

**Petition to Initiate Commission
Rulemaking to Add to the
Windpower Expedited Permitting
Area**

**Submitted to the
Maine Land Use Regulation Commission**

by

TransCanada Maine Wind Development, Inc.

June, 2009

TABLE OF CONTENTS

INTRODUCTION..... 1

A. PROJECT PROPOSAL AND SUPPORTING EXHIBITS 3

- 1. PROJECT PURPOSE..... 3
- 2. DESCRIPTION OF PROPOSAL AND LOCATION MAPS..... 3
- 3. PROJECT FINANCING/FEASIBILITY 5
- 4. PROJECT SCHEDULE 6
- 5. TRANSMISSION..... 6
- 6. TITLE, RIGHT, AND INTEREST 7
- 7. NOTICE OF FILING 9

B. STATUTORY CRITERIA FOR EXPANSION OF EXPEDITED ZONE..... 9

- 1. LOGICAL GEOGRAPHIC EXTENSION 9
- 2. MEETS STATE WIND ENERGY GOALS 10
- 3. WILL NOT COMPROMISE PRINCIPAL VALUES AND GOALS OF THE CLUP 13
 - A. Principal Values..... 13
 - 1. Economic value of a working forest on private lands 14
 - 2. Diverse and abundant, primarily primitive, recreation opportunities 15
 - 3. Diverse, abundant and unique high value resources..... 18
 - 4. Natural character values, including uniqueness of a vast forested area that is largely undeveloped and remote from population centers 24
 - B. Goals..... 27
 - 1. Broad Goals 27
 - 2. Specific Goals..... 28

EXHIBITS

- Exhibit A1 - Map of the Ridgeline of Sisk Mountain
- Exhibit A2 - Map depicting the Proposed Expansion Area
- Exhibit A3 - LURC zoning map for the Proposed Expansion Area
- Exhibit B - Appendix F of the Commission Rules with proposed changes
- Exhibit C - Letter from KWF in Support of Petition
- Exhibit D - Notice of Filing

INTRODUCTION

In May, 2007, Governor Baldacci convened a Task Force on Wind Power Development in Maine (“Wind Power Task Force”) for the purpose of advancing the following three objectives: To make Maine a leader in wind power development; to protect Maine’s quality of place and natural resources; and to maximize the tangible benefits Maine people receive from wind power development. See February 2008 Report of the Governor’s Task Force on Wind Power Development (“Task Force Report”) at 9 and Attachment A (Executive Order).¹ The Wind Power Task Force included legislators, representatives from the regulatory agencies responsible for evaluating the State’s energy needs and developing energy policy, representatives from the two regulatory agencies tasked with reviewing individual wind power projects, representatives from environmental organizations, and representatives from the private sector. See Attachment B to the Task Force Report. Notwithstanding its diverse membership, the Wind Power Task Force unanimously recommended specific goals for wind development in the State and changes to the regulatory review process governing wind power projects. See id. at Sections I (goals for wind power development in Maine) and II (permitting grid-scale wind power projects). These recommendations were enacted into law pursuant to 2007 Public Law, Chapter 661 (the “Wind Power Act”).

The Wind Power Task Force recommended and the Legislature approved identification of areas within the Land Use Regulation Commission (“LURC”) jurisdiction that were appropriate for wind power development and where, as a result, wind power should be an allowed use pursuant to LURC regulations (the so-called expedited permitting area). See 12 M.R.S.A. § 685-B(2-C). These areas are generally on the fringe of the jurisdiction where unorganized towns are

¹ A copy of the Task Force Report is included as Attachment 1 in the accompanying Background Material in Support of Petition.

intermingled with plantations and organized towns. See Task Force Report at 18. In particular, the Task Force recommended including areas on the fringe of the jurisdiction that do not otherwise possess ecological, recreational or scenic values of “particular” significance, as well as areas within approximately one township (6 miles) of certain public highways. See id. at 18 n.2. In addition to those areas specifically identified in the Wind Power Act for inclusion in the expedited permitting area, the Task Force recommended and the Legislature established a process and standards for adding to the expedited permitting area. See id. at 20; 35-A M.R.S.A. § 3453.

In accordance with 35-A M.R.S.A. § 3453, TransCanada Maine Wind Development, Inc. (“TransCanada”) hereby petitions LURC to initiate a rulemaking to add the approximately 630 acres within Chain of Ponds Township described in Section A.2., below, and depicted on the map attached at **Exhibit A1** (the “Proposed Expansion Area”) to the existing expedited permitting area identified by the Task Force and Maine Legislature and set forth in Appendix F of the Commission’s Rules (the “Expedited Zone”). Doing so not only is consistent with the criteria set forth in Section 3453, but also is consistent with the Commission’s prior determination that the Kibby Range, which is adjacent to the Proposed Expansion Area, is an appropriate location for wind power development. See generally March 2008 Findings of Fact and Decision in Zoning Petition 709 (“ZP 709”).² As set forth more fully below, the proposed rule change would make wind power an allowed use in the Proposed Expansion Area and will facilitate development of approximately 45 megawatts of additional wind power in a location appropriate for wind power development and without compromising the principles and values of the CLUP.

² A copy of ZP 709 is included as Attachment 2 in the accompanying Background Material in Support of Petition.

A. PROJECT PROPOSAL AND SUPPORTING EXHIBITS

1. PROJECT PURPOSE

TransCanada is assessing the development of an approximate 15 turbine, 45 megawatt wind power generation facility in the Boundary Mountains of Western Maine (the “Project”). The Project would be located in part on Sisk Mountain, in the unorganized townships of Chain of Ponds and Kibby, in Franklin County. The Project area is proximate to the recently approved Kibby Wind Power Project (the “Kibby Project”), which occupies land on the Kibby Range and Kibby Mountain in Kibby and Skinner Townships, also in Franklin County. As such, the Project will utilize certain infrastructure being built in connection with the Kibby Project, including the operations and maintenance building and the approximately 27-mile transmission line connecting the Kibby Project to the electrical grid. A portion of the area considered for development lies within the existing Expedited Zone. The remainder of the area proposed for development is immediately adjacent to the Expedited Zone. The purpose of this petition is to initiate a rulemaking that would have the effect of adding the Proposed Expansion Area to the Expedited Zone.

2. DESCRIPTION OF PROPOSAL AND LOCATION MAPS

The Proposed Expansion Area is located in Chain of Ponds Township in Franklin County. A portion of Chain of Ponds Township is within the Expedited Zone, as are all of Kibby and Alder Stream Townships, which border Chain of Ponds Township on the east and south, respectively. The Proposed Expansion Area is bounded on the north by the Chain of Ponds land in the Expedited Zone and on the east by Kibby Township (all of which is within the Expedited Zone). The northern portion of the Sisk Mountain ridge is within the Expedited Zone, as are most of Sisk’s eastern slopes. In addition, the portions of Sisk Mountain and its ridge that are not presently

within the Expedited Zone are proximate to Kibby Range to the east and Mount Pisgah to the west, both of which are within the Expedited Zone. Exhibit A2 is a map depicting the Proposed Expansion Area and surrounding areas already in the Expedited Zone. Exhibit A3 is the LURC zoning map for the Proposed Expansion Area.

The Proposed Expansion Area, depicted on the map at Exhibit A1, is located on the ridgeline of Sisk Mountain and encompasses portions of areas on Sisk Mountain above 2,700 feet in elevation not already included in the Expedited Permitting Zone. A description of the Proposed Expansion Area and corresponding changes proposed to Appendix F of the Commission Rules is attached at Exhibit B.³

Development of the Proposed Expansion Area will require review and approval of a detailed development application in accordance with criteria in Chapter 10 of LURC's rules. Consistent with the extensive field work and agency and stakeholder consultation that occurred in connection with the Kibby Project, TransCanada will site and design the Project and its related facilities in a manner that minimizes environmental and community impact to the maximum extent possible. In connection with the development permit application, TransCanada will conduct a series of field studies to characterize environmental conditions at the site and to augment studies undertaken in the Proposed Expansion Area in connection with TransCanada's application for meteorological towers on Sisk Mountain (the "Met Tower Application"), DP 4830, and on the adjacent Kibby Range and Kibby Mountain in connection with the Kibby Project. In particular, as required by state law and in addition to the Chapter 10 standards, any development permit applications will address the following:

³ The Legislature recently corrected several errors in the description of the Expedited Zone pursuant to 2009 Public Law Chapter 415, Part D (the "Errors and Omissions Bill"). Those corrections took effect on June 17, 2009, and direct the Commission to amend its rules consistent with those corrections. The Commission may wish to consider consolidating this proposed rulemaking with the rulemaking required by 2009 Public Law Chapter 415, Part D.

1. Effects on scenic character and existing uses related to scenic character;⁴
2. Tangible benefits, including postconstruction reporting of tangible benefits realized;
3. Noise and shadow flicker effects;
4. Effects on avian and bat species;
5. Public safety-related setbacks; and
6. Decommissioning plans, including demonstration of current and future financial capacity that would be unaffected by the applicant's future financial condition to fully fund any necessary decommissioning costs commensurate with the project's scale, location and other relevant considerations, including, but not limited to, those associated with site restoration and turbine removal.

12 M.R.S.A. § 685-B (4-B). Thus, while this Petition includes a macro-level discussion of how allowing wind power development as a use requiring a permit in the Proposed Expansion Area will not compromise the principal values and objectives of the CLUP, a detailed discussion and evaluation of potential impacts and avoidance and mitigation measures will be included in any subsequent development application.

3. PROJECT FINANCING/FEASIBILITY

TransCanada Energy Ltd. (TransCanada Maine Wind Development's parent company) is an affiliate of TransCanada Corporation, an established North American company with a proven track record in developing large infrastructure projects, including numerous wind projects currently underway in Canada, and the recently permitted Kibby Project in Maine. TransCanada's

⁴ Effects on scenic character for areas within the Expedited Zone are evaluated as to whether "the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource of state or national significance." 35-A M.R.S.A. § 3452(1). "There is a rebuttable presumption that a visual impact assessment is not required for those portions of the development's generating facilities that are located more than 3 miles, measured horizontally, from a resource of state or national significance," although LURC "may require a visual impact assessment for portions of the development's generating facilities located more than 3 miles and up to 8 miles from a scenic resource of state or national significance if it finds there is substantial evidence that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the scenic resource..." 35-A M.R.S.A. § 3452(4). Resources of state or national significance located within 3 miles of the Proposed Expansion Area are Chain of Ponds, the Arnold Trail, and scenic turnouts on State Route 27. Resources of state or national significance located between 3 and 8 miles of the Proposed Expansion Area are Jim Pond, Crosby Pond, Arnold Pond, Big Island Pond, Round Mountain Pond, the North Branch of the Dead River, Kibby Stream, and Kennebago River. The potential impact of any development on those resources will be evaluated in full in the development application.

financial strength and capacity to develop the larger Kibby Project was evaluated in ZP 709, and an estimate of the costs to develop the Project contemplated here and a demonstration of TransCanada's ability to fund that development will be provided in the subsequent development application. TransCanada Corporation's 2008 Annual Report demonstrates the company's financial strength, including more than \$39 billion in total assets and more than 10,000 megawatts of power generation. The full report is available on line at http://www.transcanada.com/investor/financial_annual.html.

