- 15 A. Yeah.
- 16 Q. And it's been recognized by the Natural Areas Program of
17 Maine; correct?
- 18 A. As a B, C rating, yes, which is about 12 or 13.
- 19 Q. That's not a priority ranking, though; it's a viability
20 ranking, isn't it?
- 21 A. But there's no question the top 5 are priority. There's
22 no question that Redington is an excellent -- in fact is
23 a --
- 24 Q. But the ranking chart that you showed is a viability
25 ranking by the Natural Areas Program?

- 1 A. Yes.
- 2 Q. Did --
- 3 A. I'm assuming that that is not a complete list either. I
- 4 think the Natural Areas Program would say that there are
- 5 other habitats that they have not yet documented.
- 6 Q. They haven't documented, and that's true for many natural
- 7 resources in Maine?
- 8 A. Yes.
- 9 Q. The map that you showed that has the acreage that would be
- 10 disturbed in that old growth area, I think you shared it
- 11 on one of your slides earlier, omits the slot that would
- 12 have to be cut for the underground power line; isn't that
- 13 true?
- 14 A. I don't know --
- 15 Q. Could you call up that slide again that you showed, the
- 16 one that looks like this (indicates).
- 17 A. That's not my slide.
- 18 Q. While you're on this slide, Pete --
- 19 A. The Google earth?
- 20 Q. Yes. You say you hiked the AT from Route 4 to Route 27?
- 21 A. Yes.
- 22 Q. Did you ever see the Navy base looking like that from the
- 23 AT?
- 24 A. I don't see Black Nubble looking like that either.
- 25 Q. That's not the question, Pete.

- 1 A. No.
- 2 Q. In fact, you pretty much have to be in a satellite to get
- 3 that view of the Navy facility, don't you?
- 4 A. Yeah; I didn't use that slide.
- 5 Q. Let's find this. Can you go up to your map there and show
- 6 me where are the underground power lines?
- 7 A. I can't precisely on this map.
- 8 Q. Can you locate it at all, imprecisely?
- 9 A. Underground power line on the ridge that's connecting to
- 10 each of the turbines.
- 11 Q. Isn't there in fact, Peter, an underground power line that
- 12 goes from here to here, and we can go over to the
- 13 applicant's plan, if you want, and I'll show it to you.
- 14 So it's not on there, Pete.
- 15 THE CHAIR: Excuse me, you need to speak into that
- 16 microphone. Your voice is kind of soft. Lisa's having a
- 17 hard time.
- 18 A. Evidently it's not.
- 19 Q. While you have that up, as I understand it, we have ten
- 20 turbines outside the old growth area, basically I think is
- 21 what you said, and eight turbines inside; is that correct?
- 22 A. Actually, I'm not sure whether that yellow one down at the
- 23 bottom is in the mapped habitat.
- 24 My testimony was in relationship to proximity in or
- 25 adjacent to previously logged land or land disrupted by

- 1 logging.
- 2 Q. So eight of them are in this, what I'm calling an old
- 3 growth area?
- 4 A. If you say so.
- 5 Q. I hadn't seen Dr. Wells' map before that showed where he
- 6 found the Bicknell's thrush.
- 7 Was that in the prefiled testimony?
- 8 A. Yes, it was.
- 9 Q. The locations where he found them, the red and the yellow?
- 10 A. Yeah.
- 11 Q. As I recall seeing it, I didn't see it in the prefiled,
- 12 but my fault.
- 13 MR. PLOUFFE: As I recall when you had it up here and
- 14 you recall at the beginning, those locations were in here;
- 15 is that right, Dr. Wells?
- 16 DR. WELLS: Two of the locations are up there and
- 17 then one was down on the -- down on one of the -- yeah
- 18 (indicating) -- well, not exactly -- down along the bottom edge
- 19 there. We can get that up again if you want to.
- 20 MR. PLOUFFE: That's okay. I appreciate it.
- 21 BY MR. PLOUFFE:
- 22 Q. Pete, the Natural Resources Council, when you were -- last
- 23 year you proposed a Black Nubble-only and that was
- 24 rejected by the applicant, and then I'm assuming that you
- 25 had discussions after January of this year with the

