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Maine Land Use Regulation Commission

Public Hearing Concerning
Development Permit DP 4889
Champlain Wind, LLC
Bowers Mountain Wind Project
Carroll Plantation, Penobscot County
Kossuth Township, Washington County

Tuesday, June 28, 2011

Volume II of III

Held at Ella P. Burr Elementary School

Lincoln, Maine

Don Thompson & Associates
Court Reporting

1 (This hearing was taken before Angella D. Clukey,
2 Notary Public, at the Ella P. Burr Elementary School,
3 Lincoln, Maine, Tuesday, June 28, 2011, beginning at
4 8:05 a.m.)

5 * * * * *

6 MS. HILTON: Good morning, everyone. I'd like to get
7 started so hopefully we can stay on time. My name is Gwen
8 Hilton and I'm the commission chair and presiding officer
9 for this hearing. I'm going to have the commissioners
10 introduce themselves starting with Ed on my left here.

11 MR. LAVERTY: Ed Laverty from Medford, Maine.

12 MR. HAMMOND: Toby Hammond from Naples, Maine.

13 MS. CARROLL: Good morning. I'm not a LURC
14 commissioner, but I am the commission staff director
15 Catherine Carroll.

16 MS. HILTON: Gwen Hilton from Starks.

17 MS. MILLS: Amy Mills from the AG's office.

18 MR. FARRAND: Good morning. Sally Farrand from Beaver
19 Cove.

20 MR. NADEAU: Jim Nadeau, Winterville Plantation.

21 MS. HILTON: Why don't staff go ahead and introduce
22 themselves as well on down the table there. Go ahead.

23 MR. TODD: Fred Todd, project planner.

24 MR. NADEAU: Jim Palmer, scenic expert. And we also
25 have with us here today Angella Clukey, our court reporter;

1 Samantha Horn-Olsen, manager of the planning division; and
2 Scott Perrow who is doing the sound, recording today's
3 session. I think I've got everybody there. And I have to
4 read my opening statement.

5 Today's hearing is being held pursuant to the
6 provisions of 12 M.R.S.A. Section 685-B. The hearing will
7 be conducted in accordance with the Administrative
8 Procedures Act and Chapter 5 of the Commission's rules for
9 conduct of public hearing.

10 Today's hearing is being held to receive testimony on
11 the matter of Development Permit DP 4889 submitted by
12 Champlain Wind, LLC to construct a 69.1 megawatt wind
13 energy development in Carroll Plantation, Penobscot County
14 and Kossuth Township, Washington County. The proposed wind
15 energy development would consist of up to 27 wind turbines,
16 access to turbines utilizing new and existing roads, 34.5
17 kilovolt collector lines connecting the turbines, an
18 express collector line for 5.2 miles to connect to a new
19 substation adjacent to Line 56, an existing 115 kV
20 transmission line, an operations and maintenance building
21 and up to four permanent meteorological towers.

22 The purpose of today's hearing is to allow the
23 applicant and intervenors to present testimony and evidence
24 as to whether the development proposal meets the criteria
25 for approval as specified in 12 M.R.S.A. Section 685-B(4)

1 and (4-B) of the Commission statutes and the Commission's
2 Land Use Districts and Standards.

3 Representatives of the applicant will provide a summary
4 of the proposal and their pre-filed testimony. Following
5 the applicant the intervenors will present opening
6 statements and their witnesses will present summaries of
7 their pre-filed testimony. At the conclusion of the
8 testimony from each witness, cross-examination may be
9 conducted first by the commissioners, then by the staff,
10 next by the applicant and then by the intervenors.
11 However, commission members, staff and counsel for the
12 commission may ask a question at any time.

13 All witnesses must be sworn and will be required before
14 they give testimony to state for the record their name,
15 residence, business or professional affiliation, the nature
16 of their interest in the hearing and whether or not they
17 represent another individual, firm or other legal entity
18 for the purpose of the hearing.

19 In addition to being transcribed, we will be recording
20 the proceedings today, so I request that you speak clearly
21 and not too quickly. All questions and testimony must be
22 relevant to the Commission's criteria for approval for this
23 proposal. Irrelevant or unduly repetitious materials or
24 questions will be excluded.

25 The record of this hearing will remain open until

1 Monday, July 18th to receive written statements from the
2 interested public and for an additional seven days until
3 Monday, July 25th for the purpose of receiving rebuttal
4 comments. No additional evidence or testimony will be
5 allowed into the record after the closing of the record.

6 However, in accordance with the second procedural
7 order, party submissions are limited and may only be made
8 with the permission of the chair. Persons attending the
9 hearing who wish to receive a copy of the final action
10 taken by the Commission as a result of this hearing may
11 leave their names and address with the staff.

12 And at this time I'd like to swear in any witnesses who
13 plan to testify today. So if you could please rise and
14 hold your right hand up. Do you solemnly swear to tell the
15 whole truth and nothing but the truth?

16 PARTICIPANTS: I do.

17 MS. HILTON: All right. Thank you. Next I'd like to
18 ask Fred Todd of the Commission staff to make a few
19 statements. Fred.

20 MR. TODDY: Yes, I'm Fred Todd, I'm the project staff
21 lead on this application on behalf of the Commission. I
22 want to begin by presenting a brief administrative history
23 of DP 4889. On March 14, 2011 the application submitted by
24 Champlain Wind was accepted for processing. On April 6,
25 2011 the Commission authorized a public hearing on this

1 proposal. Intervenor status in this proceeding was granted
2 to the Conservation Law Foundation, CLF, The Partnership
3 for the Preservation of the Downeast lakes watershed known
4 as PPDLW -- or, perhaps, the best shorthand form is simply
5 The Partnership -- David Corrigan, Gordon Mott and the
6 Natural Resources Council of Maine, NRCM. NRCM has since
7 withdrawn as an intervenor.

8 The proposed wind energy development would be located
9 within the expedited permitting area for wind energy
10 development. The proposal will be more described by the
11 applicant once I finish. State agency review comments were
12 submitted by the state soil scientists, Department of
13 Health and Human Services, the state's Natural Areas
14 Program, Department of Island Fisheries and Wildlife, DEP,
15 the Historic Preservation Commission and the PUC.

16 Comments were also submitted by LURC's third-party peer
17 reviewers on the scenic and sound assessments. The
18 applicant's responses to those comments have been included
19 in the record along with the pre-filed testimony that will
20 be summarized at today's session.

21 At last night's public session I entered into the
22 record the exhibits that we currently have that make up the
23 record. And that concludes my statement.

24 MS. HILTON: Fred, thank you. Next we have an opening
25 statement and summary of testimony by Champlain Wind and

1 --.

2 MS. BROWNE: Good morning, members of the commission.
3 Juliet Browne on behalf of the applicant. In the interest
4 of time, we're not going to have all of our witnesses
5 summarize their testimony. And I apologize if you don't
6 get some of the traditional background on the project. I'm
7 hopeful that with last night's overview and then pre-filed
8 testimony you have that. All the members of our team who
9 have pre-filed testimony will be available to answer
10 questions.

11 So that being said, we're going to move right into it.
12 We have Neil Kiely, the project manager, Roger Milliken,
13 David Raphael and Jeff Selser who are going to provide
14 overviews of their testimony.

15 MR. KIELY: Are we ready to begin?

16 MS. HILTON: Yes.

17 MR. KIELY: Thank you. Neil Kiely on behalf of
18 Champlain Wind and First Wind. First of all, I'd like to
19 thank the Commission for your time yesterday and today and
20 throughout the application process. Also, I'll assume that
21 the Commission is up to speed on First Wind's track record
22 here in Maine in developing, constructing and operating
23 wind farms. In the interest of time, I'm not going to
24 touch on that today.

25 Instead I would like to focus my comments today on the

1 appropriateness of the Bowers site, our community outreach
2 efforts and the -- the substantial tangible benefits that
3 will flow from this project.

4 Now, when the Legislature passed the Wind Energy Act,
5 they affirmed a strong policy in favor of developing and
6 promoting wind energy here in the state. Recently in the
7 last Legislative session they had the opportunity to
8 revisit the Wind Energy Act. They heard from a number of
9 opponents that they wanted some amendments to this Act, the
10 Utilities Commission held a certain number of hearings,
11 they heard all of the claims, allegations and concerns that
12 you heard last night and certainly many more.

13 Nonetheless, they were able to evaluate those claims
14 and allegations against the facts within their expertise
15 and ultimately came to the conclusion that wind energy
16 still serves the interests of Maine in terms of energy,
17 environment and economic development. So that policy of
18 promoting wind energy still stands today.

19 The challenge, as this Commission is well aware from
20 its review of other projects, is actually siting these
21 projects on the ground. You understand that in order to
22 site a project you have to take into consideration numerous
23 factors and inevitably you have to weigh a variety of
24 impacts. What's unique about this project is the extent to
25 which we have found a commercially viable site that avoids

1 the major environmental impacts that are the key
2 constraints for these projects.

3 And I think it's worth taking a few minutes to walk
4 through the siting constraints when you're attempting to
5 site a project such as Bowers to see why this is a good
6 site. The first major constraint, obviously, the
7 availability of commercially viable wind resource.
8 Obviously, the higher you go in elevation, the stronger the
9 wind that's available. The challenge is that you quickly
10 run into fragile ecosystems which are of concern.