4. PROJECT SCHEDULE

TransCanada is currently undertaking the detailed environmental and other surveys necessary to support a development application, which it expects to file in the Fall of 2009. Construction is scheduled to commence in the Summer of 2010, so that the Project may come on-line in the Fall of 2011.

5. TRANSMISSION

Due to its proximity to the Kibby Project, the Project will utilize the approximately 27-mile transmission line currently under construction to connect the Kibby Project to the Central Maine Power (CMP) Bigelow Substation in Carrabassett Valley. As part of the interconnection process, TransCanada will undertake a series of studies to ensure that the Project will have no adverse effect upon the reliability of the bulk transmission grid. Specifically, in order to connect a new generating resource with a capacity greater than 20 MW to the high-voltage grid, the proponent must follow a specific sequence of applications, studies and approvals, as approved by the Federal Energy Regulatory Commission ("FERC") and administered by Independent System Operator for New England ("ISO-NE"). For interconnecting generators such as a wind power project, the interconnection process is solely an engineering reliability-based analysis focused on the Minimum

Interconnection Standards, all of which relate to the stability and reliability of the transmission system. As part of the process, TransCanada will commission an interconnection feasibility study and interconnection system impact study, which will identify any upgrades needed to maintain the reliability of the bulk transmission network. TransCanada expects those studies to be commissioned in the Summer of 2009, and be completed in a timeframe consistent with commencing construction in the Summer of 2010 and bringing the Project on-line in the Fall of 2011.

6. TITLE, RIGHT, AND INTEREST

TransCanada is acquiring specific rights to develop the Project in the Proposed Expansion Area by virtue of a *Wind Energy Easement* with Kennebec West Forest, LLC (“KWF”). All of the Proposed Expansion Area is part of a larger parcel of land owned by KWF (the “Parent Parcel”) comprising the entirety of Chain of Ponds Township, other than the Chain of Ponds Public Reserve Lands Parcels, and four formerly leased lots sold to the lessees, referenced below, and a parcel conveyed to The Megantic Fish and Game Corporation, also referenced below. The tax map and lot number for the Parent Parcel is FR014, Plan 01, Lot 1. Attached as **Exhibit C** is a letter from KWF in support of this Petition.

The Parent Parcel was acquired by KWF from SP Forests LLC by deed dated December 30, 2004 and recorded in the Franklin County Registry of Deeds in Book 2551, Page 302. Prior to KWF’s ownership, the Parent Parcel was conveyed as follows:

- 2004, December 1: Out-parcel conveyed to The Megantic Fish and Game Corporation by deed recorded in the Franklin County Registry of Deeds in Book 2539, Page 43. This lot is not counted for subdivision purposes as this was a transfer to an abutter.
- 1999, June 16: Entire Parent Parcel conveyed to SP Forests LLC by IP Timberlands Operating Company, LTD by deed recorded in the Franklin County Registry of Deeds in Book 1865, Page 98.

There were no conveyances of the Parent Parcel between June 30, 1989 (the beginning of the twenty-year look-back period) and June 16, 1999 (the date of the first conveyance listed above) other than in connection with a corporate reorganization of IP Timberlands Operating Company, LTD. Pursuant to this corporate reorganization, the entire Parent Parcel was conveyed by IP Timberlands Operating Company, LTD to IP N-S Assets, LP after which the name of IP N-S Assets, LP was changed to IP Timberlands Operating Company, LTD.

There are eight leased lots located on the Parent Parcel. All of these leased lots have been in existence for more than 20 years (with inception dates ranging from 1973 to 1981). Four of these lots were conveyed to the leaseholders (following conveyance by KWF to its parent entity Black Bear Forest, Inc. and a conveyance by Black Bear Forest, Inc. to its subsidiary Black Bear Cub, Inc., an affiliate of KWF):

- Lot 970-102 (located on Caribou Pond) conveyed to Robert Witherly;
- Lot 970-66 (located on Lower Pond) conveyed to Donald E. Olen, Sr.;
- Lot 970-36 (located off Route 27) conveyed to Kenneth G. Jones; and
- Lot 970-17 (located on Route 27) conveyed to Robert G. Cushman.

The remaining leased lots continue to be owned by KWF and leased to the long-term tenants as follows:

- Lot 970-057 (located off Route 27) leased to James K. Brochu;
- Lot 970-072 (located on Gold Brook Road) leased to Michael Reeve;
- Lot 970-087 (located northerly and westerly of a small beaver pond) leased to Robert S. Smith; and
- Lot 970-101 (located on Route 27) leased to the State of Maine, Department of Transportation.

In light of the foregoing, there have been no unauthorized divisions within the past 20 years.

7. NOTICE OF FILING

A copy of the Notice of Filing and the addresses to which such notice was sent are attached at Exhibit D.

B. STATUTORY CRITERIA FOR EXPANSION OF EXPEDITED ZONE

12 M.R.S.A. § 685-A(13) provides that the “commission may add areas in the State’s unorganized and deorganized areas to the expedited permitting area for wind energy development in accordance with Title 35-A, Section 3453.” 35-A M.R.S.A. § 3453 sets forth the requirements for expansion of the Expedited Zone as follows:

In order to add a specified place to the expedited permitting area, the Maine Land Use Regulation Commission must determine that the proposed addition to the expedited permitting area:

1. **Geographic extension.** Involves a logical geographic extension of the currently designated expedited permitting area;
2. **Meets state goals.** Is important to meeting the state goals for wind energy development established in [35-A M.R.S.A.] section 3404; and
3. **Principal values and goals.** Would not compromise the principal values and the goals identified in the comprehensive land use plan adopted by the Maine Land Use Regulation Commission pursuant to Title 12, section 685-C.

As discussed more fully below, adding the Proposed Expansion Area to the Expedited Zone meets each of these criteria and therefore TransCanada respectfully requests that rulemaking be initiated for that purpose.

1. LOGICAL GEOGRAPHIC EXTENSION

It is difficult to imagine a more logical extension of the Expedited Zone than adding the Proposed Expansion Area to the existing Expedited Zone. As discussed in Section A.2. above, the Proposed Expansion Area is immediately adjacent to (i) Kibby Township on the east, which is already in the Expedited Zone, and (ii) an area of Chain of Ponds Township, including the northern

end of Sisk Mountain and Mount Pisgah, to the north that also is already in the Expedited Zone. Adding the Proposed Expansion Area to the Expedited Zone is a logical extension of the Expedited Zone, in that it would include within the Expedited Zone the remaining portions of Sisk Mountain and its associated ridgeline not already located within the Expedited Zone, and it would connect the Kibby Township and Mount Pisgah expedited areas in a manner that more closely follows contour lines and topographic features rather than the political boundaries of township lines.

In addition, because the adjacent Expedited Zone area includes a wind power project currently under construction, adding the Proposed Expansion Area to the Expedited Zone will allow for the consolidation of wind energy projects in a limited geographic area known to have an excellent wind resource, with the attendant ability to utilize existing infrastructure. Doing so will also consolidate the potential impacts from multiple projects into a single, contiguous location.

2. MEETS STATE WIND ENERGY GOALS

Adding the Proposed Expansion Area to the Expedited Zone will facilitate development of the Project, which in turn will advance the State's goals for wind energy development established in 35-A M.R.S.A. § 3404.

As determined by the Wind Power Task Force and set forth in 35-A M.R.S.A. § 3404(2), "the goals for wind energy development in Maine are that there be: A) at least 2,000 megawatts of wind energy capacity by 2015; and B) at least 3,000 megawatts by 2020..." In addition to the specific wind energy goals set forth therein, the Wind Power Act encourages Maine's political subdivisions, agencies and public officials to take "every reasonable action to encourage the attraction of appropriately sited development related to wind energy" *Id.* at § 3404(1).

The Wind Power Task Force recognized that the state's wind energy development goals are "ambitious," but also determined that they are "realistic, achievable and necessary." Task

Force Report at 5. To date, Maine currently has just over 100 megawatts (MW) of installed commercial wind energy capacity operating in Maine. This power is provided by wind projects that are operating in Mars Hill (42 MW), Stetson Ridge (57 MW), and Beaver Ridge (4.5 MW). An additional 217.5 MW of capacity is anticipated from projects that have received regulatory approval but are not yet fully constructed or on-line. This additional capacity will be provided by the following wind projects: the Kibby Project (132 MW), the Stetson II Wind Project (25.5 MW), and the Rollins Wind Project (60 MW). There are at least two other grid-scale projects currently undergoing regulatory review by the Department of Environmental Protection (the 55 MW Record Hill Wind Project and the 51 MW Oakfield Project).

Accordingly, as of June 2009, Maine has permitted less than 400 MW of wind power and, even taking into account projects currently under review but not yet permitted, is well short of reaching its goal of 2,000 MW of installed capacity by 2015. Inclusion of the Proposed Expansion Area in the expedited zone furthers the State's articulated wind energy generation goals by facilitating the appropriate siting of an additional approximately 45 MW wind power generation facility in the Boundary Mountains of Western Maine. It is evident from the small number of MW permitted and operational in the State at this time that Maine will not meet its statutory 2015 goal of 2,000 MW without the development of as many additional projects as possible in suitable locations.

Moreover, inclusion of the Proposed Expansion Area is particularly beneficial because it represents an outstanding wind resource that is proximate to another wind power project and therefore is consistent with area development and can share infrastructure associated with that existing development. Estimates of the wind resource in the U.S. Wind Atlas show that this region

is classified as Wind Power Class 5, which indicates excellent wind resource potential.⁵ The strong winds are located mainly in the mountainous areas of Maine, due to the regional weather patterns and the topographical features of the area. As shown in the U.S. Wind Atlas, on a macro scale, only the northwest portion of Maine has winds at Class 5 and above. The preliminary assessment of the Kibby Project conducted by consulting firm Garrad Hassan explained the forces behind this wind resource as follows:

It is expected that the main general mechanism that produces significant winds at the Kibby Mountain site is the formation of a prominent depression track across the area. It is quite common, especially in winter, to find most of western and upper Maine, the St-Laurent seaway, the Gaspé peninsula, and the maritime provinces at the tail end of a well developed depression or storm track moving across the North American continent. The fronts of weather systems, which are sources of strong winds, have a tendency to orient themselves along the track. The formation of the track is in turn strongly influenced by the position and strength of the jet stream above. Given the significant elevation of the ridges when compared to Quebec plains to the west, the Kibby Mountain site is well exposed to the westerly winds produced by this track formation.