- 1 applicant on the Black Nubble-only proposal because here
- 2 we are with your support; am I right?
- 3 A. I've been talking to all the intervenors for a couple of
- 4 years about this, yes.
- 5 Q. You also talked to the applicant; correct?
- 6 A. They called us.
- 7 Q. Did you try to devise a Black Nubble plan that would have
- 8 built only ten turbines so that we could avoid the
- 9 Bicknell's thrush and old growth impacts?
- 10 A. I think you should probably talk to Jeff Wells about the
- 11 relationship between old growth and Bicknell's thrush
- 12 habitat, because you're suggesting a correlation.
- 13 Q. No, I'm not, I'm sorry. Two separate things. I
- 14 understand.
- 15 A. No, we didn't. We did an economic viability analysis of
- 16 what an 18-turbine project would, if it was viable; the
- 17 margin is close but it's viable. We did not look into
- 18 cutting out eight turbines.
- 19 Q. So even though that would have had significantly less
- 20 natural resource impacts, you didn't think it was
- 21 economically viable so you didn't propose it?
- 22 A. It probably would have meant there would be no project.
- 23 Q. I'm interested in your -- what I understand to be your
- 24 analysis of the impacts of this project for both impacts
- 25 on old growth and Bicknell's thrush habitat, understanding

1 that those are two different things. There may be some
2 overlap, but let's keep them separate.

3 As I'm reading your prefiled testimony, you engage in
4 the creation of a ratio in which the denominator is, for
5 example, with old growth, the number of acres of high
6 elevation spruce-fir that's been cut, let's say in Maine
7 in the past, and the numerator is the 42 acres the
8 applicant says is impacted here.

9 With Bicknell's thrush, you have the denominator, all
10 the Bicknell's thrush habitat in the state of Maine, and
11 the numerator is the amount of Bicknell's thrush that
12 would be disturbed here.

13 It's not unlike -- you're frowning as though you
14 don't understand.

15 Are you familiar with -- I'm sure you have read the
16 prefiled testimony of Woodlot Alternatives, have you?

17 A. Yes, I have.

18 Q. I'm going to show you their exhibit to Woodlot
19 Alternatives, it's a chart called Maine Mountain Power
20 Study Area, and it has the so-called bubble chart on it.

21 A. Okay.

22 Q. And the big bubble on the bubble chart is the total number
23 of acres -- in that case I think it might be acreage cut,
24 is it?

25 A. The big bubble is acres above 2700, which --

1 Q. Okay. And the chart has smaller and smaller bubbles until
2 we get down to the 42 acres of area that would be
3 permanently affected by this project; correct?

4 A. That's what this chart says.

5 Q. What's the visual presentation of the ratio that I'm
6 talking about? Do you understand what I'm talking about
7 now?

8 A. Right, yep.

9 Q. So the measure of the impact then from the perspective of
10 NRCM is the number of acres impacted versus the total
11 number of acres like that in Maine?

12 MR. THALER: Excuse me, could I just ask that what
13 you showed him is in the record, Bill?

14 MR. PLOUFFE: It's part of the prefiled, Jeff. The
15 bubble graph of Steve Pelletier.

16 THE WITNESS: I don't think you characterized
17 correctly what our testimony shows.

18 We have discussed the number acres in the S-3
19 subalpine documented habitat type as a percentage of how much
20 of that has been identified in the state.

21 Could you point in my testimony where you're --
22 BY MR. PLOUFFE:

23 Q. I could do that. That is not the calculation that you
24 made?

25 A. You didn't explain it clear enough for me to know what

1 passage you're talking about in my testimony. You didn't
2 give me a number. Restate it, perhaps I could.

3 Q. As I understand your prefiled testimony, the measure of
4 seriousness of the impact of this project bears direct
5 relationship to the number of acres impacted of that type
6 of habitat -- or that type natural resource in the case of
7 the heart-leaved-birch habitat -- versus the total number
8 of acres of that habitat, or that natural resource, in the
9 state?

10 A. We put it into context.

11 Q. Okay.

12 A. Yes.

13 Q. Now, is that how we regulate wetlands in the state of
14 Maine? Is that really NRCM's position that when you have
15 a sensitive natural resource, you say, how much of that
16 resource is there in the state of Maine versus how much
17 are we affecting? If that's a smaller number, then let's
18 go for the project?

19 A. No, because as I have said in this -- all of LURC criteria
20 are balancing and an evaluation of benefits and risks.

21 That information was provided for the purpose of
22 providing the Commission with an understanding of the
23 documented habitat of that type so that they could judge
24 whether 64 acres out of 25,000 of that type would be undue
25 adverse impacts.