11 Bowers is unique in that we have a lower elevation
12 site, 750 to 1,100 feet, that still has a strong
13 commercially viable wind resource. Our projected average
14 wind speed is 7.5 meters per second, which is rated between
15 good and excellent on the Department of Energy's wind
16 classification scale. I'd point out that the project also
17 takes advantage of a technology change; we're going from
18 the GE 1.5 megawatt machines, which have -- on the Stetson
19 we have 83 megawatts of installed capacity with 55
20 machines. Here we'll have 69.1 megawatts of installed
21 capacity with only 27 machines. So more energy with
22 reduced environmental footprint.

23 Similarly, the next constraint is access to
24 transmission. By strategically clustering the Bowers
25 project near the existing Stetson project, we take

1 advantage of the existing 38 mile line between Stetson and
2 Chester. We need to only construct a 5-mile line -- a 34.5
3 KV line to connect. Again, economically efficient and we
4 reduce our environmental footprint. I'd also note that
5 that will close out capacity on Line 56.

6 The third constraint, expedited wind zone. The
7 original bulk of the project is within the original wind --
8 expedited wind zone area. The Commission saw fit to expand
9 the expedited wind zone to include the portions of Kossuth
10 that are also within the project.

11 That brings us to the host of environmental concerns
12 and constraints which make siting wind particularly
13 difficult in Maine. And these constraints are identified
14 not only in the CLUP and the Commission's regulations, but
15 also in the siting guidelines of organizations such as AMC
16 and Maine Audubon. And I'd like to walk through some of
17 those considerations.

18 They include visibility from the Appalachian Trail,
19 fragile ecosystems above 2,700 feet, large blocks of
20 undeveloped habitat, significant wildlife habitat, species
21 of rare plants and concerns, eagles, bird and bat migratory
22 paths. This project does not impact any of those resources
23 in a material way, nor does it impact any significant
24 vernal pools, nor are there any sound issues.

25 The only impact we have here is a visual impact. And

1 this is a component of any wind energy development and this
2 is one that was anticipated, foreseen by the Legislature.
3 They put certain qualifications about the evaluation of
4 this impact; they drew an 8-mile radius around the project;
5 they limited the evaluation to resources of state or scenic
6 -- I'm sorry, of state or national significance; and they
7 set a pretty high threshold in terms of requiring a
8 substantial adverse impact on these scenic resources.

9 You'll here from David Raphael from LandWorks today
10 that the Bowers project does not meet that threshold.
11 You'll also here from the opponents about the extensive
12 conservation efforts in the Grand Lake Stream area. I
13 think it's important to note that this project is not sited
14 on conserved lands, instead it's sited in an area outside
15 of those lands that's appropriately zoned for wind energy
16 development.

17 They imply that wind energy is incompatible with those
18 conservation efforts in the area. We disagree. You'll
19 note that none of the groups that are involved in putting
20 those conservation parcels together are here to oppose this
21 project. In fact, New England Forestry Foundation, which
22 administers the conservation easement on the conserved
23 lands closest to the project, expressly did not object to
24 this project. Similarly, the Passamaquoddies who own and
25 manage thousands of acres of land to the south of this

1 project, including 34 miles of shorefront, also did not
2 object to the project.

3 Lastly you're here from Jeff Selser talking about
4 representing landowners who are actively involved in
5 conservation efforts about their concerns that by placing
6 lands into conservation they were going to negatively
7 impact the development rights for appropriately zoned
8 development in projects or areas not in conserved lands.
9 We also heard last night from the guides and other
10 opponents about the concerns of the negative -- potential
11 negative impacts of seeing turbines in the distance on
12 their clientele.

13 I think it's important for us to note that if we look
14 at the pie chart of potential recreational users of these
15 resources, guided clients are only a fraction of the users
16 on these lakes. You have, obviously -- if you look at that
17 pie chart, you have open water fishing, you have an equal
18 or greater number of ice fishermen, you have ATV users on
19 the shore, hunters, boaters and snowmobilers. Again,
20 guided clients are a fraction of -- of those users.

21 In addition, I don't think -- I think -- although, we
22 understand their fears about how their clients will react,
23 we do not believe that their clients are going to react
24 negatively to seeing turbines in the distance. You heard
25 from Charlotte Brooks last night who owns Maine Wilderness

1 Camps on Pleasant Lake where we visited yesterday, the
2 closest sporting camp to the site. All of her clients are
3 primarily from out of state -- or a few from southern
4 Maine. They come to fish -- they primarily come to fish,
5 they also come to ATV and snowmobile. She expressed last
6 night she does not believe it will have a negative impact
7 on their clients. In fact, she believes it will be an
8 attraction for some of their clients. They went so far as
9 to ask us for a copy of the visual sims so they can hang
10 them in the lodge.

11 You'll also have testimony submitted by Cathy Whitney
12 who managed the campgrounds we visited yesterday for four
13 or five years for Maine Wilderness Camps. She describes
14 the users there as local weekend warriors, folks that come
15 on the weekends, they have their RVs there, they come to
16 fish, to socialize, to boat, to ice fish and to snowmobile
17 and to ATV. She is similarly confident that they will not
18 be negatively impacted by seeing turbines in the distance.

19 You will hear about surveys, ours and others, in
20 particular, the Baskahegan survey, which reflects the
21 growing body of evidence, as we get more experience
22 recreating around wind turbines in Maine, that folks are
23 not negatively impacted by seeing turbines in the distance.

24 We hope that you'll keep all of this in mind as you
25 hear from the opponents and their concerns about one small

1 fraction of users and their fears of how they may react to
2 seeing turbines in the distance.

3 Again, in comparison to the fears of the guides about
4 how their clientele will react and the negative economic
5 impacts that might flow from this project, I'd like to talk
6 about the economic realities that are already on the ground
7 in Carroll Plantation and Kossuth and the definite positive
8 impacts that will result from this project.

9 We held a number of community meetings in Carroll
10 Plantation, they were well attended, and we received early
11 support. In between those meetings I spent numerous Monday
12 evenings in the town offices -- they're only open two hours
13 a week -- listening to the assessors tell me about the
14 town, its history and its challenges and meeting with
15 residents as they came in to answer their questions.

16 I also did presentations for the Vinegar Hill
17 subdivision, which is an 80-lot rural subdivision
18 immediately abutting the southern part of the project.
19 Finally, I went door to door in Kossuth and knocked on
20 doors of the residents closest to this project.

21 This is what I learned in Carroll over those many
22 Monday evenings. As they're quick to tell you, the
23 depression came to Carroll in the 1930s and never left.
24 The farms that were the lifeblood of the community are long
25 gone, there's no commercial activity in the town to kind of

1 share the tax burden, most of the folks, as you heard last
2 night, are retirees from the logging industry or schools
3 living on fixed incomes or trying to scratch out a living
4 in an area with very few jobs. Not surprisingly, the taxes
5 are a tremendous burden.

6 When I arrived in Carroll in 2009, the mill rate was
7 \$23 per thousand compared to \$3 in Lakeville. When they
8 assessed 4 miles of our Stetson transmission line, it
9 dropped the mill rate from 23 to 11, it has since gone back
10 up to 14.

11 Now, I know taxes are a big deal in Carroll Plantation
12 because when you walk in the town office you'll see a giant
13 photocopy of our first tax check stapled up on the wall.
14 And as you heard last night, if you're living on a fixed
15 income and you're watching your taxes creep up and creep up
16 and creep up, it creates tremendous anxiety, especially
17 when you're living on land that's been passed down for
18 generation to generation, which is the primary case in
19 Carroll, and the option of selling is not attractive at
20 all, but the fear of being priced off your land is real.

21 Not surprisingly, a lot of people in Carroll Plantation
22 are unable to even pay their taxes, which further compounds
23 the town's financial burden. In addition, the critical
24 infrastructure in Carroll, like many small towns, is miles
25 and miles of dirt roads, which they can't afford to patch

1 never mind make the basic maintenance repairs that are
2 required to keep these from being a perpetual financial
3 drain.

4 That said, the Carroll residents pride themselves on
5 persevering and take caring of their own; most of them have
6 been there for generations, they've all grown up together
7 and there's a strong sense of community. When their town
8 photocopier broke and there was no money to replace it in
9 the budget, the assessors ran a bottle drive to raise the
10 funds. When someone gets overwhelmed by medical bills,
11 they hold bean suppers and they take care of their own.

12 They see this project as a substantial opportunity to
13 reduce the financial burden on their town and to relieve
14 the anxiety of their residents and it will be a substantial
15 impact. The average budget in Carroll Plantation is 250 to
16 \$275,000 a year. Our projected first year tax payment will
17 be somewhere around \$239,000. In addition, we've entered
18 into a community benefit agreement that will pay the town
19 \$92,000 a year.

20 Now, the town has not formally decided how to spend
21 that money, but there's a groundswell of support to create
22 an energy fund to help residents offset their rising energy
23 costs. We have created just such a fund in Kossuth. We're
24 going to fund it with \$15,000, two-thirds -- on annual
25 basis, two-thirds of that money will go out to directly

1 help the residents there offset their energy costs. The
2 remaining one-third will go into a fund which will provide
3 grants to the residents that they can use to make energy
4 related improvements to their homes.

5 In addition to those substantial financial benefits,
6 we're also going to establish the Bowers Mountain
7 Conservation Fund, which will be modeled on the Stetson
8 fund which is administered by the Forest Society of Maine.
9 The purpose of this fund will be to fund -- identify and
10 fund high-priority conservation opportunities in the towns
11 of Carroll, Kossuth and Lakeville. Again, it will be
12 administered by the Forest Society of Maine, but it will
13 have a unique structure where representatives will be
14 designated by each one of those towns to help advise and
15 determine what the high priority projects are and how the
16 money should be spent.