Kibby Project Application at 2-2.

Data collected since that time confirms the wind resource at the Kibby Project site. Given the close proximity of the Proposed Expansion Area to the Kibby Project site, and the similarities between the two locations, it is expected that the Proposed Expansion Area benefits from the same excellent wind resource that exists at the Kibby Project site. The data gathered from the meteorological instruments installed pursuant to the Met Tower Application will be used to verify these macro-level indicators and to supplement wind data gathered at the Kibby Project site.

⁵ A copy of the map from the U.S. Wind Atlas is included as Attachment 3 in the accompanying Background Material in Support of Petition.

3. WILL NOT COMPROMISE PRINCIPAL VALUES AND GOALS OF THE CLUP

For the reasons discussed below, adding the Proposed Expansion Area to the Expedited Zone will not compromise the principal values and goals of the Commission's Comprehensive Land Use Plan ("CLUP"). As a threshold matter, it is important to recognize that this Petition seeks merely to add approximately 630 acres to the Expedited Zone, which would have the effect of making wind power an allowed use there, but does not otherwise authorize any specific development proposal. See 12 M.R.S.A. § 685-A(13). Actual development of the area for wind power will require submission of a complete development application that must address all the applicable statutory and regulatory criteria, which includes a requirement that the applicant demonstrate the development is consistent with LURC's statute, regulations, standards, and plans. See, e.g., 12 M.R.S.A. § 685-B(4)(E). The discussion below is intended to provide a general overview of how adding the Proposed Expansion Area to the Expedited Zone will not compromise the principles and goals of the CLUP sufficient to demonstrate that this proposal meets the criteria of 35-A M.R.S.A. § 3453(3). A more detailed review and analysis of, among other things, site specific resource and environmental data and an assessment of the visual and environmental impacts associated with a particular project design, will necessarily be included in any subsequent development application.

A. Principal Values

According to the CLUP, "[t]he Commission has identified four principal values that define the jurisdiction's distinctive character:

- The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest, largely on private lands;
- Diverse and abundant recreational opportunities, particularly for primitive pursuits;

- Diverse, abundant and unique high-value natural resources and features, including water resources, fish and wildlife resources, ecological values, scenic resources, and mountain areas and other geologic resources; and
- Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers.”

CLUP at 114.

The Commission recently rezoned approximately 2,300 acres to a Planned Development Subdistrict (D-PD) in connection with the Kibby Project, which is located less than two miles from the Proposed Expansion Area. See ZP 709 at 2. Approximately 1,495 of these acres were rezoned from Mountain Area Protection Subdistrict (P-MA) to D-PD. Id. at 3. The Kibby Project included construction of 44 3-MW turbines, new roads, an associated collector system, a substation, an operations and maintenance building, and approximately 27 miles of 115 kV transmission line to connect the project to the electrical grid. See generally id. at 3-4. It required rezoning to a D-PD subdistrict because, at the time, wind power was not an allowed use in any LURC subdistrict. In connection with the Kibby Project proceeding, and following a lengthy public hearing with input from intervenors, stakeholders and the public, the Commission concluded that development of the Kibby Project was consistent with the principal values of the CLUP. The Proposed Expansion Area shares many similar (and often nearly identical) attributes with the Kibby Project and for that reason the Commission’s findings in the Kibby Project support a determination that adding the Proposed Expansion Area to the Expedited Zone is consistent with the principal values of the CLUP.

1. Economic value of a working forest on private lands

The Proposed Expansion Area and surrounding area is presently in active forest management and the Commission has held previously that wind power is a use consistent and compatible with commercial forestry. See, e.g., ZP 709 at 57-58; November, 2007 Findings of

Fact and Decision in Zoning Petition 713 (“ZP 713”) at 35-36. The construction of new roads and upgrades to existing roads associated with wind power development typically enhance the suitability of an area for forest management activities, and revenues from wind power developments provide financial stability to timber companies and forest land owners when wood markets are down. Further, of the approximately 630 acres proposed for addition to the Expedited Zone, relatively few would be removed permanently from forest management if a wind energy project is permitted. In light of the foregoing, adding the Proposed Expansion Area to the Expedited Zone would not compromise the continued use of the Proposed Expansion Area and surrounding region as a working forest. See generally ZP 709 at 57-58; see also ZP 713 at 35-36.

2. Diverse and abundant, primarily primitive, recreation opportunities

Prompted by discussions at the 2003 Blaine House Conference on Maine’s Natural Resource-based Industries, in September of 2004 Maine Department of Economic and Community Development retained private consulting firm FERMATA, Inc. to assess Maine’s nature based-tourism opportunities. In September of 2005 FERMATA issued its *Strategic Plan for Implementing the Maine Nature Tourism Initiative* (the “FERMATA Report”), which identifies a list of natural resource-based tourism offerings in three regions – including the western mountains.⁶ This list was the result of a detailed inventory and assessment of recreational opportunities in each region, as well as evaluation of sites recommended by attendees at community meetings and through a separate nomination process. FERMATA Report, pp. 3, 10-12.

The listed site closest to the Proposed Expansion Area is the Bigelow Preserve/Flagstaff Lake section of the Flagstaff Region Public Reserve Lands Management Unit. This site is

⁶ The Western Mountains Region identified in FERMATA’s Strategic Plan includes all of Franklin and Oxford Counties. FERMATA Report, p. 12.

approximately 15 miles from the Proposed Expansion Area at its nearest point. Recreational opportunities in this area include hiking, canoeing/kayaking, power boating, fishing, hunting, snowmobiling, camping, wildlife watching, and scenic viewing. See, generally, *Flagstaff Region Management Plan*, Maine Bureau of Parks and Lands, June 12, 2007 (the “Flagstaff Management Plan”). As the Commission concluded in the Kibby Project, wind power development approximately 15 miles away from these designated resources would not adversely impact their recreational opportunities or values. See, e.g., ZP 709 at 62. The Proposed Expansion Area is slightly further from these resources than are portions of the Kibby Project and the Kibby Project would be in the intervening landscape, thereby diminishing by comparison the visual impact of development in the Proposed Expansion Area.

Although not identified in the FERMATA study, the recreational resource closest to the Proposed Expansion Area is the Chain of Ponds public reserved lands, which include a commercial campground leased to a private operator at the northern end of Natanis Pond. The campground consists of 61 tent and RV sites (many of which are very visible from the water), with a camp store and recreation hall (both also visible from the water),⁷ and is classified as a Class II Developed Recreation Area.⁸ Class II Developed Recreation areas “[a]re the most intensely developed recreation facilities managed by the Bureau [of Parks and Lands].”⁹ These are in contrast to Class I Developed Recreation Areas, and Remote Recreation Areas, which have a greater sense of remoteness.

A handful of sites identified as “backwoods” or “primitive” sites are located around Chain of Ponds. All of the “backwoods” campsites, however, are within earshot of Route 27, with its

⁷ DeLorme, p. 15; *Flagstaff Management Plan*, pp. 91, 94, 95, 98.

⁸ *Flagstaff Management Plan*, p. 133.

⁹ *Flagstaff Management Plan*, p. 132.

heavy commercial truck traffic, and are accessible by car. Many also have views of Route 27.¹⁰

As such, users of these sites do not experience a sense of remoteness that is prevalent at other, more traditional backwoods sites in the jurisdiction, and adding to the Proposed Expansion Area to the Expedited Zone is unlikely to adversely impact the enjoyment of these resources. In any event, because Chain of Ponds is classified as a resource of statewide or national significance, the potential impact of wind power development on this resource would be analyzed and included with any development application.¹¹

With respect to recreational opportunities in the area, TransCanada previously commissioned a recreational use survey that indicated that the majority of recreational users come to the area for the hunting, snowmobiling, ATV-riding, and fishing, all uses which are unlikely to be affected by wind power development. Although the survey was undertaken in connection with the Kibby Project, the survey area included a 15-mile radius that encompassed the entire Proposed Expansion Area. Moreover, the land use in Chain of Ponds is similar to that in Kibby and Skinner Townships, as are the primary recreational activities (although with fewer maintained hiking trails). This survey found that the majority of those surveyed indicated that the proposed wind power project would have either a “low” or “very low” impact on their recreation experience in the area. See ZP 709 Application § 9.4.¹² In addition, numerous survey respondents indicated that they believed that the wind power project would have either a neutral or positive impact on recreational opportunities. See id. As the Commission previously concluded in connection with the Kibby Project, wind power “is consistent with the principal value of maintaining diverse and

¹⁰ Flagstaff Management Plan, p. 94.

¹¹ Pursuant to 12 M.R.S.A. § 685-B(4)(C) and 35-A M.R.S.A. § 3452, an application for a wind power development must include an evaluation of the project’s impact on scenic resources of state or national significance. Chain of Ponds is identified as having outstanding or significant scenic quality in *Maine’s Finest Lakes* study and is therefore considered a scenic resource of state or national significance under the Wind Power Act. See 35-A M.R.S.A. § 3451(9)(D) (defining scenic resources of state or national significance).

¹² A copy of Section 9.4 of the Application in ZP 709 is included as Attachment 4 in the accompanying Background Material in Support of Petition.

abundant recreational opportunities, primarily for primitive pursuits, as the Project area has a relatively low level of recreational use and the dominant current recreational uses would not be negatively affected by the Project.” ZP 709 at 58.

Due in part to the popularity of the mountains and trails in the more distant Bigelow Range and Rangeley Lakes area, hiking opportunities in the vicinity of the Proposed Expansion Area area are very limited. There are no known, regularly maintained hiking trails on Sisk Mountain, the Sisk ridgeline, elsewhere in the Proposed Expansion Area, on adjacent Mount Pisgah (presently within the Expedited Zone), or on Indian Stream Mountain, which lies across Chain of Ponds south from Sisk and Pisgah. The closest hiking resources to the Proposed Expansion Area are the Arnold Trail foot path, Snow Mountain (partially within the Expedited Zone), and Kibby Mountain (entirely within the Expedited Zone).