1 Q. Would you take the same position with respect to wetlands
2 filling, in other words, total number of wetlands in the
3 state of Maine and how many were -- acres were filling on
4 a project -- not on this project, but just in general?

5 A. It's a hypothetical. I would evaluate it based on the
6 project in front of us.

7 Q. The poll you spoke of, 85 percent of the people support
8 wind power. That poll did not ask about this project at
9 this site, did it?

10 A. No, it didn't. It did specifically refer to the Land Use
11 Regulation Commission.

12 Q. The Land Use Regulation Commission covers about half the
13 state?

14 A. Yes.

15 Q. While we're on definitions, you've referred to undue that
16 this Commission has to apply.

17 Do you agree with what I understood to be
18 Mr. Thaler's definition of undue, meaning more than what
19 is necessary and I further understood his interpretation
20 to mean that as long as you don't do more than what is
21 necessary to build the project, then it's not undue in
22 terms of impacts.

23 Is that NRCM's interpretation of undue in this
24 context?

25 A. No, we don't necessarily use the same words.

- 1 Q. So you don't agree with his definition?
- 2 A. I don't disagree or agree. That's not the framing of it.
- 3 MR. THALER: Can I state for the record I don't think
- 4 that was my definition. I was using in cross the dictionary
- 5 definitions.
- 6 Bill's testifying about what I said. The record will
- 7 reflect whether it was me who said that or not.
- 8 BY MR. PLOUFFE:
- 9 Q. So you don't have a position on that.
- 10 NRCM was a leader in the -- you showed a graph here
- 11 of other renewable energy in the state of Maine,
- 12 particularly dams.
- 13 NRCM was, as I recall, a leader in the effort to --
- 14 successful effort for the removal of Edwards Dam in
- 15 Augusta; correct?
- 16 A. Yes, ten- or 15-year effort.
- 17 Q. And NRCM was a leader in the fight against the Big A
- 18 hydroelectric project; correct?
- 19 A. Yes, we were.
- 20 Q. How do you square your position on this project with your
- 21 positions that resulted in one case of removal of a
- 22 hydroelectric generating capacity and the denial of it in
- 23 the other case?
- 24 A. The Edwards Dam produced about 3.5 megawatts of power, I
- 25 believe, at peak capacity, which is about two or three

- 1 wind turbines.
- 2 These are very different situations. That deprived
- 3 upstream fish passage for 160 years and resulting in
- 4 essentially a very significant obstacle to the recovery of
- 5 that entire watershed, the entire river.
- 6 The analysis that was done and was required by FERC
- 7 statute to balance the environmental benefits with the
- 8 economic benefits of a dam removal concluded and directed
- 9 FERC to rule that the environmental benefits for the river
- 10 and the restoration of Kennebec exceeded the small amount
- 11 of power, and the Edwards Dam, as I said, in terms of
- 12 power generation was a very small dam.
- 13 It probably would have been about 80th on the list of
- 14 102 dams in the state.
- 15 Q. But it still contributed renewable energy to the grid in
- 16 Maine; correct?
- 17 A. A very small amount.
- 18 Q. Yeah, and this --
- 19 A. Much, much smaller than this, as you saw from the chart of
- 20 hydro dams.
- 21 Q. So there is a balancing that you try to do, is that what
- 22 you're saying? That you will support -- you would support
- 23 further removal of hydro projects if you came to the same
- 24 conclusions that you did on the Edwards Dam?
- 25 A. Every project we do a balancing.

- 1 Q. Did you do a --
- 2 MR. PLOUFFE: I'm coming to the end of this,
- 3 Mr. Chairman, even with my extended time.
- 4 Q. -- you did an Action Alert to your members to come to
- 5 support this project; correct?
- 6 A. Our outreach staff I believe did. Do you have a copy?
- 7 Q. Yeah, I saw it on-line. I don't have it with me.
- 8 Did you do one for Stetson?
- 9 A. Did we do one for Stetson? I believe we did, but I don't
- 10 know.
- 11 Q. You don't know. How about Mars Hill?
- 12 A. For Mars Hill I believe we did both probably -- there was
- 13 not a public hearing, that went through the DEP process.
- 14 There was an appeal by Maine Audubon trying to deny.
- 15 Q. You don't recall?
- 16 A. I do believe that we had one in connection with the DEP.
- 17 Q. And you're putting a tremendous amount of -- so you're not
- 18 sure if you did one in Stetson; Mars Hill, maybe you did.
- 19 You're putting a tremendous amount of time into
- 20 getting this project approved.
- 21 Can you tell me -- this is a sincere question,
- 22 Pete -- why this project?
- 23 A. If you look at NRCM's resources into Stetson, into Kibby,
- 24 into this project --
- 25 Q. I'm just talking about this project.