17 We're going to -- we're going to initially fund that
18 project with \$120,000 and then we're going to provide
19 \$20,000 a year thereafter, for a total of \$500,000 for in
20 conservation benefits over the lifetime of the project.

21 I would just point out that the usual norm for
22 developers is to identify a high profile project with a
23 state or national organization and to tie it up in a bow
24 for the application. This structure reflects the fact that
25 we listened to the local communities and local

1 environmentalists who advocated for a structure that would
2 give the local communities control over identifying the
3 resources and the project they wanted to see in their
4 community and would get them actively involved in
5 identifying conserving resources. We listened and then we
6 took their advice.

7 I'd like to point out that Carroll and Kossuth are
8 unique for communities in this situation because they are
9 intimately familiar with what a wind energy farm will look
10 like in their community, that's because they've all seen
11 the Stetson wind turbines on a regular basis and everyone
12 I've met has been up there on at least one or two
13 occasions. Most of the folks report to me that they find
14 them either attractive or that they've faded into the
15 landscape.

16 They support the project not only for financial
17 reasons, but, like many Mainers who support wind energy,
18 80 percent time and time again as shown in surveys, for a
19 variety of reasons. One of the primary reasons is their
20 support for renewable energy. And I think that stems from
21 the conservation ethic and the tradition of hunting and
22 fishing in that area. Others see it as an extension of the
23 harvesting of timber and other natural resources which has
24 gone on for generations in these areas. Still others
25 recognize it as a respect for the primary value of

1 landowner rights and control, and still others recognize
2 the benefits of the large landowners that have afforded the
3 community with open access for public recreation on their
4 lands.

5 I would just say simply in closing that the Bowers
6 project is really well sited, it navigates the substantial
7 commercial and environmental constraints that prevent wind
8 development in a number of areas. I would also note
9 there's one visual impact. That visual impact, obviously,
10 is visual, but the growing body of evidence suggests that
11 recreational users here in Maine and in other places no
12 longer see it as a negative impact. In fact, they see
13 shorefront development as a greater negative impact.

14 And out of -- while we respectfully understand the
15 guides' concerns about their clientele, I think we have to
16 contrast and you have to contrast the fear of that negative
17 impact versus the economic realities on the ground here in
18 Carroll and the definite benefits that will result.

19 Now, the Carroll residents are not wealthy tourists who
20 can come in and hire a guide, they're not second homeowners
21 who have the luxury of making a living somewhere else and
22 coming up to Maine on the weekend, they're simply average
23 Mainers who are struggling to get by and make a living.
24 Clarence Thompson put it well last night, he said, a lot of
25 these folks are choosing between whether to buy drugs or

1 buy food on a monthly basis. They're in a very difficult
2 position.

3 I understand that you have to weigh a lot of factors on
4 this project. My hope is that you'll keep the interest of
5 Carroll and Kossuth at the forefront. Thank you very much.

6 MR. MILLIKEN: Good morning, commissioners, Chairman
7 Hilton. My name is Roger Milliken, I'm the president of
8 the Baskahegan Company which owns and manages 100,000 acres
9 in -- in the neighborhood of the proposed farm. In fact,
10 some of our land is currently leased to First Wind as part
11 of the proposed development.

12 I want to begin by saying how much I appreciate what it
13 is to be sitting on the side of the table on which you sit.
14 When I was on the Lands for Maine's Future board I often
15 found myself on that side of the table. I appreciate the
16 attention, the dedication and the patience it takes to sit
17 there through testimony like mine and others.

18 There's been a lot of conversation recently in the
19 state about the value of LURC, should LURC be abolished.
20 It's just this kind of proposal in front of us that to me
21 speaks to the value of having informed and concerned
22 citizens brought to bring their judgment to a task of
23 balancing the values of a key area of Maine like this part
24 of Washington and Penobscot County or, for that matter, the
25 whole unorganized territories. So I appreciate your

1 service and thank you for your attention.

2 As is spelled out in my written testimony, which you
3 had in advance of this hearing, I've been actively involved
4 as a forest landowner with forestry organizations in Maine
5 dating back to the '80s and also in conservation
6 organizations both in Maine, nationally and globally. And
7 that's the background and perspective I bring to this
8 question.

9 I first started thinking about the impact of wind in
10 this area, I'm guessing it was, four or five years ago when
11 the Stetson project was first proposed. Baskahegan Company
12 owns 100 percent of the shorefront on Baskahegan Lake, a
13 7,000 acre lake in northern Washington County. I think
14 some of you have been down to the landing at Baskahegan
15 Lake. When I was down there a few weeks ago, I could count
16 38 turbines across the lake.

17 When I first met the representatives from First Wind
18 who came to talk to me as a neighbor and abutter of the
19 proposed project, I too was very concerned about what the
20 impacts might be, not only on land values, but primarily on
21 my -- on my own experience as a -- somebody who has enjoyed
22 spending time alone, spending time in solitude on the lake
23 and on the shores of the lake. The prospect of, you know,
24 400-foot metal structures being built on top of the low
25 hills, particularly the prospect of blinking lights, was of

1 great concern to me.

2 And -- and I found myself, as I thought about it,
3 experiencing a conflict between my head and my heart. My
4 head was saying, we need renewable energy. As a forest
5 landowner, I'm very concerned about the effects of climate
6 change, I believe that the emissions of carbon are changing
7 our climate. For Maine to have a policy to promote
8 renewable energy to me seems very prudent. Whether I look
9 at it from an environmental point of view or from a
10 national defense point of view or from a use of resources
11 point of view, I am a supporter of renewable energy.

12 The proposed Stetson project brought my intellectual
13 support of renewable energy into direct conflict with my
14 emotional connection of the landscape. When you paddle out
15 on Baskahegan Lake it looks -- the lake does not look that
16 big from the landing, but as soon as you turn your canoe
17 and head south on the other side of Abraquidassat Point,
18 thousands of acres of open water open up, you're surrounded
19 by solitude, the loons are there with you. And with the
20 exception of the sound of a chain saw in the distant woods
21 or the sound of Jake brakes on Route 6 or Route 1, you feel
22 like you're in the middle of nowhere in a good way. And
23 that experience seemed to me to be up for grabs with the
24 proposed construction of the wind site.

25 I can tell you that the reality of those towers being

1 built is not what I feared it would be. I ended up
2 supporting the Stetson development, I guess you could say
3 my -- my head won out over my heart, my sense of what was
4 important for the forests of Maine, for the people of Maine
5 and for the state of Maine, I concluded, was more important
6 than my own personal concerns about what I feared I would
7 lose. And my experience since then has proven to me that
8 my fears were overstated.

9 Yes, the night sky looks different now with red lights
10 blinking on those towers; yes, if I choose to focus I can
11 count the 38 turbines from the landing or from the canoe.
12 But in terms of my impact -- the impact that it's had on my
13 experience of being out on that vast lake, it's barely
14 changed it at all.

15 So I know this is just one data point, this is just one
16 person's story, but I wanted to share that story because as
17 I read the testimony and I heard people speak at the
18 earlier hearing, I could sympathize with the fears and
19 concerns that I heard being expressed, I was there myself
20 four or five years ago.

21 I want to highlight a few areas of the written
22 testimony -- my written testimony that I think is pertinent
23 to the decision you face. First of all, I hear a lot of
24 talk about the mountains of Maine being destroyed by wind
25 projects. And having visited West Virginia last summer, I

1 have to take exception to the exaggeration in that
2 statement. In central Appalachia I have seen mountains
3 literally being destroyed to provide energy. West Virginia
4 is a rural state like Maine, its hills and hallows give
5 rise to an amazingly vibrant forest. I walked through it
6 with staff of the Nature Conservancy. There's springs,
7 there's seeps, there's an amazing diversity of tree
8 species. It's really tree heaven compared -- and I speak
9 as a forester when I say that.

10 And I was appalled to witness having walked through
11 hills and hallows like that to visit with the mining
12 companies the sites where mountaintop removal is being
13 practiced. Mountaintop removal is really a euphemism for
14 what's happening there. It's really a biblical
15 rearrangement of the landscapes when the prophet talked
16 about the -- the high places being made low and the -- and
17 the valleys exalted. That's what's happening. Those
18 mountains are literally being dynamited, flattened and
19 these verdant hallows with their amazingly diverse forests
20 are just being filled with rubble, bulldozed flat and
21 planted with grass. That is the destruction of mountains.

22 What's proposed here is what ultimately in geologic
23 time, even in a human lifetime, is going to be a temporary
24 change. No mountain is being flattened, no forest is being
25 destroyed with the construction of wind turbines.

1 As you know, there's no perfect source of energy, every
2 energy source has problems. For Maine to step up as it is
3 and embrace alternative energy in the form of wind I think
4 is not only responsible, it's very important.

5 I want to speak a little about my -- from my -- wearing
6 my hat and from my position as a 30-year manager of these
7 family lands in Washington County. I don't need to tell
8 you that the -- the future of the forest products industry
9 looks a little dicey at this point. The recent closing and
10 failure to sell the mills in Millinocket and East
11 Millinocket are only the latest example of this.

12 Our family has owned these lands for three generations,
13 we're in the process now of involving the fourth generation
14 in their management. The stability of the landownership --
15 these are lands my grandfather bought in 1920 -- provide
16 great benefits to the local businesses, the logging
17 contractors, the truckers who work on the landscape. Of
18 course, all these lands are open for recreation at no
19 charge, people fish in our brooks, they use our roads for
20 snowmobiling, they come and hunt on our land, they pick fir
21 tips for the wreath industry. There's a real symbiosis
22 between us -- our operation as a forest landowner and the
23 local communities.