Finally, although the visual impact of wind power development in the Proposed Expansion Area necessarily would differ in some respects from the visual impact of the Kibby Project, the visual impact on scenic resources of state or national significance, including Chain of Ponds, turnouts and viewpoints on the Route 27 scenic byway and the Arnold Trail Historic District, will be evaluated in connection with any development application.

3. Diverse, abundant and unique high value resources

a. water resources

The primary water resource in the vicinity of the Proposed Expansion Area is Chain of Ponds, a resource of statewide significance. Chain of Ponds consists of a series of five ponds (from northwest to southeast: Round, Natanis, Long, Bag, and Lower) connected by short, narrow passages, all totaling about 700 acres of surface area. The chain originates in the lakes of Coburn Gore and Horseshoe Stream and empties into the North Branch of the Dead River. The Maine

Wildlands Lake Assessment identifies Chain of Ponds as a Management Class 2 (especially high value, accessible, undeveloped) lake, with outstanding fisheries, wildlife, scenic and physical resource ratings, and significant shoreline and cultural resource ratings.¹³ The State-owned public reserve land encompasses all of the shoreline of Round Pond (about 3.5 miles from the Proposed Expansion Area), nearly all of the shoreline of Natanis Pond (between 2.5 and 3.5 miles from the Proposed Expansion Area), and the eastern shorelines of Long and Bag Ponds (between 1.5 and 2.5 miles from the Proposed Expansion Area). As noted above, a commercial campground at the north end of Natanis Pond is leased by the state to a private operator.

According to the publication *Maine's Finest Lakes, the Results of the Maine Lakes Study*, prepared in October 1989 in connection with the Maine Wildlands Lakes Assessment, the scenic characteristics of Chain of Ponds includes dramatic relief, cliffs, ledges, beaches and boulders, although in some places inharmonious development detracts from the scenery.¹⁴ The dominant features of the dramatic relief, cliffs and ledges are primarily on the western shores of southern Natanis and northern Long Ponds, where the land mass of Indian Stream Mountain's northeastern slopes plunge into the lake. The views of these features to the west would be unaffected by development in the Proposed Expansion Area. Additionally, Route 27 runs along the entire eastern shore of Chain of Ponds and is highly visible for most of its length.¹⁵

At its closest point, Chain of Ponds is approximately two miles from the Kibby Project. Although not highly visible, views of a few turbines will be seen from various vantage points. See, e.g., Kibby Visual Assessment at 36.¹⁶ There, the Commission acknowledged that some visual impact to Chain of Ponds would result from the Kibby Project but concluded that the

¹³ Maine Wildlands Lakes Assessment, p. 14.

¹⁴ *Maine's Finest Lakes*, p. 86.

¹⁵ Flagstaff Management Plan, pp. 91.

¹⁶ A copy of the Visual Assessment prepared in ZP 709 is included as Attachment 5 in the accompanying Background Material in Support of Petition.

impacts to scenic resources would not be unduly adverse. See ZP 709 at 44, 60. The Proposed Expansion Area is approximately half to three quarters of a mile closer to Chain of Ponds at its closest point and development there will result in additional visual impacts. Because it is a resource of statewide or national significance, however, a visual impact assessment will be included with any development application and, at that time, the Commission will have the opportunity to evaluate the visual impact of a specific development proposal on Chain of Ponds.

Other water resources further away from the Proposed Expansion Area include Jim Pond (approximately 8 miles), Spencer Lake (approximately 16 miles), and Flagstaff Lake (approximately 14 miles). The Kibby Visual Assessment also evaluated the impact on those resources and concluded that impacts to the resources were either limited or non-existent with respect to the Kibby Project. Because the Kibby Project is in the intervening landscape between these resources and the Proposed Expansion Area, it is unlikely that the addition of the Proposed Expansion Area to the Expedited Zone will have any further impact on these resources.

b. fish and wildlife resources

There are no lakes or ponds and only limited mapped shoreland protection areas located within the Proposed Expansion Area, see Exhibit A3, and therefore adding the area to the Expedited Zone will not compromise values related to fisheries habitat. Additionally, although areas to the northeast have been designated as critical habitat for the Canada lynx, which is listed as threatened under the Endangered Species Act, the Proposed Expansion Area does not include any designated or mapped critical habitat for lynx or other species listed as threatened or endangered under either federal or state law. There is an historic golden eagle (*Aquila chrysaetos*) (State-listed as endangered) eyrie or nest site that is mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW) adjacent to Route 27 on the lower slopes

of Sisk Mountain, about a mile south of the southern boundary of the Proposed Expansion Area, which has not been active since the 1970s. This site is outside of the Proposed Expansion Area, and two miles from the closest elements of the Kibby Project, however, TransCanada has monitored this site for activity in consultation with MDIFW annually since 2005. Golden eagle use of this ledge has not been documented. Another species on the State list that is potentially found at high elevations which has been found in at least one location on Redington Mountain (approximately 20 miles away) is the threatened northern bog lemming. Sphagnum bogs, damp weedy meadows, and mossy spruce, hemlock, and beech forests make up the habitat for this species. Such habitat would be avoided to the extent possible for any potential development. Sisk Mountain does contain habitat that appears to be suitable for breeding Bicknell's thrush, a State-listed Species of Special Concern, in some of the higher elevation areas (above 3,200 feet in elevation) of the ridge. Surveys are currently being conducted, in consultation with MDIFW, to determine the extent of this habitat and potential impacts will be evaluated as part of a subsequent development application.

A number of other wildlife species are known to occur in the vicinity of Sisk Mountain and TransCanada will undertake site specific environmental field surveys to identify potential habitat and ensure that any subsequent development avoids and minimizes impacts to potential habitat. Those surveys will be included in a subsequent development application. Moreover, TransCanada has already undertaken extensive field studies in the nearby areas in connection with the Kibby Project. Specifically, TransCanada undertook extensive avian and bat monitoring and developed an appropriate post-construction monitoring plan to ensure no unreasonable adverse impacts to avian or bat species would occur due to development of the Kibby Project.

These studies will be useful to correlate with any studies performed for a project proposed for the Proposed Expedited Area.

Finally, in connection with the Met Tower Application, TransCanada corresponded with MDIFW regarding the potential for species issues in the Proposed Expansion Area. In a letter dated February 10, 2009, MDIFW stated that the Proposed Expansion Area is not associated with any known essential wildlife habitats, deer wintering areas, inland waterfowl/wading bird habitats, or significant vernal pools, but did note the historic golden eagle (*Aquila chrysaetos*) nest site, which is discussed above. The site will continue to be monitored in consultation with MDIFW and any development application will include specific measures regarding golden eagles and other raptor species.

c. ecological values

Data requests from Maine Natural Areas Program have not identified any mapped natural communities on Sisk Mountain, however, there are two known occurrences of state listed plant species in the immediate vicinity of the Proposed Expansion Area: one occurrence of lesser wintergreen (*Pyrola minor*; a S2-ranked state species of special concern), and one occurrence of boreal bedstraw (*Galium kamtschaticum*; a S2-ranked state threatened species). Lesser wintergreen and boreal bedstraw are well known to TransCanada, due to field surveys done in connection with the Kibby Project. Both of these plants live in close association with surface water resources, in close proximity to stream channels in the case of lesser wintergreen or wetlands in the case of boreal bedstraw. Consistent with the process that occurred in development of the Kibby Project, site specific surveys will be undertaken and potential adverse impacts to ecological resources will be avoided or minimized to the maximum extent practicable. Maine Natural Areas Program (MNAP) has also indicated that there may be a Fir/Heartleaved

Birch Subalpine Forest present on the higher parts of the ridge that has not been mapped. This natural community is ranked S3 in the State of Maine, being rare (on the order of 20-100 occurrences state-wide). TransCanada will work with MNAP to determine the occurrence and extent of natural communities found on the ridge and potential impacts to these communities will be addressed in any development application.

d. mountain areas and geologic resources

Although the Proposed Expansion Area includes approximately 630 acres of P-MA area, allowing development of wind power will not compromise the CLUP's principals and values related to such resources. Specifically, the goal of the CLUP regarding geologic resources is to "[c]onserve soil and geological resources by controlling erosion and by protecting areas of significance." CLUP at 137. In furtherance of this goal, the CLUP directs the Commission to, among other things, (i) regulate land uses to protect areas identified as important natural geological formations, (ii) regulate land uses in areas with identified topographical or geological hazards, (iii) administer standards for structural development based on soil suitability, and (iv) administer performance standards for road construction and other land use activities to control potential causes of accelerated soil erosion. Id. The goal of the CLUP regarding mountain resources is to "[c]onserve and protect the values of high mountain areas from undue adverse impacts." CLUP at 137. Although these areas are deserving of special care and attention, the CLUP specifically recognizes their value for wind energy. Id. at 40.

Detailed soils studies will be conducted in connection with any development application and the Project will be designed in such a way as to minimize to the extent possible any potential adverse impacts on geologic resources. Road construction and other activities will be conducted consistent with applicable LURC regulations designed to control soil erosion and the measures

developed and approved for use in the Kibby Project, which also involved construction activities in sensitive mountain areas. As the State Soil Scientist and Commission concluded in the Kibby Project, use of specialized construction techniques and appropriate micro-siting of turbines and roads allow development of wind power in sensitive and high mountain areas to proceed in a manner consistent with protecting these sensitive resources. See ZP 709 at 13 and 61 and David Rocque's Comments dated April 30, 2007.¹⁷

4. Natural character values, including uniqueness of a vast forested area that is largely undeveloped and remote from population centers

"Remoteness and the relative absence of development are perhaps the most distinctive of the jurisdiction's principal values". CLUP at 114. In connection with the Kibby Project, which is less than 2 miles from the Proposed Expansion Area, the Commission concluded that allowing wind power development was consistent with "maintaining the jurisdiction's natural character values, including remoteness." ZP 709 at 58. For the reasons set forth below, and consistent with the Commission's determination in the Kibby Project, allowing wind power development in the Proposed Expansion Area will not compromise the most distinctive of the jurisdiction's principal values.

While the Proposed Expansion Area is near locations that share some attributes of remoteness with less developed areas of the jurisdiction, its proximity to transportation corridors, accessibility by motor vehicles, proximity to developed areas, proximity to fringe areas of the jurisdiction, and proximity to existing infrastructure distinguish the Proposed Expansion Area from more remote locations of the jurisdiction.