- 1 A. This project?
- 2 Q. This project. This one project. This is the only project
- 3 in which you divided, separated from Audubon, AMC. There
- 4 are a lot of things about this --
- 5 A. We believe in our position on this. We believe that this
- 6 is the right outcome for the state of Maine. We believe
- 7 that it strikes the right balance and is the right
- 8 compromise for what's on the table.
- 9 Every energy facility siting involves a lot of
- 10 effort. It is not easy to get any new power plant of any
- 11 type -- in this case, it's a type that has clean fuel
- 12 coming out of it.
- 13 Q. But they all do. Do you see this project as setting a bar
- 14 for future projects?
- 15 A. No, we never thought of it those terms. It's entirely in
- 16 terms of our energy situation and what it's going to take
- 17 to reduce our dependence on fossil fuel. It's going to
- 18 address the threat of global warming.
- 19 Q. This is my last question. You said you strongly support
- 20 this project, and in my words I think you've taken some
- 21 pretty creative and aggressive interpretation of the LURC
- 22 rules and the statutes that we've talked about, the undue,
- 23 your attitude towards scenic impact in this case are
- 24 probably different from positions you would have taken in
- 25 other non wind power cases.

1 Global warming and climate change have been probably
2 the drivers for you in this, and I can't find any
3 reference to global warming or climate change in the CLUP
4 or the statutes or the regulations.

5 It seems to me that --

6 MR. THALER: Excuse me, Mr. Chairman, that's
7 testimony from an attorney and I would move to strike. If
8 there's a question, he should ask the question.

9 MR. PLOUFFE: I'm going to ask the question. I'm
10 also asking whether Jeff Thaler is NRCM's attorney?

11 MR. THALER: No, I am not. They don't have an
12 attorney here, but I am sensitive to the record in this case
13 and you as an attorney should be following due process.

14 So I object.

15 THE CHAIR: Your objection is noted on the record.
16 Please ask the question so we can move on.

17 MR. PLOUFFE: Right.

18 BY MR. PLOUFFE:

19 Q. So aren't you really -- by this case, your advocacy of
20 this case -- trying to get this Commission to stretch the
21 current language of their rules and the State statutes?
22 You're an advocacy person. I know you're a registered
23 lobbyist.

24 A. I am.

25 Q. Aren't the issues that you're putting in front of this

1 Commission in the context of this proceeding better
2 addressed in a policy forum, such as Maine State
3 legislature?

4 A. No. We are advocating in support of a project that we
5 believe meets LURC criteria and we believe is in the best
6 interest of the State; and the Commission, on behalf of
7 the people of Maine, are the planning body for half of
8 this state.

9 This is a project that we believe the merits of, and
10 we are focused exclusively on the merits of this case.

11 Q. You've heard the concern that the Commission has expressed
12 both last year and this year about what the rezoning
13 criterion means in this context, you've heard them
14 struggle -- at least I have -- with whether or not global
15 warming is something that they should be considering in
16 this context.

17 You don't think that these are major policy
18 questions?

19 A. My understanding of the Commission schedule at their
20 August 1st meeting specifically for the purpose of
21 considering input from other agencies and into
22 understanding.

23 I believe that the demonstrated need criteria to some
24 extent from the testimony of PUC and others has been
25 satisfied by State legislative action.

1 Q. So you don't think that you're bringing up issues, which
2 are really not addressed by the current legislation or
3 regulations?

4 A. Our testimony is in support of the projects before the
5 Commission on the merits and the facts that we believe are
6 relevant to the project and to their consideration and
7 approval of it, we hope.

8 MR. PLOUFFE: Okay. Thank you. Thank you
9 Mr. Chairman.

10 THE CHAIR: You're coming up on the list,
11 Mr. Trafton. You have, by contrast, only 10 minutes since
12 I didn't make a mistake with you.

13 MR. TRAFTON: My name is Dain Trafton. I'm here
14 representing Friends of the Western Mountains, and I have just
15 one line of questioning addressed to you, Pete.