24 The reason this can work in such a win-win fashion is
25 that we are able to make money through the other

1 operations, in our case, primarily in cutting trees. The
2 timber economy is quite volatile these days. Things were
3 looking good, then they were looking better when the
4 housing markets were exploding. The bubble burst, the
5 housing markets are in the tank, revenues are significantly
6 decreased for our business. Two-thirds of our value comes
7 from selling lumber into the spruce dimension market that
8 ends up in -- in housing.

9 And the addition of a steady stream of income from
10 another resource, in this case, leases to the wind power
11 industry, will help stabilize the future for our company
12 and our family and make it more likely that we will be able
13 to pass this -- this asset, this beautiful forest on to the
14 next generation and that those benefits -- that mutuality
15 between Baskahegan Company and the communities of northern
16 Washington County will continue.

17 There's been a lot of discussion about the impact on
18 recreationists, I talked about my own experience. When I
19 began -- as I was writing this testimony -- and I
20 appreciated the opportunity to pull this testimony together
21 because I had, as I told you, actively wrestled with the
22 questions about was this a good idea, what were the impacts
23 of the wind energy going to be. And writing the testimony
24 gave me a chance to think through and pull my thoughts
25 together and really make clear to myself, as well as

1 hopefully to you, where I ended up on these questions.

2 And I thought about the difference between my
3 experience in the -- the woods and mountains of Maine as a
4 boy and what they are today. And I would say the most
5 significant change I've seen in my lifetime has been the
6 change to the air that we breath, to the amount of haze in
7 the -- in the atmosphere. The views are significantly
8 shortened. It feels outside that today might end up being
9 one of those kind of hazy days where it gets hard to
10 breath, it gets hard to see as far as we used to see. This
11 is the effect of living at the end of the tailpipe where
12 the effects of gasoline engines all up and down the eastern
13 seaboard get funneled north to Maine, when the effects of
14 combustion and coal-fired plants in the Ohio Valley come
15 our direction.

16 Yes, there's a trade-off between having the view of the
17 mountaintops in our area be -- be affected by the
18 construction of wind turbines. Is it an appropriate
19 balance and appropriate exchange for me to trade a view
20 that I cherish so that I and my fellow Mainers can have
21 clearer air to breath? I think no question that that's
22 worth the trade-off. And I would say, yes, it's an
23 important -- it's a worthwhile trade-off to make.

24 And I want to touch on the survey that was done by the
25 Forest Society of Maine with this Stetson Mountain fund.

1 You heard Neil Kiely speak a few moments ago about a
2 similar fund being set up related to Bowers Mountain. I
3 advocated the creation of this fund because there was
4 significant concern in our part of Washington County about
5 the changes -- potential changes to the traditional
6 recreational use in the area driven largely by the change
7 of landownership pattern around us; and with the -- with
8 shorter-term owners coming in, long-term traditional access
9 to the woods and waters appear to be at risk.

10 The first job of that fund once it got started was to
11 understand exactly what the recreational use of the region
12 was in order that they could make wise decisions about how
13 best to protect it. As you've heard, there were 47
14 interviews that took place on the shores of Baskahegan Lake
15 and on Baskahegan Stream. And then they searched for
16 long-term -- long-time users -- these are local folks who
17 have used Baskahegan Lake and Baskahegan Stream
18 recreationally -- to understand better what they valued
19 about the lake, what their concerns were, if there were
20 ways to improve or enhance the recreational experience,
21 what would those -- what would they recommend.

22 The purpose of this survey was not to ask any questions
23 about wind development, it was really to get to know these
24 people, to get their perspective on a lake that they used
25 for, you know, dozens of days every year. What was

1 striking to me when the report was produced and I heard a
2 presentation on it a couple of months ago was that off
3 those long-term users of the lake, when they were asked
4 about changes, when they were asked about problems, when
5 they were asked about concerns, not one person mentioned
6 anything about the 38 wind turbines that are now visible
7 from the lake, the turbines during the day or the flashing
8 red lights at night.

9 And that seems to square with my experience, that, yes,
10 the landscape has changed, but the important experience
11 endures.

12 So let me respond to my handler's here. And thank you
13 for your -- your attention and your deliberation, I think
14 you know where I'm coming from.

15 MR. RAPHAEL: Good morning, commissioners. My name is
16 David Raphael, I am a landscape architect and planner with
17 the firm of LandWorks in Middlebury, Vermont. I reside in
18 Panton, Vermont, and our firm was retained to conduct a
19 visual impact assessment for the Bowers wind project. So I
20 am representing the applicant.

21 We conducted this visual impact assessment in
22 accordance with the provisions of the Wind Energy Act for
23 assessing visual impact and scenic impact. We conducted
24 extensive field visits inhouse, GIS analyses, visual
25 simulations, which you've seen and saw yesterday, and also

1 extensive research, interviews on the ground and assisted
2 with the development of a survey for the purposes of
3 assessing scenic impact to users on this project. Taken
4 together we conducted a -- both a quantitative and a
5 qualitative analysis.

6 And I guess I would just add on a personal note that my
7 work here in Maine is informed by the fact that I, too,
8 like many of the folks you heard last night, grew up
9 spending summers on lakes in Maine and to this day come
10 every year with my best friend to paddle and fish on lakes
11 in Maine.

12 What I'm going to provide now is a summary of our
13 visual impact assessment. I'm going to start with the map
14 that you see before you and just wanted to, if I can use
15 this pointer, maybe summarize where we were yesterday for
16 your guidance. We started out at Pleasant Lake after we
17 visited the Bowers wind project site and then we came
18 around and went into the Bottle Lake boat launch and then
19 traveled into Junior Lake where we set a simulation site
20 and then over to Scraggly Lake there where we visited --
21 saw the other simulation site. So that was our trip
22 yesterday. And then, obviously, came back from where we
23 started. Several of us went back, actually, to the Junior
24 Lake site of the Chateau du Lac.

25 We are charged by the Act to assess resources of

1 significance within 8 miles either listed as an outstanding
2 or significant lake in the Maine lakes assessment. There
3 are 13 great ponds that we were charged, therefore, to
4 explore and assess and analyze. Within 3 miles of the
5 project there were four such ponds, Pleasant Lake, Shaw
6 Lake, Duck Lake and Junior Lake. Obviously, you saw two of
7 those yesterday. Within 3 to 8 miles of the project there
8 are additional lakes, Scraggly Lake, Keg Lake, Bottle Lake,
9 Sysladobsis Lake, West Musquash, Lumbard, Norway, Upper
10 Sysladobsis and Horseshoe Lake. Only eight lakes have
11 visibility within the 13 mile -- I mean, within the 8-mile
12 radius of the 13 lakes.

13 Our key considerations are based on, in part, beginning
14 with the significance of the resource, the project
15 visibility and the impact to the use/enjoyment for users of
16 those lakes. We found, first of all, from the outset that
17 in accordance with the Act that visibility alone, of
18 course, is not necessarily the basis for, you know,
19 concluding that a project would have even an adverse impact
20 let alone a reasonable adverse impact. The reason I say
21 that is because you've heard from others and Mr. Milliken a
22 moment ago that some people necessarily have become
23 familiar with and comfortable with wind power, many people
24 think wind turbines are beautiful to look at and you heard
25 some of that last night.

1 We came to a conclusion that while these resources are
2 indeed valued and important resources, clearly to the folks
3 who live on them and fish on them, they do not rise to the
4 level of being so unique and so different from other
5 resources in the region as to be iconic. While project
6 visibility is, you know, high on some lakes and lower on
7 others and nonexistent on still others, such as West
8 Musquash which we passed yesterday, that visibility
9 necessarily isn't translated into unreasonable impact as
10 well. And, in fact, I think -- hopefully you saw from
11 seeing the simulations yesterday and the views from the
12 lakes where we stopped -- that the wind turbines, if built,
13 would not necessarily be dominating, looming or surrounding
14 completely the view.

15 When we talk about significance of the resource, we
16 have to look at how it relates to other scenic resources in
17 the region and the area. In northern New England we have
18 many mountains and hills, many lakes that are surrounded by
19 low hills or higher hills and some which have very distinct
20 qualities. And those are the ones that from our
21 perspective rise to the level of being unique or iconic.

22 This lake also has a -- these lakes also have
23 character, I think, which is a function as much of their
24 scenic views as of their water quality and their shoreline
25 quality and the sense of quiet and experience on the lake

1 themselves, not necessarily entirely governed by the scenic
2 view.

3 Another important characteristic that we analyze is the
4 level of use. And while certainly we did hear that there
5 are some folks who come here as tourists to visit and fish
6 the lake, certainly the Grand Lakes area and this region as
7 a whole doesn't have the same level of tourist
8 infrastructure or awareness among the -- of tourists coming
9 to Maine as places such as Moosehead, Sebago Lake, the
10 Rangeley Lakes, Flagstaff Lakes and others.

11 When we look at project visibility we have to consider
12 a number of different characteristics. We have to consider
13 the distance to the project from the viewpoints that we --
14 we consider. We have to consider the extent of that view,
15 in other words, are you going to see it all the time from
16 every location or some of the time from some of the
17 locations. And that also speaks certainly to duration of
18 view.

19 Another quality that we look at is visual absorption.
20 And that's a function of a number of characteristics that
21 we're still working with and that Mr. Palmer and I actually
22 had some discussion about yesterday. Part of that, I
23 think, is related to how much of the view is taken up by
24 the wind turbines. And in most instances on these lakes,
25 no matter where you see them from, that view nowhere near

1 approaches a sense of surrounding or a 360-degree view.