¹⁷ A copy of David Rocque's comments submitted in connection with ZP 709 is attached as Attachment 6 in the accompanying Background Material in Support of Petition.

a. proximity to transportation corridors

The Proposed Expansion Area is located very near State Route 27, a heavily-traveled thoroughfare and key access point into Canada (the Canadian border checkpoint at Coburn Gore is approximately 9 miles from the Proposed Expansion Area). The Proposed Expansion Area is accessed from Route 27 by the Gold Brook Road and its tributary logging roads and skid trails. The distance traveled from Route 27 to the Proposed Expansion Area (between 2 and 3 miles) is less than the distance from Route 4 to the Saddleback Resort Village (approximately 7 miles), recently approved for expansion by the Commission. See DP 4131. The access along Gold Brook Road to the Proposed Expansion Area is the same as the access route to the Kibby Project, and the Proposed Expansion Area is reached before the Kibby Project site when traveling from Route 27. In connection with the Kibby Project, TransCanada conducted a traffic count to determine the level of use of the Gold Brook Road. This count revealed that the Gold Brook Road is a well-traveled transportation corridor, and that approximately half of the non-logging-related travel is through-traffic to other destinations.

b. accessibility by motor vehicles

Vehicular access is readily available within less than one-quarter mile from the Proposed Expansion Area. Access is from Route 27 by private roads and forest management trails off of the Gold Brook Road, and the Proposed Expansion Area is more accessible by road than nearby Mount Pisgah (which is presently within the Expedited Zone).

c. proximity to developed areas

The Project is located between 8 and 10 miles from the organized Town of Eustis (population 680) and less than 12 miles from the Canadian town of St. Augustin-de-Woburn

(population 700). The Project site also is between 8 and 10 miles from the LURC development subdistricts in Coburn Gore.

The Project site is less remote and more developed than many other areas of the jurisdiction. In particular, of the 10.3 million acres within LURC's jurisdiction: (i) 6.2 million acres (including portions of the Proposed Expansion Area) are within 10 miles of an incorporated town, while 4.1 million acres are further removed; (ii) 5.2 million acres (including the Proposed Expansion Area) are within 10 miles of a state or federal highway, while 5.1 million acres are further removed; and (iii) 4.5 million acres (including the Proposed Expansion Area) are within 15 miles of a settled area, while 5.8 million acres are further removed.

d. proximity to existing infrastructure

The Proposed Expansion Area is relatively close to existing infrastructure such as roads, transmission lines, and utility substations when compared with other areas of the jurisdiction. The Project is located adjacent to an existing road network, and close to existing and planned transmission lines, including the approximately 27-mile transmission line connecting the Kibby Project to the electrical grid.

e. proximity to fringe areas

The CLUP defines the "fringe" of the jurisdiction as those towns, plantations, and townships that are contiguous with (or in the case of Management Class 3 lakes, within two townships from), Maine towns which have local land use control. CLUP at A-1. The Commission has a general policy of guiding new development to or near places with existing roads, services and jobs while protecting the more remote interior areas of the jurisdiction. *Id.* at 102. The Proposed Expansion Area is located in an area near the fringe of the jurisdiction in that there is only one unorganized township (Alder Stream Township) between Chain of Ponds

Township and the organized Town of Eustis. In addition, Chain of Ponds Township is adjacent to the Canadian town of St. Augustine-de-Woburn, PQ, which has local land use controls and is in that respect similar to an organized town in Maine.

In light of the foregoing, addition of the Proposed Expansion Area to the Expedited Zone will not compromise the CLUP's natural character values, including the value of remoteness and the relative absence of development.

B. Goals

1. Broad Goals

The CLUP provides that “[t]he Commission’s policies shall be directed toward the achievement of three broad goals:

- Support and promote the management of all the resources, based upon the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
- Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, nonintensive outdoor recreation and fisheries and wildlife habitat.
- Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.”

CLUP at 134.

As discussed above, this Petition seeks to add approximately 630 acres to the Expedited Zone, which would have the effect of making wind power an allowed use there. See M.R.S.A. § 685-A(13). The additional acreage associated with the Expedited Zone is proximate to and shares many similar or identical attributes with the recently approved Kibby Project. During its review of the Kibby Project, the Commission determined that wind power development in this area would not have a negative impact on the three broad goals of the Commission and, as

described below, it would be consistent with the specific goals and policies of the CLUP. See ZP 709 at 59-63. Indeed, the Commission determined that the location and design of the Kibby Project would provide an indigenous source of renewable energy and, in particular, would be compatible with traditional land uses in the area including forestry, agriculture and recreation. Id. at 57. In addition, the Commission found that the Kibby Project would maintain the existing high value natural resources and character of the area and would not substantially interfere with forest management activities, or with the dominant recreational uses in the area. Id.

The proximity of the Proposed Expansion Area to the recently approved Kibby Project location supports a determination that adding the Proposed Expansion Area to the Expedited Zone is consistent with these broad and specific goals of the CLUP.

2. Specific Goals

The CLUP provides that the Commission's actions shall be guided by the specific goals and policies set forth in the CLUP. CLUP at 135. The potentially applicable goals and policies related to wind power development are as follows:

a. Natural Resources

i. agricultural resources

The Commission's goals with respect to agricultural resources are not applicable to the addition of the Proposed Expansion Area to the Expedited Zone.

ii. air resources

The goal of the CLUP regarding air resources is to “[p]rotect and enhance the quality of air resources throughout the jurisdiction.” The policies intended to implement this goal include encouraging “state, federal and international initiatives directed at reducing emissions of air pollutants.” CLUP at 135. In connection with the recent Kibby Project approval, the Commission

determined that the Kibby Project would be consistent with Maine's laws and policies supporting and promoting renewable energy development, especially windpower. In addition, the Commission concluded that the Kibby Project would also be consistent with efforts to site wind power facilities in areas that would have the least possible environmental impact while still allowing the facility to be in a location with a sufficient wind resource. See ZP 709 at 59. The addition of the proximate Proposed Expansion Area to the Expedited Zone is compatible with the CLUP's goals regarding protection and enhancement of air resources throughout the jurisdiction and, in conjunction with the Kibby Project, will help the State meet its ambitious wind energy goals discussed in Section B (2) above.

iii. coastal resources

The Commission's goals with respect to coastal resources are not applicable to the addition of the Proposed Expansion Area to the Expedited Zone.

iv. cultural, archeological, historical resources

The goal of the CLUP regarding Cultural, Archaeological and Historic Resources is to "[p]rotect and enhance archaeological and historic resources of cultural significance." CLUP at 135. TransCanada has worked closely with the Maine Historic Preservation Committee ("MHPC") in connection with the recently approved Kibby Project and the Sisk Met Tower Application to identify and evaluate potential impacts to such resources. In connection with the recently approved Kibby Project, the Commission determined that no known unique, rare or representative cultural resources are located in the area. However, in order to further protect any resources, undiscovered at the time of permitting, in the event any resources were encountered during construction, TransCanada agreed to cease work, notify MHPC and together conduct a complete assessment of impacts prior to proceeding. ZP 709 at 63.

A search of the National Register of Historic Places database conducted in connection with the Met Tower Application identified 42 registered resources in Franklin County, including the Arnold Trail Historic District. The Arnold Trail, which includes a footpath located in lowland areas along Route 27 and around the northern portion of Round Pond that was established through a cooperative agreement between the Bureau of Parks and Lands and the Arnold Expedition Historical Society, follows the route of the 1775 Arnold Expedition from the Kennebec River across the Bigelow Range and through the Dead River, Chain of Ponds, Horseshoe Lake and Arnold Pond into Canada at Coburn Gore. Flagstaff Management Plan, pp. 33, 47, 95.

Although the Arnold Trail is located within 2 to 5 miles of the Proposed Expansion Area, it runs in close proximity to Route 27¹⁸ for much of its length. Views from the trail are primarily westerly across Chain of Ponds and away from the Proposed Expansion Area. It is also a well forested trail, further limiting views of the surrounding landscape. Given the close proximity of Route 27, the forested nature of the trail, and the topography of the landscape, it is unlikely that adding the Proposed Expansion Area to the Expedited Zone would negatively impact this recreation resource. Nonetheless, because the Arnold Trail Historic District is a resource of statewide or national significance,¹⁹ a visual impacts assessment with respect to this resource would be included as part of any development application. The Commission will have the opportunity to evaluate potential impacts from a specific development proposal at that time.

As occurred during the Kibby Project, TransCanada has been and will continue to consult with MHPC regarding potential impacts of activities in the Proposed Expansion Area to identified archeological and cultural resources.

¹⁸ The stretch of Route 27 from Eustis to Coburn Gore is also known as "The Arnold Trail".

¹⁹ See 35-A M.R.S.A. § 3451(9).

v. energy resources

The goal of the CLUP regarding energy resources is to “[p]rovide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding, conflicting public values which require protection.” CLUP at 136. Wind power in general is environmentally sound and socially beneficial in that the production of wind energy produces zero CO₂, NO_x, and SO₂ emissions. Pursuant to the CLUP, “Maine’s wind resource is considerable, and much of it occurs along high mountain tops and ridges within the jurisdiction. These winds have the potential to power wind energy technologies that appear to compete with more traditional energy sources.... [A]s a renewable form of energy, wind power offers an attractive alternative to the burning of fossil fuels.” CLUP at 40.

In furtherance of the energy resources goal, the CLUP directs the Commission to encourage energy conservation and diversification and the use of indigenous renewable resources to increase the State’s energy self-sufficiency. CLUP at 136. The CLUP also directs the Commission to prohibit energy developments in environmentally sensitive areas where there are overriding, conflicting environmental and other public values requiring protection. CLUP at 136. Finally, the CLUP directs the Commission to permit new energy developments where their need to the people of Maine has been demonstrated and they are sited, constructed and landscaped to minimize intrusion on natural and human resources. CLUP at 136.

Based upon its review of the Kibby Project, the Commission determined that the Kibby Project would be consistent with the CLUP’s energy resources goals. The Kibby Project was found to exemplify use of an indigenous renewable resource by using wind energy in a location where that resource is plentiful while taking appropriate steps in the site selection and engineering process to avoid or minimize impacts to environmentally sensitive areas. See ZP 709 at 59.