16 EXAMINATION OF PETER DIDISHEIM

17 BY MR. TRAFTON:

18 Q. I want to make reference to the record, which is still
19 relevant, and goes back to the hearings, August 2006.

20 Do you remember, Pete, that during those hearings Tom
21 Hewson, an energy expert who testified on behalf of
22 Friends of the Western Mountains, cited a 2005 study by
23 the National Renewable Energy Lab that concluded that
24 there's a limited amount of wind power that can be
25 integrated into a control area of the grid without causing

1 significant costs to the rate payers.

2 Do you remember that testimony?

3 A. It's reaching back a ways. I remember Hewson's general
4 testimony; I don't remember the details of that or the
5 details of that report.

6 Q. Are you aware that the controlled area within which
7 Black Nubble is located is the so-called western central
8 Maine/Saco Valley subarea?

9 A. Yes. I wouldn't have been able to recall that for you;
10 but, yes.

11 Q. Mr. Hewson testified that relying on this study, which I'm
12 sure you'll refresh your memory of, that 10 to 20 percent
13 of peak load in this subarea would be the limit at which,
14 somewhere in that range, would be the limit at which
15 additional costs would become necessary in order to
16 balance the load within the subarea. That was his
17 testimony.

18 Do you remember that?

19 A. I don't, I'm sorry.

20 Q. 10 to 20 percent of the peak load in that area would be
21 100 to 200 megawatts.

22 I'm sure you are aware that there are a number of
23 wind power proposals which are being spoken about, one in
24 this subarea -- one of which is very imminent, and in fact
25 you're a supporter of that, the Kibby project -- and that

1 even the approval of the Kibby project would introduce 132
2 megawatts into this subarea and bring the project into the
3 range at which additional costs to rate payers might be
4 become unnecessary.

5 You are aware of the fact that there are these other
6 projects?

7 A. Yeah; and you just mentioned that testimony suggested that
8 they might be necessary.

9 I'm not an expert on the details of that and I don't
10 believe that I could testify one way or another about what
11 goes into that "might" equation.

12 MR. TRAFTON: Just one more question, Mr. Chairman.

13 Q. Did you hear my cross-examination yesterday of -- I think
14 it was Mitch Tannenbaum -- in which I asked him about the
15 15-percent penetration by wind into the control area of
16 the Bonneville Power Administration, which is apparently
17 going to result in a \$4 per megawatt hour increase in the
18 cost of that power to the rate payers who receive it?

19 Do you remember that testimony from yesterday?

20 A. I'm sorry to say I was out of the room during that
21 cross-examination. I'm sorry.

22 MR. TRAFTON: Thank you.

23 THE CHAIR: Thank you Mr. Trafton. The supporting
24 intervenors, Mr. Wilby or --

25 MR. MAHONEY: Mr. Wilby is gone, and Conservation Law

1 Foundation has no questions. Thank you.

2 THE CHAIR: With that I don't see any other people
3 who were scheduled for cross-examination. I think what I'm
4 going to do, we'll take about a 10-minute break here for Lisa
5 and for all of you, and then we'll move to what is referred to
6 as rebuttal.

7 MR. THALER: Any questions from the commissioners?

8 THE CHAIR: Well, I'm sorry, a good point.

9 Jim? You can work them. It's your chance, Steve.

10 EXAMINATION OF PETER DIDISHEIM

11 BY MR. SCHAEFFER:

12 Q. Pete, this is about the access -- I mean, about the
13 conservation of Redington.

14 What is the proposed access policy for the public on
15 Redington?

16 A. It will be kept open, and that was important for NRCM for
17 recreational purposes. There will be public access.

18 Q. There's no definition of public access -- I don't have
19 that in front of me.

20 If you could just briefly touch on it, include what
21 access is there now that's traditionally been allowed,
22 fish and game laws, the whole works?

23 A. I don't immediately have it in front of me. It does
24 provide continuing access.

25 Q. Traditional?

1 A. Yes.

2 Q. The power production -- I keep asking this question -- the
3 graph you had up there was based on 30 percent. It wasn't
4 based on 54 megawatts every day?

5 A. That was based on estimated annual output, which has
6 nothing to do with the capacity -- it's what they project
7 on an annualized basis the electricity coming out. It's
8 real power.