2 We were looking yesterday at views that had a cone of
3 vision between about 20 degrees on Bottle Lake and 41
4 degrees on Scraggly Lake. Also, you have to look at, with
5 the distance factored in, how prominent the -- the turbines
6 are on the horizon line. And in terms of visual
7 absorption, things like tree lines and low mountains can
8 help actually accommodate the visual presence of these wind
9 turbines and diminish that presence. I think Bottle Lake
10 is a very good example if you look at the visual
11 simulation. And I'll talk about that in a moment when we
12 get to that.

13 In terms of impact to enjoyment, I think we have to
14 look at -- and we know we have to look at what are the
15 viewers' expectations when they come to these lakes and
16 want to enjoy that experience and what does the research
17 and other information that we rely on tell us? The
18 information that we rely on includes things like the
19 Baskahegan survey, which, again, I'll talk about in a
20 moment, but also studies that explore what the impact of
21 wind is on tourism. There are now of a number of studies
22 in place that all seem to indicate that tourism and wind
23 power is not incompatible and that, in fact, in some
24 instances wind project can be an asset to tourism rather
25 than a negative.

1 I think it's also important to know that while you did
2 hear from a number of people last night who clearly are
3 opposed to the project, folks who aren't opposed to the
4 project don't tend to come out and express their -- their
5 views. We -- as a matter of course, whenever we get
6 involved in these types of projects, we take every
7 opportunity to talk both informally or in some instances
8 formally with people who use these lakes. And from those
9 research surveys and informal explorations and discussions
10 we have with folks, we found that generally speaking people
11 understand what wind represents and do not see it as an
12 impediment to their enjoyment.

13 With regard to the Baskahegan study, it really does
14 serve as a defacto post-construction survey. And I won't
15 repeat word-for-word what Mr. Milliken just shared with
16 you, but, again, I think it was very interesting to note
17 that wind turbines and their presence on the lake did not
18 enter into folks' thinking or considerations or concerns
19 with regard to their experience on Baskahegan Lake.

20 And that was confirmed with an interview that Mr. Kiely
21 conducted with the principal researcher for that study.
22 Use has certainly not declined on Baskahegan Lake, again,
23 from that survey and from what we know. And, if anything,
24 there is a concern about overuse in certain respects. And,
25 again, as Mr. Milliken said, camp development and shoreline

1 changes are perhaps a greater concern to folks other than
2 seeing wind project in the distance.

3 So, again, in summary, with looking at a number of
4 other user surveys that have been conducted by others on
5 wind power projects in Maine and elsewhere, the conclusions
6 were clear, that visibility of wind projects are viewed
7 either as a positive or neutral factor by the majority of
8 those who participated, that visibility of wind overall
9 does not have necessarily a negative impact on recreational
10 users' enjoyment of the resource, that visibility of wind
11 turbines do not affect their likelihood to return, and that
12 other forms, as I mentioned a moment ago, of activity and
13 development are more of an impact to users on lakes
14 generally speaking than wind.

15 And, again, that's something that I would share from my
16 own personal experience seeing the rise of jet skis, for
17 example. I live on Lake Champlain in Vermont, which is not
18 only considered the state's scenic jewel alongside the
19 green mountains, but it's also an, obviously, very popular
20 destination tourism location. And the concerns there have
21 to do with things like overuse and boat traffic and jet
22 skis rather than other factors.

23 In several locations that are known and valued for
24 their tourism and their landscape and their recreational
25 opportunities, professionally-conducted surveys have found

1 that, again, wind power is not incompatible with those uses
2 and that perception of those landscapes as being scenic or
3 valued. Prince Edward Island north of here, a study, you
4 know, again found that not only was the impact not
5 overwhelming in terms of wind, but that, in fact, users and
6 visitors found that wind was consistent with the notion of
7 Prince Edward Island as being a green province and part of
8 the brand, perhaps, as time goes on for that area.

9 Very compelling testimony was provided by a professor
10 of tourism from Johnson State College, Todd Comen, who
11 found that 95 percent of the northeast kingdom respondents
12 that he surveyed said turbines would not deter them from
13 visiting the area. He did a comprehensive review of other
14 projects. He cited the Searsburg wind project one year
15 post-construction study, which Mr. Palmer himself
16 conducted, as an example of how attitudes change once
17 projects are built and people can actually see what they
18 perhaps beforehand had fears about. And once they saw
19 those turbines in place, their support or their opposition
20 greatly diminished. And he also found -- he conducted a
21 number of interviews with hospitality providers,
22 innkeepers, restaurants in the Searsburg area and two to
23 one they all said it did not impact their business.

24 Thank you. I'm just told I have 14 minutes left, so
25 I'm going to not run through, you know, this in great

1 detail. Again, all this information is in your pre-filed
2 testimony that's been submitted by Champlain Wind. Suffice
3 to say this table reflects the analysis process that we go
4 through to address the significance of the individual
5 lakes, the project visibility of these outstanding or
6 significant lakes of the project, the impact to enjoyment
7 and then a gauge of the overall scenic impact. And in
8 summary we only found that four lakes rose to a level of
9 having a medium versus a high scenic impact. And you saw
10 three out of those four lakes, so I think you have a sense
11 of that in regards to Pleasant Lake, Shaw Lake, Junior Lake
12 and Scraggly Lake.

13 So I'm just going to run through these, the lakes with
14 lower scenic impact include Bottle Lake, Sysladobsis Lake
15 -- I have trouble with that one -- Duck Lake. And these
16 are photographs of the shoreline character. And, again, I
17 think it's important to note -- and this is something I
18 always have to do with reviewing wind projects -- is to
19 remind all of us, including you as commissioners, that
20 while our focus in all of this is where you can see the
21 project from, there are many views and many experiences
22 that will still occur on this lake and that you will still
23 be able to have on these lakes that will not have views of
24 the turbines. And so we've provided views away from the
25 project on Bottle Lake and Duck Lake.

1 And, again, you saw the visual simulation -- and I
2 apologize, the translation from screen to projector it's
3 hard to see the turbines in there, I realize. And forgive
4 me for that. And that's why we won't spend a whole lot of
5 time with this other than to say if you remember our trip
6 on Bottle Lake, I just wanted to point out that this is
7 where I think visual absorption is a quality that has to be
8 considered. The turbines rise barely above the treeline
9 here, you have some trees, the tall pines which we pointed
10 out yesterday, which are just as high, if not higher, than
11 what the turbines will be. And collectively the serration,
12 if you will, and the irregularity of the treeline and the
13 low nature of the turbines on the horizon all combine to
14 assist in terms of visual absorption. Also note that there
15 is very limited cone of vision for the view on Bottle Lake
16 and so the turbines do not dominate the shoreline nor the
17 lake in terms of their presence in that 360-degree view.
18 And that's similar with other lakes.

19 Lakes with medium scenic impact, as I mentioned, we
20 found there were four lakes, Pleasant, Junior, Shaw and
21 Scraggly. These are shoreline characteristics for those
22 lakes, some with development. You actually saw that
23 picture yesterday at Pleasant Lake with the campground area
24 and the picnic table. And, again, views away from the
25 project from Pleasant Lake and Junior Lake also need to be

1 noted.

2 The visual simulation from Junior Lake, which we looked
3 at yesterday. Simulation from Pleasant Lake and the boat
4 launch there. And, again, you heard last night from the
5 owner of the Maine Wilderness Camp that she felt
6 unequivocally that this project would not impact the use
7 and enjoyment of this lake of her visitors and guests. And
8 that's what the view would be just offshore of the camps.
9 The camps do not face in the direction of the project.

10 Scraggly Lake, again we were out there and saw this
11 shot from Scraggly Lake. And this is what the project will
12 look like from Shaw Lake. And, again, I apologize it's a
13 little hard on this screen to pick out the turbines, but
14 trust me, they're there. And I guess this is a good
15 opportunity to tell you that the other thing you have to
16 remember about wind turbines is that they look different
17 under different conditions. And the weather and the
18 atmosphere changes constantly in Maine. When I got up
19 yesterday morning on Junior Lake, you know, it was as hazy
20 and socked in and then as the day went on it got clearer.
21 Depending on the -- the location of the sun, the turbines
22 will look white or they won't look white at all, they'll
23 look darker gray in shadow.

24 And it's also interesting to note -- and this is
25 something I talk about in a lot of projects -- that in

1 places like Maine when you're out fishing, some days it's
2 foggy, some days it's cloudy, some days it's raining. In
3 fact, in Grand Lake Stream I believe there are 120 days on
4 average with precipitation. So -- and in this part of
5 Maine maybe a third of the days have clear sky and clear
6 weather. So two-thirds it's cloudy or raining and that,
7 too, impacts visibility and alters the perception or the
8 presence of wind turbines.

9 There are also a number of lakes with no visibility in
10 the project area, Horseshoe Lake -- or visibility that is,
11 I'm sorry, beyond 8 miles. However, West Musquash Lake,
12 for example, has no visibility of the project at all. It
13 is shielded from visibility by intervening topography.

14 Lighting, we've heard a little bit about lighting.
15 Last night we heard a number of people talk about the fact
16 that lighting was going to ruin the night sky. I'm sorry
17 to disabuse them of that fact, but it does not affect night
18 sky viewing. Wind turbines with lights do not create any
19 impact to the night sky and seeing the stars. Indeed, they
20 are an annoyance and there's no getting around that, but
21 they do not create glare, they do not create light
22 pollution in the sense that there's a glow around them that
23 is extensive or frequent, and, again, they do not mask the
24 clouds -- I mean, the stars in the sky, they will still be
25 twinkling and shining long after this project is built,

1 should you approve it.