Inclusion of the proximate Proposed Expansion Area would facilitate additional development of the indigenous wind resource in a similarly appropriate location and is also consistent with the CLUP's energy resources goals.

vi. forest resources

The goal of the CLUP regarding forest resources is to “[c]onserve, protect and enhance the forest resources which are essential to the economy of the state as well as to the jurisdiction.” In furtherance of this goal, the CLUP directs the Commission to “discourage development that will interfere unreasonably with continued timber and wood fiber production, as well as primitive outdoor recreation, biodiversity, and remoteness.” CLUP at 136. As noted in Section 3(A)(1) above, the Commission has held previously that wind power is a use consistent with and complimentary to commercial forestry. See, e.g., ZP 709 at 57-58. Accordingly, adding the Proposed Expansion Area to the Expedited Zone would not compromise the goal of conserving, protecting and enhancing the forest resource.

vii. geologic, mineral, mountain resources

(a) geologic resources

The goal of the CLUP regarding geologic resources is to “[c]onserve soil and geological resources by controlling erosion and by protecting areas of significance.” CLUP at 137. As discussed in Section B(3)(A)(3)(d) above, the inclusion of approximately 630 acres of P-MA area into the Expedited Zone will not compromise the CLUP's goal of conserving soil and geological resources. CLUP at 137.

viii. recreational resources

The goal of the CLUP with respect to recreational resources is to “[c]onserve and protect the natural beauty and unspoiled qualities of the waters, shorelands, mountains, plant and animal

habitats, forests, scenic vistas, trails and other natural and recreational features in order to protect and enhance their values for a range of public recreational uses.” In furtherance of this goal the CLUP directs the Commission to protect remote, undeveloped and other significant recreational areas, to protect their natural character for primitive recreational activities such as hiking and nature study. CLUP at 138. As discussed in Section B(3)(A)(2) above, allowing wind power development in this region will not compromise this goal.

ix. special natural areas

The goal of the CLUP with respect to special natural areas is to “[p]rotect and enhance identified features and areas of natural significance.” CLUP at 138. There are no P-UA subdistricts in the Proposed Expansion Area, and as described in Section B(3)(A)(3)(c), consistent with the process that occurred in the Kibby Project, TransCanada will undertake detailed surveys for rare plants and site project elements in a manner that minimizes impacts to such resources.

x. water resources

The goal of the CLUP with respect to water resources is to “[p]reserve, protect and enhance the quality and quantity of surface and ground waters.” In furtherance of this goal, the CLUP directs the Commission to, among other things, “[p]rotect the recreational and aesthetic values associated with water resources.” CLUP at 138. As discussed in Section B(3)(A)(3)(a), above, the primary water resource in the vicinity of the Proposed Expansion Area is Chain of Ponds, a resource of statewide significance and visual impacts associated with that resource were analyzed, at least in part, in connection with the Kibby Project and will be evaluated fully in connection with any development application.

xi. wetland resources

The goal of the CLUP regarding Wetland Resources is to “[c]onserve and protect the aesthetic, ecological, recreation, scientific, cultural, and economic values of wetland resources.” CLUP at 139. There are only limited wetland or shoreland subdistricts located in the Proposed Expansion Area. See Exhibit A3. Specifically, there are two areas of P-SL subdistricts associated with small headwater streams along the Kibby Township boundary and the interface with the south edge of the existing Expedited Area in Chain of Ponds. A soil survey and wetland delineation effort, with protocol and methodology developed in consultation with the State Soil Scientist, will be performed in connection with any development application. Additionally, in furtherance of the CLUP’s wetland resources goals, project modifications will be made to avoid and minimize impacts to wetland resources, if any, identified during the course of such field efforts.

xii. wildlife and fisheries resources

The goal of the CLUP regarding wildlife and fisheries resources is to “[c]onserve and protect the aesthetic, ecological, recreation, scientific, cultural, and economic values of wildlife and fisheries resources.” In furtherance of this goal, the CLUP directs the Commission to, among other things, regulate land use activities to protect habitats and ecosystems, and to balance protection of habitats in a manner that reasonably considers management needs and economic constraints. See CLUP at 139. As discussed in Section B(3)(A)(3)(b), above, TransCanada has undertaken extensive field studies in the nearby areas in connection with the Kibby Project. In connection with the Met Tower Application, TransCanada corresponded with MDIFW regarding potential for species impacts in the Proposed Expansion Area. TransCanada will continue to work with MDIFW in connection with any development application to ensure that identified wildlife and

fisheries resources are conserved and protected in accordance with the CLUP's wildlife and fisheries resources goal.

xiii. scenic resources

The goal of the CLUP regarding scenic resources is to “[p]rotect scenic character and natural values by fitting proposed land use activities harmoniously into the natural environment and by minimizing adverse aesthetic effects on existing uses, scenic beauty, and natural and cultural resources.” CLUP at 139. As discussed in Section 3(A) above, making wind power an allowed use in this area will not compromise scenic resource values.

In addition to the resources discussed in Section 3(A), Route 27, portions of which are designated scenic resources of state or national significant because they include the Arnold Trail Historic District (a property listed on the National Register of Historic Places) and/or scenic turnouts, runs along the southwestern base of Sisk Mountain and the northeastern shore of Chain of Ponds. Views from Route 27 are primarily westerly, and away from the Proposed Expansion Area. In any event, because these portions of Route 27 are resources of statewide or national significance,²⁰ and a visual impact assessment regarding this resource would be included with any subsequent development application. As such, the Commission will have the opportunity to evaluate potential impacts from a specific development proposal at that time.

b. Development

i. location of development

The goal of the CLUP regarding location of development is to “[g]uide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine.” CLUP at 140.

²⁰ See 35-A M.R.S.A. § 3451(9).

It seems particularly appropriate to site wind power in proximity to a wind power project currently under construction, which will allow for the consolidation of wind energy projects in a limited geographic area known to have an excellent wind resource, with the ability to utilize existing infrastructure. This will allow the consolidation of potential impacts from multiple projects into a single, contiguous location.

ii. economic development

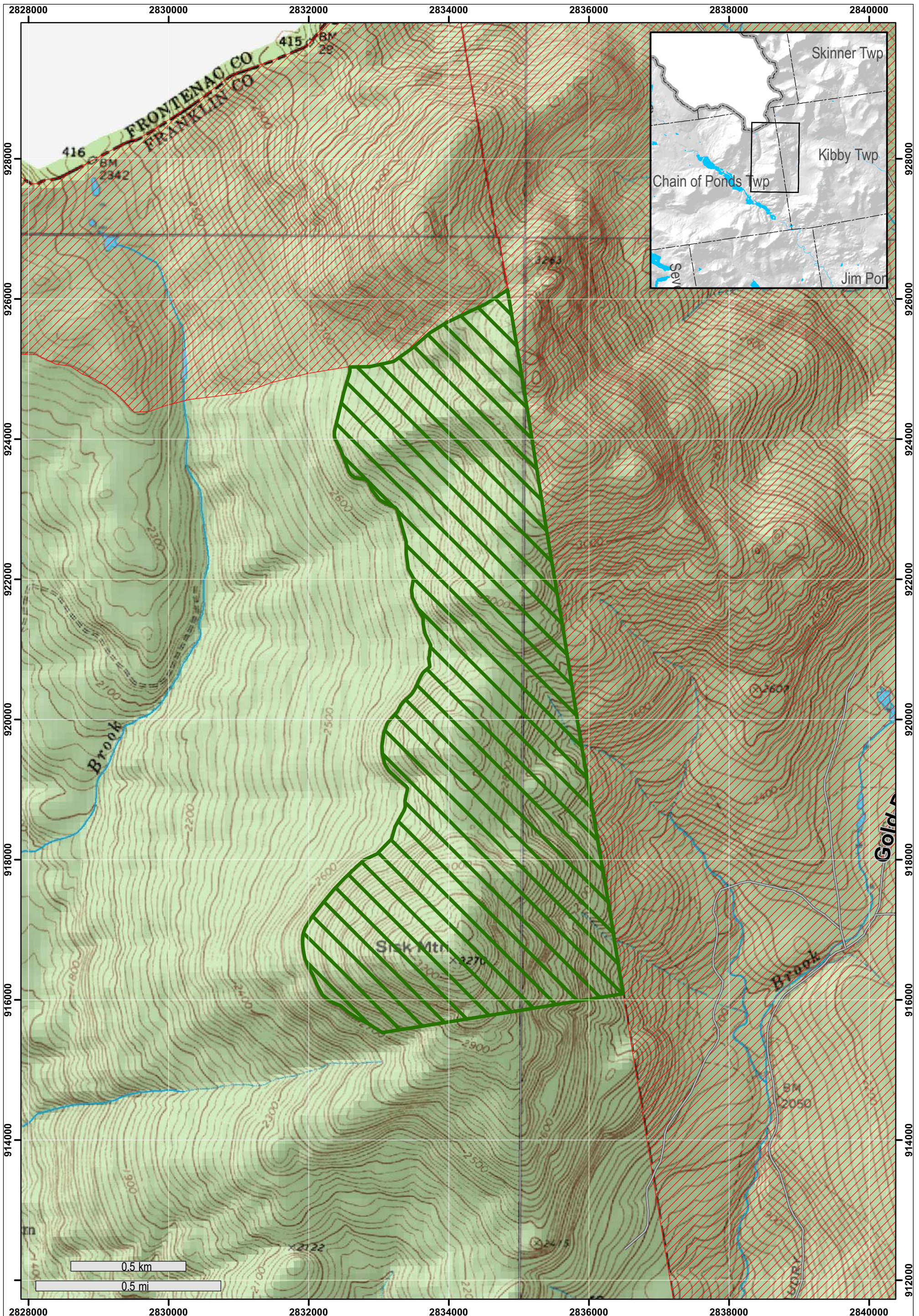
The goal of the CLUP regarding economic development is to “[b]alance the economic benefit that Maine people derive from the natural resource-based industries of the Commission’s jurisdiction, especially the maintenance and creation of quality jobs, with protecting the environmental quality and special values of this area.” In furtherance of this goal, the CLUP directs the Commission, among other things, to “[e]ncourage...resource-based enterprises which further the jurisdiction’s tradition of multiple use without diminishing its principal values.” CLUP at 141.

Allowing development of wind power in the Proposed Expansion Area is exactly the type of resource-based enterprise contemplated by this goal. As was demonstrated by the Kibby Project, wind power development brings additional economic benefits through creation of construction jobs, direct and indirect wages and salaries resulting from construction, payment of annual taxes, and creation of permanent jobs and associated wages and salaries without compromising the recreational and other resource values of the jurisdiction.

* * * * *

For the foregoing reasons, TransCanada respectfully requests that the Commission initiate a rulemaking in accordance with 35-A M.R.S.A. § 3453 and 5 M.R.S.A. Chapter 375 to add the Proposed Expansion Area to the Expedited Zone.