9 Q. This is a question that I don't expect you to answer.

10 A. I'll try.

11 Q. I just want to get it on the record. It has to do with, I
12 think, the conception that wind power, once it's built and
13 the turbines are up, there's no reaction to the action of
14 the turbines. This is really a philosophical question,
15 which one of the engineers could come up with in the next
16 few months.

17 Assuming that a lot of these turbines are installed,
18 there's got to be some reaction in the environment because
19 of the turbines.

20 For every fossil-burning fuel plant, there's a
21 reaction; for every dam there's a reaction. Up to this
22 point there seems to be no discussion about if a billion
23 wind towers were built on the earth's surface, what would
24 happen? Would steel weather from the coast? Would it
25 interrupt wind flow? Would it cause -- that's why I'm

1 putting it out there on the record. I really don't expect
2 an answer, but I expect a discussion sometime.

3 What brought this up is I was thinking about
4 Lindbergh's flight over the ocean when he was bored and
5 flying in his cockpit, and he looked at a fly on the
6 windshield, and he wondered, is that fly adding to my
7 useful load or is it -- you now, if it's in the air, does
8 it subtract from my useful load?

9 Well, somebody came up with the answer when he
10 landed. If the fly has landed, it added to your useful
11 load; if the fly was flying, it added to the useful load
12 because it displaced enough energy to add that weight.

13 So that's kind of what I'm trying -- I just wanted to
14 get it out there. There's been no -- I don't know if you
15 know what I'm talking about, if you understand. Does it
16 make any sense at all?

17 A. I haven't heard any discussion or analysis of it, so I
18 don't really have an informed position on it.

19 Q. I totally -- I just want both the intervenors from
20 opposition and pro side, is that research out there
21 anywhere, or is it being developed now?

22 A. We'll certainly take a look and include into the record if
23 there's anything.

24 Q. That's all I want, to make it so we can have a discussion
25 about it without being accused of anything.

1 MR. SCHAEFER: That's it for me. Thanks.
 2 MS. SPENCER-FAMOUS: I have one question for
 3 Dr. Wells.
 4 THE CHAIR: Just let me get finished with Peter here.
 5 EXAMINATION OF PETER DIDISHEIM
 6 BY MR. HARVEY:
 7 Q. The Redington restriction, this isn't a conservation
 8 easement in the typical sense as we know them, is it?
 9 A. No, it's not a conservation easement. It would be a
 10 recorded deed restriction.
 11 Q. It would be what?
 12 A. A recorded deed restriction here in Franklin County.
 13 Q. Deed restriction only for wind power. So, I mean, if the
 14 applicant wanted to come back and build a subdivision on
 15 top of Redington, I suppose that at least could be
 16 considered?
 17 A. Highly unlikely.
 18 Q. But it would be problematic. But it doesn't prohibit them
 19 from asking anyway; right?
 20 A. It doesn't prohibit.
 21 Q. So he hasn't ceded anything other than the right to
 22 develop another wind farm. I guess we want to be clear on
 23 that.
 24 A. Yeah, and from our analysis, that's the only real
 25 significant legitimate development risk to that ridge.

1 Maybe Wal-Mart.
 2 Q. I think we all understand what that means. I just want to
 3 make it clear to me that it's simply a restriction on wind
 4 farms and nothing else?
 5 A. That's correct.
 6 Q. So that other than that, the zoning protection that's now
 7 in place is the only thing there that protects it?
 8 A. Yes, that's correct.
 9 THE CHAIR: I was tempted to ask a question about
 10 Big A, but I think that would be very inappropriate.
 11 With that, Marcia, you have a question of Dr. Wells?
 12 MS. SPENCER-FAMOUS: Actually, I have a million
 13 questions, but I'll just ask one.
 14 EXAMINATION OF JEFF WELLS
 15 BY MS. SPENCER-FAMOUS:
 16 Q. I thought somebody else might bring this up, and I
 17 wondered whether you could offer an opinion or maybe some
 18 background information to explain why there might be a
 19 variability in the occurrence of Bicknell's -- you went
 20 and found Bicknell's on Black Nubble this year, previous
 21 years they haven't been documented.
 22 Is there some ecological reason why there could be
 23 variability?
 24 A. Yes, certainly Bicknell's are known to be impacted by
 25 annual cycles of predators -- red squirrels, basically --