2 The other thing about lighting, as I'm sure you're
3 aware, that there's really no choice. These turbines are
4 high in the air and FAA requires lighting to -- for safety
5 for aviation safety. And I guess I would also point out
6 that, you know, recreational use particularly on the lakes
7 themselves tends to lower at night and, therefore, really
8 the impact is going to be mostly to, perhaps, camp owners
9 who might see the lights from their -- their homes.

10 So, again, our overall conclusions led us to the
11 unequivocal conclusion that this project would not result
12 in an unreasonable adverse impact to the use and enjoyment
13 of these lakes, to viewer expectations and to the scenic
14 beauty of the lakes and the regions around them.

15 And let me just take a couple last minutes while I have
16 a minute left to, again, summarize that for you. This
17 project will result in change, there's no question about
18 that, that the scenic views will change and will be altered
19 by the presence of the wind turbines. We do, as you know,
20 have to ask ourselves, is that change so significant and so
21 dramatic as to warrant an unreasonable finding? And I
22 think we can come to the conclusion -- I know that we can
23 come to the conclusion that that will not be the case.

24 We do sympathize -- I do sympathize with the local
25 guides and their concerns. And I think change is a very

1 difficult thing for folks to get their arms around and
2 there's a certain level of unknown of what this is going to
3 do to the impact of their businesses and their clients.
4 But I think we've got enough information on the record and
5 in our testimony, in particular, that indicate otherwise.
6 We have the author of the Quiet Waters Maine book on record
7 as saying that he does not believe that wind turbines are
8 incompatible with the wilderness experience.

9 I also think it's important to say at this point that
10 it's very important to make a distinction between a
11 wilderness feel and true wilderness. We heard many people
12 last night say these are pristine lakes. The waters may
13 very well be considered pristine, but pristine really means
14 untouched by the hands of humans. That's the definition of
15 pristine.

16 When I flew over this area, I was -- I was startled to
17 see the number of roads and logging clearings and activity
18 on the land. That wasn't a shock, but -- because I knew of
19 the use and tradition of resource use in this area. But
20 that was an indication that these lakes are not, from a
21 scenic perspective looking at the mountains and looking at
22 the shoreline, are not -- could not be considered pristine.
23 Wilderness areas are often roadless, wilderness areas don't
24 have motorboats in them. So I think that's an important
25 factor to consider. But when we look at the visual impact,

1 in conclusion, you know, those turbines will not be so
2 close, they will not be so extensive on the horizon, they
3 will not be so tall or so dominant to alter the user's
4 sense of place and to result in an unreasonable impact.

5 Finally, I would just like to kind of reiterate the
6 fact that it is hard to accept change and, again, there
7 will be change on these lakes from the visibility of the
8 turbines. But it's important to also remember that the
9 fishing won't change, there's still going to be good
10 fishing; there still will be quiet waters on the lakes, you
11 will not hear the turbines; there will still be the same
12 shoreline conditions on these lakes, the turbines won't
13 change that; people will still look at the views; the
14 waters will still be pristine in the minds of the folks who
15 are on them; the sun will shine every morning as it did
16 when I woke up at Junior Lake yesterday. And, in fact, I
17 recognize what that wilderness feel meant, it meant looking
18 at the water, seeing the sun sparkling off them and -- and
19 experiencing the close-in feel that these lakes will still
20 afford.

21 Finally, I really do like and would like to quote the
22 gentleman from Carroll last night who said two very
23 important things. He said, and I quote: You do not stop
24 seeing the scenery; and he said also: People need to see
25 the future. I thought it was very compelling that of all

1 the people who testified last night, you heard two young
2 people, two young people, who said turbines were not going
3 to bother them, were not going to change the way they feel
4 about these lakes and their experience of them. And I
5 think I will leave you with that. Thank you.

6 MR. HAMMOND: I have a question.

7 MR. RAPHAEL: Please.

8 MR. HAMMOND: All right. There is some technology which
9 is being used I think in Canada and some in Europe to
10 mitigate the lights at night. Can you speak to that and
11 where it is in the process here and if it's a viable
12 consideration for this project?

13 MR. RAPHAEL: I will do my best to do that. It is
14 called -- the Obstacle Collision Avoidance System is the
15 one product that I'm aware of that is being considered. It
16 is not yet in use, I don't believe, in the United States.
17 The FAA has yet to approve it for use in wind projects.
18 And I think that every wind project will have certain
19 conditions which would provide for or preclude its use
20 depending on radar which controls that system. I know it's
21 being considered for a project that I've been involved in
22 in Vermont, but they are not yet sure whether it can
23 actually be employed for that project because of the
24 circumstances on the ground.

25 So I think it's a potential mitigation possibility for

1 wind projects, but it is yet to be approved or tested here
2 in the United States.

3 MR. HAMMOND: Is the project in Vermont -- is approval
4 contingent or in any way tied to the use of this technology
5 if it becomes available?

6 MR. RAPHAEL: Not at all. The -- the project, in fact,
7 just got approved a couple of weeks ago. And the Public
8 Service Board, which is the body which reviews and approves
9 utility-scale projects of this sort, did not make it a
10 condition of that approval. What they did say is that they
11 wanted the developer to explore the use of that project,
12 but did not make it a requirement for that approval.

13 MR. HAMMOND: Thank you very much.

14 MR. RAPHAEL: You're welcome.

15 MR. LAVERTY: Mr. Raphael, just to follow up on that, I
16 know -- perhaps a question directed to the applicant, but
17 should that technology become available, be approved by the
18 FAA, it seems to me that assuming that it could meet the
19 technological requirements for application to this project
20 and it was reasonably cost effective, that this would go a
21 long way to addressing some of the concerns. It seems to
22 me it would be in everybody's interest to the extent
23 possible to reduce the lighting impact if it's
24 technologically and financially feasible.

25 Would the applicant be willing to consider when that

1 technology -- when and if that technology becomes available
2 to perhaps consider retrofitting this project with that
3 technology?

4 MR. KIELY: I think, you know, we would be willing to
5 consider any issue. I'm not prepared to answer that in
6 terms of retrofitting. I think we are continually
7 monitoring all advancements in technology and especially
8 ones that would mitigate any kind of impact. And for the
9 reasons that Mr. Raphael just stated, this is an up and
10 coming potential technology, it has yet to be formally
11 approved by the FAA, it also has yet to be approved by
12 lenders and insurance companies that finance our projects.
13 There's additional hurdles that have to come through there.

14 There's also, as I understand it, substantial financial
15 costs that attend this. So we've only been evaluating a
16 look at this technology coming down the horizon. I can't
17 answer this today, we'll get back to you about whether we'd
18 be willing to consider to retrofit the project. Typically
19 our projects are capitalized and financed up front and we
20 typically don't go back and, you know, contemplate making
21 that kind of retrofit. So I'm not in a position to answer
22 you right now.

23 MR. LAVERTY: I understand your hesitance to make a
24 commitment to perhaps what might end up being a condition
25 to retrofit, I understand that. But it would seem to me

1 that as a gesture at least of goodwill, it might be really
2 important to say that, yes, we certainly would consider any
3 alternative that would diminish the visual impact of the
4 lighting that was technologically available and financially
5 feasible. I mean, it just seems to me that -- I mean, a
6 great number of people have raised substantial concerns
7 about this lighting, it's a major issue. And I would
8 certainly hope -- and knowing your record, I would assume
9 that First Wind would openly embrace this opportunity if it
10 was feasible.

11 MR. KIELY: And I -- again, I'm not prepared to kind of
12 answer on what would be a policy answer for the company on
13 embracing this technology on a retrofit. So I will
14 certainly -- we will take that under advisement and come
15 back to the Commission, but I certainly understand where
16 you're coming from in that perspective. And the goal --
17 the mutual goal that we all have is reducing impacts to
18 these projects. I agree with you.

19 MR. LAVERTY: Thank you. Mr. Raphael, back to the --
20 the visual impact assessment, I'm trying to get some
21 numbers straight. I'm a little -- I'm a little confused.
22 There seems to be some contradiction about how many areas
23 of state and national significance we're assessing and how
24 many we're not. My understanding is that there's a general
25 agreement within the 8-mile distance, which is what

1 circumference -- within a distance of 8 miles from the
2 project, that is the statutorily required area of
3 assessment, that there are 14 resources of state or scenic
4 significance, that people pretty much agree on that.

5 MR. RAPHAEL: Yes.

6 MR. LAVERTY: Well, then there are six that apparently
7 are removed from the assessment because there is no visual
8 impact -- there's a general agreement there's no visual
9 impact, and there remains eight that are actually assessed;
10 is that correct?

11 MR. RAPHAEL: They're not necessarily removed because
12 there's no visual impact, they're removed because they're
13 not outstanding or -- they're not outstanding or
14 significant lakes.

15 MR. LAVERTY: So then there aren't 14 resources of
16 state or national significance?

17 MR. RAPHAEL: Yes, there are.

18 MR. LAVERTY: There are?

19 MR. RAPHAEL: Yes.

20 MR. LAVERTY: And these lakes are, in fact, of state
21 and national significance?

22 MR. RAPHAEL: Yes.

23 MR. LAVERTY: Then why aren't they being assessed?

24 MR. RAPHAEL: Well, they were assessed. We looked at
25 these lakes and --

1 MR. LAVERTY: And the conclusion was?

2 MR. RAPHAEL: Excuse me?

3 MR. LAVERTY: And the conclusion was?

4 MR. RAPHAEL: The conclusion was those lakes either
5 were outside or -- you know, only a tip of them or a
6 portion of them were within the 8-mile radius, number one,
7 or they had no visibility whatsoever in the case of West
8 Musquash or the congregational church, there was no
9 visibility whatsoever.