EXHIBIT A1



- Expedited Windpower Project Permitting Area
- Proposed Expansion Area at 2,700' contour: 631 Acres

Sisk Mountain, Chain of Ponds Twp
Proposed Expansion Area

Exhibit A1

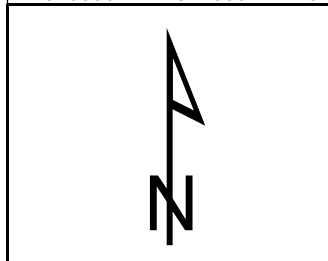
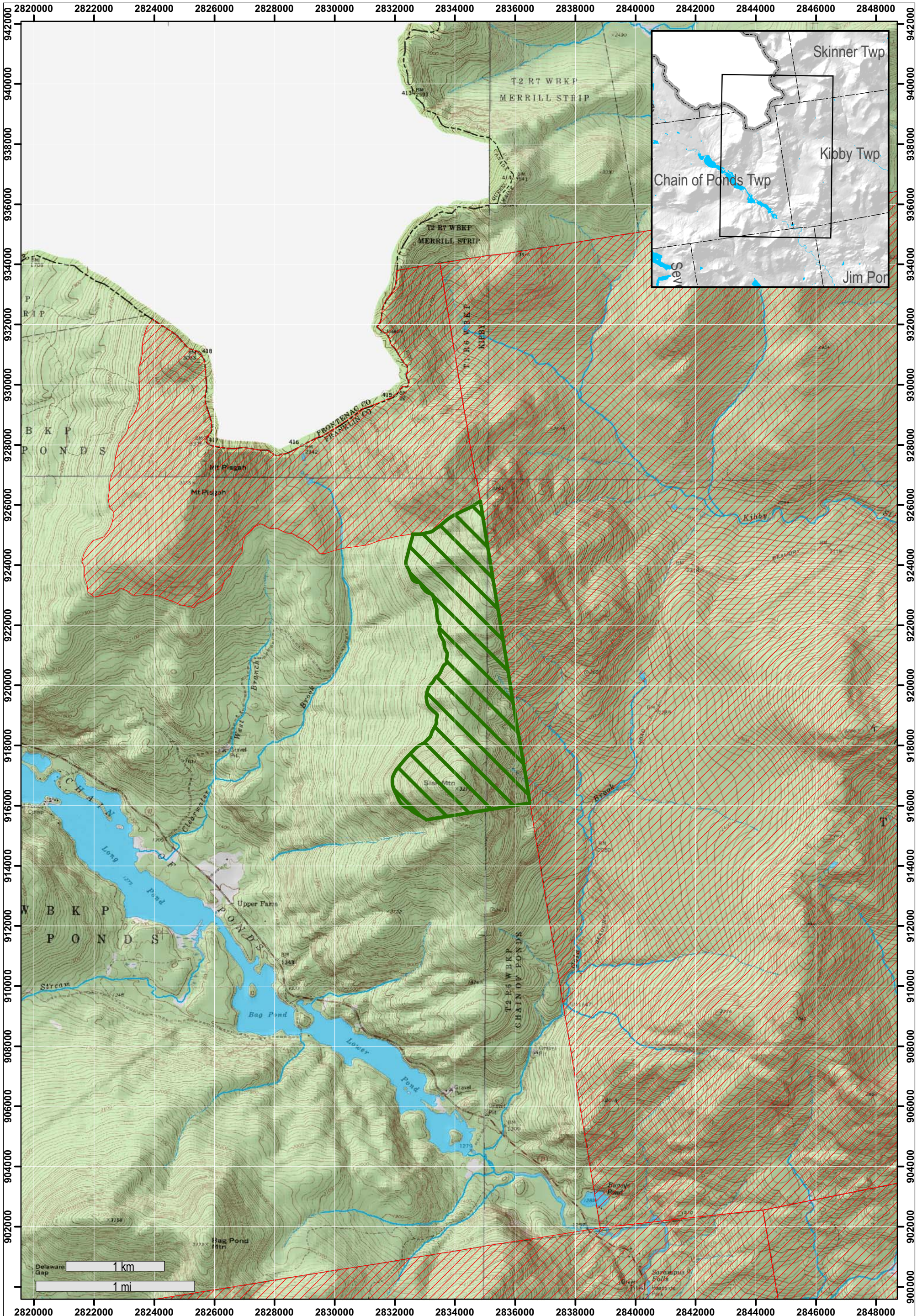
249 Western Ave
Augusta, ME 04330



Created:
6/30/2009

Notes: Base map: 24k USGS Topographic Map. Elevation shading derived from MEDEM10 courtesy of Maine OGIS. Coordinate Grid: NAD83 UTM Zone 19N, Meters

EXHIBIT A2




Expedited Windpower Project Permitting Area
 Proposed Expansion Area at 2,700' contour: 631 Acres

Notes: Base map: 24k USGS Topographic Map. Elevation shading derived from MEDEM10 courtesy of Maine OGIS. Coordinate Grid: NAD83 UTM Zone 19N, Meters

Sisk Mountain, Chain of Ponds Twp
Proposed Expansion Area

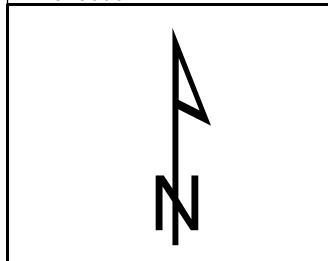
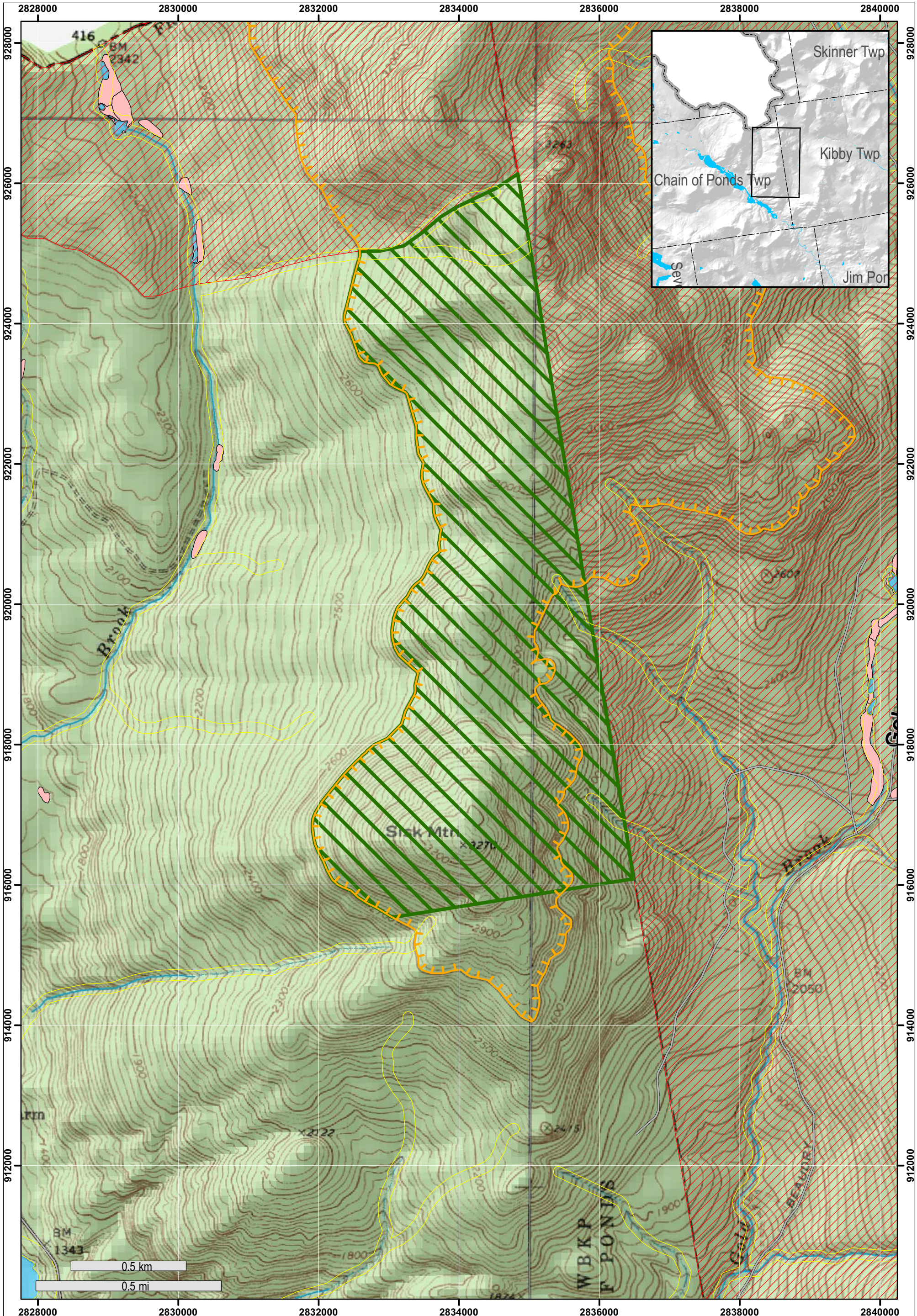
Exhibit A2

249 Western Ave
Augusta, ME 04330



Created:
6/30/2009

EXHIBIT A3



	Expedited Windpower Project Permitting Area		LURC P-SL Zone 17 Acres within Proposed Expansion Area
	Proposed Expansion Area at 2,700' contour: 631 Acres		LURC P-MA Zone 558 Acres within Proposed Expansion Area
	LURC P-WL Zone 0 Acres within Proposed Expansion Area		

Sisk Mountain, Chain of Ponds Twp
Proposed Expansion Area

Exhibit A3

249 Western Ave
Augusta, ME 04330

Created:
6/30/2009

Notes: Base map: 24k USGS Topographic Map. Elevation shading derived from MEDEM10 courtesy of Maine OGIS. Coordinate Grid: NAD83 UTM Zone 19N, Meters

EXHIBIT B

APPENDIX F. EXPEDITED PERMITTING AREA FOR WIND ENERGY DEVELOPMENT

The following areas, not including areas below the high water mark of tidal waters, comprise the expedited permitting area for wind energy development to accomplish the purpose of “An Act to Implement Recommendations of the Governor’s Task Force on Wind Power Development”, PL 2008, Chapter 661. The Commission may add areas within its jurisdiction to the expedited permitting area for wind energy development in accordance with Title 35-A, section 3453.