1 when they peak, they are the major impact on the nests and
 2 the young.
 3 So the numbers have the possibility to fluctuate from
 4 year to year, in which case in some years you might have
 5 more birds in the landscape showing up in more places and
 6 then disappearing. That's one possibility. There are
 7 other possibilities.
 8 There's also some possibilities around the landscape
 9 level effects because of all the cutting that's been done
 10 and the fact that Bicknell's apparently are using these
 11 regenerating clearcuts.
 12 If there happen to have been a large amount of that
 13 habitat in the right stage of succession, it's possible
 14 that in a broad landscape there might have been more of
 15 them, so you would have been more likely to find them in a
 16 place that they might not occur every year.
 17 In a larger block of habitat like at Redington and
 18 from the information that the applicant's scientists have
 19 documented, there have been birds regularly there, so it's
 20 pretty clear that that's a population that is significant
 21 and sustaining; it's less clear on what's going on on
 22 Black Nubble.
 23 MS. SPENCER-FAMOUS: Thank you.
 24 THE CHAIR: Thank you. Well, all right. Lets take
 25 about 10 minutes for Lisa and all of us, and then we can come

1 back and conclude with the rebuttal testimony.
 2 We have -- we just assigned a whole block of time to
 3 this. We didn't divide it up between you, so it's going to be
 4 your time to use. I hope I don't have to get into refereeing
 5 time.
 6 MR. THALER: I don't expect there would be any
 7 problems. I think the others don't have any.
 8 THE CHAIR: Okay. We will start with the applicant.
 9 That will be the only rule I'm impose right now.
 10 (There was a break in the hearing at 10:31 a.m. and
 11 the hearing resumed at 10:52 a.m.)
 12 THE CHAIR: I guess we're going to proceed with our
 13 rebuttal, and the way I understand it, anyway, is the applicant
 14 is going to -- I assume is going to ask a few questions of a
 15 couple of his witnesses and then Mr. Plouffe has the same
 16 opportunity, as do the other intervenors.
 17 MR. THALER: That's correct. We only have one
 18 witness and we'll be very short.
 19 THE CHAIR: I always hear that phrase every time you
 20 guys come up here.
 21 MR. THALER: Mr. Chairman, thank you. Mr. Pelletier
 22 was previously sworn. Pam Underhill is also here. She pointed
 23 out to me at the break that when I restated her comment to
 24 NRCM, I had said that what she had said was that NRCM had
 25 thrown the National Park Service under the bus, but she had

1 said the Appalachian Trail, and we retract our version of the
2 transcript.

3 She's correct, it was the Appalachian Trail being
4 thrown under the bus, not the National Park Service. I didn't
5 intend to misstate that and I apologize for the confusion. It
6 was the Appalachian Trail under the bus.

7 THE CHAIR: Your correction is noted.

8 MR. THALER: Thank you.

9 EXAMINATION OF STEVE PELLETIER

10 BY MR. THALER:

11 Q. Mr. Pelletier, yesterday Jody Jones for the opposing
12 intervenors said that Woodlot, you, identified 18 species
13 of concern but then only went out into the field to look
14 for just four.

15 Is that what you did, and if not, please explain to
16 the Commission what you did do.

17 A. That's a gross mischaracterization of what we did.

18 We did surveys for all of these species. The desktop
19 survey that you referred to is just one of a series of
20 steps we do when we're doing any kind of analysis. It's
21 kind of an up-front, what's out there, what kind of
22 conditions are the habitat.

23 We follow that up with developing study plans. We've
24 worked with the agencies and get reviews, and then we
25 conduct those surveys. That's exactly what we did.

1 Just for the record, this particular project, we do
2 these ecological characterizations in species-specific
3 surveys, flora and fauna, on a number of different types
4 of projects.

5 We found over 60 wind power projects mostly along the
6 east coast but they did go down as far as Mexico, and each
7 one of them takes the same type of process, how do we
8 character of what's going on out there.

9 That's a very typical step. The first step is what
10 do we know about the area.

11 All of our projects, wind power projects, we have
12 never spent more time in the field on any of the projects
13 like this. We have never done more different types of
14 surveys than any project than this. I just wanted to say
15 we hadn't just gone out and did kind of a cruise, and a
16 desktop is a gross mischaracterization.

17 MR. THALER: Thank you Steve. And my last question.

18 Q. Mr. Plouffe today, in his questioning of Pete Didisheim,
19 suggested that if there were trees up on Black Nubble,
20 they were 80 to 100 years old balsam fir, that that would
21 be old growth.