10 MR. LAVERTY: So the areas that we're focussing on are
11 eight --

12 MR. RAPHAEL: Yes.

13 MR. LAVERTY: -- and they happen to be lakes; is that
14 correct?

15 MR. RAPHAEL: Yes. And that's the charge of the Act to
16 do so.

17 MR. LAVERTY: All right. Now, my first question is,
18 last night Representative Cathy Johnson from Natural
19 Resources Council of Maine suggested strongly that there
20 was another, that there was at least a ninth. And that was
21 -- and, again, forgive me, I don't recall the testimony off
22 the top of my head -- but a bay or a portion of Grand Lake
23 Stream -- of Grand Lake that was a bay or a cove, I'm not
24 sure exactly what it was, and that that needed to be
25 considered in the assessment. Do you agree with that,

1 disagree with that?

2 MR. RAPHAEL: Well, I don't necessarily. And we were
3 -- we were checking on that. We don't believe that portion
4 of the lake is -- it's called Pug Lake and there are
5 actually three lakes called Pug Lake in the project area.
6 And none of them, we believe, are either considered
7 outstanding or significant. They are on the list of the
8 great ponds, but they are not considered -- Pug Lake is on
9 that list, but it's not considered outstanding or
10 significant.

11 MR. LAVERTY: And is it your understanding that our
12 consultant, Jim Palmer, agrees with you?

13 MR. RAPHAEL: Because this came up last night, I don't
14 know that.

15 MR. LAVERTY: Okay. Well, I mean, I'm just trying to
16 get it clear in my head. Either it is or it isn't. And I
17 -- I mean, it seems to me that before we leave here today
18 or at some point we need to clarify that.

19 Second is that she testified that -- and, again, I want
20 to be able to talk to Jim Palmer about this -- as I recall,
21 she said that she agreed with the assessment of Jim Palmer
22 that you had substantially underrated -- underestimated the
23 visual impact on two particular resources, one being Duck
24 Lake and one being Keg Lake. Do you recall that testimony
25 last night?

1 MR. RAPHAEL: I do.

2 MR. LAVERTY: Would you respond to that please? Do you
3 have any response to that?

4 MR. RAPHAEL: Well, I think we -- again, I'd have to --
5 you know, if we look at the analysis and the factors that
6 we consider in that analysis, which includes, you know, the
7 level of use of the lake, the development on those lakes,
8 the extent of visibility, we came to a different
9 conclusion.

10 I think if you look at Mr. Palmer's review and our
11 review of that analysis, there's -- we don't differ greatly
12 in our assessment qualities, we may differ slightly in the
13 conclusion we reached. And the reason for that is that
14 while we look at these lakes from sort of a numerical or
15 sort of a quantitative-type of analysis, how many turbines
16 do you see from the lake, how extensive is that visibility,
17 we also factor in a number of other kinds of qualitative
18 considerations including how prominent is the lake in the
19 user's mind, what's the nature of shoreline development,
20 things of that nature. And I think when we took that into
21 account, we came to the conclusion we did.

22 MR. LAVERTY: Okay. Thank you. And, Mr. Palmer, I'm
23 assuming that you may have -- maybe want to respond to this
24 in questioning, but, obviously, I'd be interested -- I'd be
25 interested in your response. You were -- your pre-filed

1 testimony was characterized as stating that you believed
2 that the visual assessment for Duck Lake and Keg Lake were
3 understated. Is that correct?

4 MR. PALMER: I would say that, yes, I think that they
5 are a little -- a little more severe. I don't think that
6 they reach the threshold of unreasonable, but, I mean, I
7 think I did evaluate them as more severe, yes.

8 MR. LAVERTY: Could you just quickly address the issue
9 of the potential ninth area of statewide and national
10 significance?

11 MR. PALMER: As far as I can tell, there isn't a
12 separate -- what's called Pug Lake is part of the larger
13 lake as represented last night. I missed that, so I have
14 not had an opportunity to go back and look at that in
15 detail.

16 Part of the problem is there's a whole bunch of Pug
17 lakes in this area, there's at least three. The two that I
18 was focussing on are not -- they're further north -- within
19 the area, but further north and they're not scenically
20 significant lakes. So, I mean, it could be that it slipped
21 through a crack, I have not been able to really look in
22 detail either.

23 MR. LAVERTY: Again, I'm making no assertions one way
24 -- I'm just trying to get the facts, you know.

25 MR. PALMER: I would agree.

1 MR. LAVERTY: If in fact -- if it was determined that a
2 portion of Grand Lake did fall within the 8 miles and was
3 considered a resource of state and national significance,
4 in your view should it have been or should it be evaluated
5 in terms of the VIA.

6 MR. PALMER: Yes, of course, it should and we should
7 get a simulation from it. But I don't expect it to be
8 particularly different than the other simulations that we
9 have that are, say, 7 miles from the project. I don't know
10 how many turbines would be visible and, you know, what
11 portions, but it's going to be of the same kind of caliber
12 as other projects that we've seen, not -- not the kind of
13 impact even from Pleasant Lake or Junior Lake.

14 MR. LAVERTY: Right. Well, I'm just trying to clear up
15 the record. I mean, how many are we looking at, how many
16 have been assessed? I mean, it may be that --

17 MR. PALMER: Yeah, it's a lot of lakes.

18 MR. LAVERTY: This goes into the -- into the pot for
19 assessment, but then is immediately determined to be in the
20 company of the six that were not evaluated because there
21 are no visual impacts. I'm not -- I'm not making a
22 judgment as to that, I just want to know, how many are we
23 dealing with?

24 Do you agree that the ratings were -- for Duck Lake and
25 Keg Lake were understated irrespective of the ultimate

1 impact? I just want to make sure we've got some agreement
2 here about what's going on.

3 MR. PALMER: My judgment was that the impacts were a
4 little more severe than LandWorks judged, that's correct.
5 And if in fact this Pug Lake is considered part of West
6 Grand, then perhaps it should have been evaluated and
7 wasn't. And that might be a ninth lake that has some
8 visibility, but I have not been able to go back --

9 MR. LAVERTY: And just so I'm clear in my mind, you go
10 on to say that: Although the assessment of Duck Lake and
11 Keg Lake may have been underrated, in your view they do not
12 rise to the level -- the impacts do not rise to the level
13 of being unreasonable impacts?

14 MR. PALMER: That's correct.

15 MR. LAVERTY: Okay. Thank you.

16 MR. RAPHAEL: Commissioner, if I may, just to clarify
17 one other thing and to Mr. Palmer's comment, two out of the
18 three so designated Pug Lakes have absolutely no visibility
19 of the project, number one. And, number two, if Pug Lake
20 in the end of West Grand Lake were to be considered, you
21 know, part of the mix -- and we did look at it; I mean, our
22 viewshed analysis takes that into account -- it's only
23 about a mile and a half of that far little bay portion of
24 it and, you know, the visibility tends to be relatively
25 limited, all things being considered. As you go closer to

1 the shoreline, you see fewer and fewer turbines in that
2 instance based on the viewshed analysis. And then closer
3 into the shoreline, no visibility at all.

4 MS. HILTON: I'm going to jump in here. One thing that
5 we're doing -- and I just want to note this -- is we're
6 talking about -- we're really jumping into the discussion
7 about visual and scenic aspects here. And I think, Jeff,
8 you were going to talk about conservation; is that right?

9 MR. SELSER: Yes.

10 MS. HILTON: Okay. What I'm thinking might flow best
11 here is if we continue our questions on the part of the
12 commissioners and staff with respect to the scenic
13 resources and once we sort of get through that, we go back
14 and then we jump into the conservation. I don't know that
15 you had a lot of time left, but -- okay.

16 Does that sound like that will work for you folks?

17 MS. BROWNE: I would suggest that Joy Prescott of
18 Stantec come up for your questions on scenic lake
19 designation and the --.

20 MS. HILTON: Okay. Is that okay with you, everybody?
21 Just because we're into this discussion and I'm --

22 MS. BROWNE: I think that makes good sense.

23 MS. HILTON: Okay. So why don't we keep going on the
24 scenic. If you have more questions -- you have a question
25 you want to --

1 MR. HAMMOND: Well, just one more comment. Going back
2 to my previous, we have a meeting in July?

3 MS. HILTON: Yeah, the first Wednesday of July.

4 MR. HAMMOND: The first Wednesday of July where this is
5 going to be continued and, perhaps, you would be willing to
6 come back with a statement of what your company would or
7 would not consider --.

8 (A discussion was held off the record.)

9 MR. HAMMOND: I just asked if -- we have a meeting in
10 July which reopens this issue and it would give you time to
11 talk to whomever you need and see what kind of a statement
12 or what kind of a commitment that you might or may not be
13 willing to make regarding the -- mitigating the night
14 lighting.

15 MS. BROWNE: I've also asked Matt Kearns from First
16 Wind to come up, he's on that panel. He wasn't up here
17 originally because he wasn't giving a summary. So he may
18 be able to respond to that as well.