1. Entire townships and plantations. The following entire townships and plantations: Albany Twp., 17802; Alder Stream Twp., 07801; Argyle Twp., 19801; Bald Mountain Twp., T2 R3, 25805; Baring Plt., 29040; Barnard Twp., 21030; Batchelders Grant Twp., 17805; Benedicta Twp., 03050; Big Moose Twp., 21801; Blake Gore, 25811; Blanchard Twp., 21040; Brookton Twp., 29801; Carroll Plt., 19080; Carrying Place Twp., 25860; Cary Plt., 03090; Centerville Twp., 29080; Chase Stream Twp., 25816; Chester, 19100; Codyville Plt., 29110; Concord Twp., 25818; Connor Twp., 03802; Cove Point Twp., 21805; Cox Patent, 03803; Cross Lake Twp., 03899; Cyr Plt., 03140; Dennistown Plt., 25090; Drew Plt., 19160; Dudley Twp., 03804; Dyer Twp., 29803; E Twp., 03160; East Moxie Twp., 25821; Edmunds Twp., 29804; Fletchers Landing Twp., 09804; Forest City Twp., 29806; Forest Twp., 29805; Forkstown Twp., 03805; Fowler Twp., 29807; Freeman Twp., 07808; Garfield Plt., 03220; Glenwood Plt., 03230; Grand Falls Twp., 19250; Grindstone Twp., 19802; Hamlin, 03250; Hammond, 03260; Harfords Point Twp., 21811; Herseytown Twp., 19803; Hibberts Gore, 15801; Highland Plt., 25150; Hopkins Academy Grant Twp., 19804; Indian Stream Twp., 25828; Jim Pond Twp., 07811; Johnson Mountain Twp., 25829; Kibby Twp., 07812; Kingman Twp., 19808; Kingsbury Plt., 21110; Lake View Plt., 21120; Lambert Lake Twp., 29809; Lexington Twp., 25831; Macwahoc Plt., 03360; Marion Twp., 29810; Mason Twp., 17811; Mattamiscontis Twp., 19810; Mayfield Twp., 25835; Milton Twp., 17812; Misery Gore Twp., 25837; Misery Twp., 25836; Molunkus Twp., 03806; Moosehead Junction Twp., 21816; Moro Plt., 03430; Mount Chase, 19450; Moxie Gore, 25838; Nashville Plt., 03440; No. 14 Twp., 29330; North Yarmouth Academy Grant Twp., 03807; Orneville Twp., 21821; Osborn, 09230; Oxbow Plt., 03500; Parkertown Twp., 17814; Parlin Pond Twp., 25839; Perkins Twp., 07818; Perkins Twp. Swan Island, 23801; Pleasant Ridge Plt., 25250; Prentiss Twp., T4 R4 NBKP, 25843; Prentiss Twp., T7 R3 NBPP, 19540; Rangeley Plt., 07160; Reed Plt., 03540; Saint Croix Twp., 03808; Saint John Plt., 03570; Sandbar Tract Twp., 25848; Sandy Bay Twp., 25850; Sandy River Plt., 07170; Sapling Twp., 25851; Seboeis Plt., 19550; Silver Ridge Twp., 03809; Squapan Twp., 03810; Squaretown Twp., 25854; Summit Twp., 19812; T1 R5 WELS, 03816; T1 R6 WELS, 19815; T10 R3 WELS, 03829; T10 R6 WELS, 03830; T10 SD, 09806; T11 R3 NBPP, 29817; T11 R4 WELS, 03833; T13 R5 WELS, 03856; T14 R5 WELS, 03867; T14 R6 WELS, 03868; T15 R5 WELS, 03879; T15 R6 WELS, 03880; T16 MD, 09807; T16 R4 WELS, 03889; T16 R5 WELS, 03890; T16 R6 WELS, 03891; T17 R3 WELS, 03897; T17 R4 WELS, 03898; T18 ED BPP, 29818; T18 MD BPP, 29819; T19 ED BPP, 29820; T19 MD BPP, 29821; T2 R4 WELS, 03817; T2 R8 NWP, 19817; T2 R9 NWP, 19819; T22 MD, 09808; T3 Indian Purchase Twp., 19806; T3 R3 WELS, 03818; T3 R4 WELS, 03819; T3 R9 NWP, 19823; T4 R3 WELS, 03820; T6 R6 WELS, 19829; T7 R5 WELS, 03821; T7 R6 WELS, 19832; T7 SD, 09803; T8 R3 NBPP, 29815; T8 R3 WELS, 03822; T8 R4 NBPP, 29816; T8 R5 WELS, 03823; T8 R6 WELS, 19835; T9 R3 WELS, 03824; T9 R4 WELS, 03825; T9 R5 WELS, 03826; T9 SD, 09805; TA R2 WELS, 03813; TA R7 WELS, 19814; Taunton & Raynham Academy Grant, 25803; TC R2 WELS, 03814; TD R2 WELS, 03815; The Forks Plt., 25320; Trescott Twp., 29811; Unity Twp., 11801; Upper Molunkus Twp.,

03811; Washington Twp., 07827; Webbertown Twp., 03812; Webster Plt., 19600; West Forks Plt., 25330; Williamsburg Twp., 21827; and Winterville Plt., 03680;

2. Portions of townships and plantations. The following portions of townships and plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald Mountain Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above 2,700 feet in elevation; that portion of Chain of Ponds Twp. starting at 70° 37' 31.741" W, 45° 22' 22.800" N on the boundary between Kibby Twp. and Chain of Ponds Twp. and following a drainage west toward Clearwater Brook to 70° 38' 3.156" W, 45° 22' 11.790" N, then following the 2,700' contour south to 70° 37' 55.905" W, 45° 20' 38.088" N, then proceeding east to 70° 37' 7.852" W, 45° 20' 43.724" N, then following the boundary between Kibby Twp. and Chain of Ponds Twp. north to 70° 37' 31.741" W, 45° 22' 22.800" N; a 146.6-acre parcel in the northeast corner of the Chain of Ponds, 07803, along the border with Canada; and the portion of Coplin Plt., 07040, north of Route 16; the portion of Dallas Plt., 07050, north of Route 16; the portion of Ebeemee Twp., 21853, east of Route 11; the portion of Kossuth Twp., 29808, north of Route 6; the portion of Lang Twp., 07813, north of Route 16; the portion of Lincoln Plt., 17160, north of Route 16; the portion of Long A Twp., 19809, east of Route 11; the portion of Long Pond Twp., 25833, south of Long Pond and Moose River; the 487.5-acre area above the 2,040-foot elevation around Green Top in Lynchtown Twp., 17810; the portion of Rockwood Strip T1 R1 NBKP, 25844, south of Moose River, Little Brassua Lake and Brassua Lake; the portion of Rockwood Strip T2 R1 NBKP, 25845, south of Little Brassua Lake and Brassua Lake; the portion of Salem Twp., 07820, south of Route 142; the portion of Sandwich Academy Grant Twp., 25849, south of Moose River, Little Brassua Lake and Brassua Lake; that portion of Skinner Twp., 07822, composed of the 193.3-acre area that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line and on the north by the line from the 2,820-foot contour through the 3,220-foot contour from Kibby Mountain; the portion of Soldiertown Twp., T2 R7 WELS, 19811, east of the East Branch Penobscot River; the portion of T1 R8 WELS, 19816, south of Millinocket Lake; the portion of T1 R9 WELS, 21833, southeast of Ambajejus Lake; T24 MD BPP, 29822, excluding a one-mile buffer around Mopang Stream; the 51.9-acre area in T25 MD BPP, 29823, encompassing Black Brook and Black Brook Pond, and the area northeast of Holmes Falls Road; the portion of T3 R7 WELS, 19821, east of the Seboeis River and East Branch Penobscot River; the portions of T4 Indian Purchase Twp., 19807, area northeast of North Twin Lake and south of Route 11; the portion of T4 R7 WELS, 19824, east of the Seboeis River; the portion of T4 R9 NWP, 21845, east of Route 11; the portion of T5 R7 WELS, 19827, east of the Seboeis River; and the portion of T6 R7 WELS, 19830, east of the Seboeis River; and

3. Coastal islands in unorganized and deorganized area. All islands located in waters subject to tidal influence that are within the unorganized and deorganized areas of the State.

EXHIBIT C

Kennebec West Forest, LLC
c/o GMO Renewable Resources, LLC
77 Franklin Street, 10th Floor
Boston, MA 02110

June 25, 2009

Land Use Regulation Commission
22 State House Station
Augusta, Maine 04333
Attn: Marcia Spencer Famous

Re: TransCanada Maine Wind Development, Inc.-Petition to Expand the
Expedited Permitting Area for Wind Energy Development

Dear Ms. Spencer Famous:

I am writing in support of the Petition to Expand the Expedited Permitting Area for Wind Energy Development, (the "Petition") being filed by TransCanada Maine Wind Development, Inc. ("TransCanada"). Kennebec West Forest, LLC ("KWF") is the fee owner of the entirety of Chain of Ponds Township, except for certain Public Reserve Lands parcels, four formerly leased lots sold to the lessees, and a parcel conveyed to the Megantic Fish and Game Corporation. KWF and TransCanada are finalizing the terms of a Wind Energy Easement that would allow TransCanada to develop wind power in Chain of Ponds Township, including the portion described in the Petition,

As the fee owner, KWF supports TransCanada's Petition to include the land described in the Petition for inclusion in the Expedited Permitting Area.

If you have any questions, please contact me.

Sincerely,



Danielle Jankowich
Authorized Person

Cc: Nick Di domenico

EXHIBIT D

NOTICE OF FILING

The attached Notice of Filing of Petition to Initiate Commission Rulemaking to Add to the Expedited Permitting Area will be published in the Kennebec Journal and the Lewiston Sun Journal. Copies of the Notice have also been sent to abutters Kennebec West Forest, LLC and Plum Creek Maine Timberlands, L.L.C. as well as to the Franklin County Commissioners.

1571769_1

**NOTICE OF FILING OF PETITION TO INITIATE COMMISSION
RULEMAKING TO ADD TO THE EXPEDITED PERMITTING AREA**

This is to notify you that TRANSCANADA MAINE WIND DEVELOPMENT, INC. ("TransCanada") is filing a petition with the Maine Land Use Regulation Commission to initiate a rulemaking for the purpose of amending Appendix F of Chapter 10 of the Commission's rules (the "Petition"). The proposed amendment would add approximately 600 acres of land located in Chain of Ponds Township, Franklin County, Maine, to the Expedited Wind Energy Development Area Designation set forth in Appendix F to Chapter 10 of the Commission's rules.

This Petition is being filed in accordance with 12 M.R.S.A § 685-A,13 and 35-A M.R.S.A § 3453, and Chapter 4.06 of the Commission's Rules. Any subsequent rulemaking initiated by the Commission will be noticed in accordance with Chapter 4.06(5) of the Commission Rules and the applicable provisions of 5 M.R.S.A. § 8053.

The Petition will be filed for public inspection at the Maine Land Use Regulation Commission office in Augusta on or about June 26, 2009. Copies will also be available at the Franklin County Commissioners Office at 140 Main Street in Farmington, Maine.

If you have questions about this Petition please contact the Maine Land Use Regulation Commission staff by calling (207) 287-2631.