22 Is that in fact an old growth forest on Black Nubble?

23 A. No, I was asked that question the other day. I just said
24 it was not an old growth.

25 It's important to recognize that there's a commercial

1 age and then there's an ecological age. The balsam fir
2 will start falling apart at sometimes 40 years old, 50
3 years old.

4 And the term old growth is also relative depending on
5 the species and the type of forest that you've got going
6 on. Is it a mixed forest? Is it a pure forest?

7 What we've got out here are trees that are falling
8 over. We're seeing 80 to 100, a little bit over 100, but
9 balsam fir can grow to be 200 years old, twice what we're
10 seeing out there.

11 I've seen trees that are getting close to 175, 180,
12 200, an old growth balsam fir forest.

13 MR. THALER: Mr. Chairman, I kept my word. That's
14 it, thank you.

15 THE CHAIR: Thank you.

16 Mr. Plouffe, do you have --

17 I think you're all set, Steve.

18 MR. PLOUFFE: I think we'll have probably comments on
19 that second question, but why don't we submit them in writing
20 so that you don't have to sit here and listen to that unless
21 you want to hear Dr. Kimball's response to that now.

22 But I'm willing to wait and submit that in writing if
23 you want, Mr. Chairman.

24 THE CHAIR: That's your privilege.

25 MR. PLOUFFE: Why don't I have Dr. Kimball come up.

1 It will save him some writing, and that will be the only
2 question.

3 DR. KIMBALL: I don't have any question that balsam
4 fir can get up to 200 years of age, but that's very abnormal,
5 particularly in a high disturbance environment like what you
6 have up there.

7 There's a tremendous amount of evidence of the wind
8 rime type of damage that you would expect at those elevations,
9 and I would be pretty surprised to see a lot of balsam fir
10 growing to 200 years in that particular habitat.

11 We do a lot of research, we've done a lot of tree
12 coring, and this would be pretty unusual to have old growth
13 balsam fir mature forest up there that's showing trees, you
14 know, 200-plus years as just indicated.

15 THE CHAIR: Thank you. Is that it?

16 MR. PLOUFFE: That's it.

17 THE CHAIR: Thank you. Mr. Trafton?

18 MR. TRAFTON: Nothing.

19 THE CHAIR: Any of the other intervenors?

20 MR. THALER: No. Sorry to disappointment you, Bart.

21 THE CHAIR: Well, in that case we better close this
22 hearing in a hurry. Are there any further questions on behalf
23 of the commissioners or comments?

24 MR. SCHAEFER: I just want to compliment you, Bart,
25 on your steady hand on these long days and throughout public

1 testimony. I think you do a magnificent job and very fair. I
2 just want that on the record.

3 THE CHAIR: Thank you. With that I guess that my
4 closing statement is to remind everybody that the record for
5 this hearing -- there are kind of two phases of this because we
6 have a public component for the folks who testified publicly,
7 and since we announced this, we have to stick to it, we have a
8 ten-day period until October 1st when we will receive written
9 comments, and then obviously the additional seven days for
10 rebuttal testimony until October 9th.

11 I guess my agreement with the intervenors and the
12 applicant, they are going to make one filing of all of their
13 final comments on October 9th and that there will be no
14 comments-rebuttal-type paperwork from them. We're going to get
15 one filing from the applicant and all the intervenors.

16 Does anybody have any questions about that or
17 concerns?

18 MR. THALER: No, that's accurate. That's our
19 agreement.

20 THE CHAIR: Thank you. With that I guess we can --

21 PARTICIPANT: Are you still allowing public letters
22 to come in?

23 THE CHAIR: Yes, that's what I said. The public is
24 certainly allowed to submit -- they have to have their
25 information in by October 1st, and if they want to come in and

1 read that record after October 1st, they're certainly welcome
2 to and send an additional letter in, but that date is
3 October 9th.

4 So, yes, members of the public certainly are allowed
5 to continue to supply us with additional information.

6 The hearing is concluded. Thank you all very much
7 for your cooperation.

8 (The hearing was concluded on September 21, 2007 at
9 11:00 a.m.)

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CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on September 19, 20, and 21, 2007, a hearing was held regarding Zoning Petition ZP 702; and that this deposition was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this October 9, 2007.

Lisa Fitzgerald

LISA FITZGERALD, NOTARY PUBLIC
Court Reporter

My commission expires: May 10, 2011

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