19 MR. KEARNS: Commissioners, good day. I do -- we would
20 be pleased to review the technologies available to us.
21 We've been talking about -- we've actually -- when we went
22 to AWEA, the American Wind Energy Association, meeting, we
23 met with a number of vendors that manufacture kind of
24 narrow spectrum lighting. We're continuously evaluating
25 the technology all toward the end of minimizing the

1 viewable spectrum in a manner that would be acceptable to
2 the FAA. But, you know, you -- you clearly recognize the
3 position that we're in sort of balancing between the need
4 to fix the -- you know, decide what the technology is going
5 to be as part of the application, that we then finance the
6 project, build the project, and as Neil mentioned, you
7 know, the notion of making changes later is very -- that's
8 very difficult for us.

9 So we would commit to evaluating all available
10 technology today and come back and present that to you, if
11 that's acceptable.

12 MR. HAMMOND: Yeah, I guess my thoughts on that would
13 be that you've already evaluated them and there isn't
14 anything there that's going to help. It would be
15 disappointing to me if this became a usable and
16 economically feasible system in the next few months or the
17 next year on -- this is a 20-year project, that we couldn't
18 revisit that and certainly will weigh on my decision.

19 MR. KEARNS: Understood. We will take a very hard look
20 and come back to you with our information. I appreciate
21 it. Thank you.

22 MS. HILTON: I have a few questions, but I don't want
23 to take us off in a whole different direction if you have
24 more --.

25 MR. TODD: Just to flesh out the -- the record on the

1 issue of the lake that Cathy Johnson mentioned last night,
2 I wasn't here for her testimony, but I think I know the
3 lake she's talking about. And I haven't had a chance to
4 dig back into the files, but I was around for the lakes
5 assessment. And one of the difficulties we had is when you
6 have a large chain of lakes like this area or like the
7 Pemadumcook chain of lakes around Millinocket is you have
8 all these bays and at what point does one of those bays
9 become a distinct lake in itself and should be evaluated
10 separately? And what we used in our evaluation to make
11 that determination was whether or not that bay was managed
12 separately for fisheries purposes by Inland Fisheries &
13 Wildlife.

14 And the example that comes to mind right now is -- it's
15 not in this area, it's Mooselookmeguntic up in Rangeley
16 area and Caribou Lake. And if you look at a map you would
17 think that's all one lake, but in fact they manage it
18 separately for fisheries purposes. So we rated it
19 separately for all of its characteristics including its
20 scenic value.

21 So what I need to do is go back into the file and
22 figure out whether this particular bay -- if I'm
23 identifying the appropriate one, is that part of Junior
24 Bay, is it part of West Grand Lake? I don't -- I can't
25 say. But if it was -- if we find it was managed separately

1 for fisheries and wildlife, then we'd look at what was its
2 scenic rating. And if it was of outstanding or significant
3 scenic value, then it would indeed be part of the groups of
4 lakes that we would evaluate in this project. But I don't
5 have the information at hand to make that finding.

6 MS. PRESCOTT: And if I can just add to that that our
7 -- I certainly don't have the context of Fred from having
8 worked on the original piece, but --

9 MR. LAVERTY: Excuse me.

10 THE REPORTER: Could you state your name, please.

11 MS. PRESCOTT: Sorry. Joy Prescott, Stantec. Our
12 understanding was similar to what Jim said, that we heard
13 Cathy Johnson's statement last night, we tried to look at
14 it and realized that there were multiple Pug Lakes and we
15 wanted to make sure we had all the information necessary.
16 So I think we're in the same place as Jim, that we want to
17 understand it and certainly bring it forward if there is --
18 if it is found that based on what Fred and Jim and -- going
19 back to the documents -- and part of it is that there is a
20 long list of documents. We have internally created our own
21 map, but there's not a specific map. So it's sort of you
22 look at the DeLorme, you look at maps, you compare that
23 with the resources, check against the lake IDs and
24 understand that.

25 So I think that Jim and LandWorks and Stantec need to

1 look at that and make sure we have the correct information
2 and certainly bring it forward.

3 MR. LAVERTY: Well, Cathy presented an exhibit last
4 night and her testimony was based on that exhibit. And
5 that exhibit, at least to me from this distance, clearly
6 identified the area in question. So I think -- which Pug
7 Lake, I think, could be clearly cleared up by referencing
8 that exhibit.

9 MS. PRESCOTT: Part of it is that in the Maine
10 wildlands assessment that's a list that has a specific lake
11 ID. So we need to just --

12 MR. LAVERTY: Oh, I see what you --. Not just where it
13 is, but what is it officially designated as for
14 classification --?

15 MS. PRESCOTT: Right.

16 MR. LAVERTY: Okay. I gotcha.

17 MS. PRESCOTT: And that's what we want to make sure we
18 crosscheck rather than stating it now without all of us
19 having looked and specifically crosschecked this lake ID
20 goes to this Pug Lake in this location rather than this Pug
21 Lake in this location. So I think we certainly will do
22 that, but have not had a chance to compare her exhibits
23 with our exhibits and make sure we have exactly the right
24 information.

25 And as to David's point, certainly if it turns out that

1 it is, then I think we're all in agreement that absolutely
2 it should be included and evaluated as part of the VIA. So
3 we'll certainly look at that as soon as possible and
4 consult with Fred and Jim to get that information.

5 MR. HAMMOND: My notes, although not always accurate,
6 reflect that she was referring to Junior Bay, so that
7 should narrow it down some in scope. And if that doesn't,
8 she can.

9 MR. LAVERTY: I wanted to pursue another slightly
10 different line with regard to scenic impacts. Is it
11 appropriate to do that?

12 MS. HILTON: Sure. Go ahead.

13 MR. LAVERTY: And this would be David Raphael again.
14 And, again, Cathy Johnson raised the issue -- and I don't
15 want to use -- well, I'm going to use it, probably
16 inappropriately, but the cumulative impact of scenic -- of
17 -- the impact of turbines on a particular canoe trail.
18 And the suggestion was that if you take these impacts
19 individually based on specific resources, you may come to
20 one conclusion, but if you realize that there is an
21 experience going on that continues through a series of
22 scenic views, that that may have a different type of impact
23 that may -- I think the implication was -- and I make no
24 judgment -- may rise to the level of unreasonable. Do you
25 have any comments on that?

1 MR. RAPHAEL: Well, I think -- I think the key point in
2 that regard is that my understanding is that there may be
3 two trips that are conducted that sort of do that long --
4 formally conducted and maybe others do it informally --
5 that conduct that sort of long route through the -- the
6 chain of lakes, if you will. But it's important to
7 remember that only a portion of the trip is through these
8 lakes in the project area within the 8 miles and that the
9 greater portion of the trip is outside of the project area
10 that we are charged to analyze and impact -- analyze the
11 impacts for.

12 You know, secondarily -- and, again, I don't want to
13 dwell on this too much, but, you know, I think some of the
14 trips are -- as she may have mentioned or others may have
15 mentioned last night -- you know, are youths going on the
16 canoe trips and being led on those trips. And, you know,
17 the youth of our country are growing up with the notion
18 that wind energy is part of the picture, it's not something
19 we have a choice about.

20 This is something that's confirmed -- I'm also on the
21 facility at the University of Vermont where I teach every
22 year. And I query my students every year about what do
23 they think about wind, what do they think about wind if
24 they saw it in the green mountains or on a lake. And
25 almost two to one they are very more accepting, they don't

1 see that as an impediment to their enjoyment.

2 So the key there is if you see the project for a
3 portion of that trip, which is only, you know, a portion of
4 the overall trip, would that deter or unreasonably affect
5 the experience of those canoeists or paddlers? And we
6 could come to the conclusion -- we came to the conclusion
7 that it would not be unreasonable.

8 MR. LAVERTY: A very good answer, but it wasn't really
9 what I was asking.

10 MR. RAPHAEL: Okay. Then I -- maybe I miss --

11 MR. LAVERTY: I wasn't asking whether or not the impact
12 was important or unimportant to children who may be taking
13 canoe trips. My question was about a way of -- does this
14 create a cumulative visual impact that might need
15 assessment as compared to the visual impact that's
16 undertaken with regard to sort of a snapshot of each
17 individual resource? And her argument, it seemed to me --
18 now, I -- she's certainly capable of representing herself
19 -- was that it isn't merely a matter of the impact to
20 individual resources of national or scenic significance,
21 it's that small impacts to numerous of those may have some
22 sort of cumulative impact. And I think the suggestion was
23 it might be unreasonable.

24 So, I mean, I'm getting at the cumulative impact issue,
25 not whether or not kids are going to grow up liking or not

1 liking wind turbines.

2 MR. RAPHAEL: I understand now what you were getting
3 at. Thank you. You know, I think, again, you'd have to
4 look at it from that experience of being on the lake. And
5 I would -- I would state that, you know, your views of the
6 project are going to be somewhat a function of the route
7 you take, how close you are to the shore. Oftentimes when
8 you're paddling -- these are big lakes. And as an
9 experienced paddler, I know that when the wind kicks up,
10 you don't -- if you're in a canoe, you don't want to be out
11 in the middle of these lakes, you've got to be along the
12 edges or off the water.

13 So people are going along the shoreline, they'll have
14 glimpses of the project. Cumulatively the experience of
15 that I do not believe will result in, you know, an increase
16 in the impact. You're going to come in and out of view,
17 you're going to be facing away from the view, you're going
18 to be along the shoreline for great extents where you'll
19 have no view. For example, when they go in -- if they
20 start in Bottle Lake or they come in and out of Bottle
21 Lake, as you saw yesterday, there's a whole stretch where
22 you go through Bottle Lake Stream where there's no view
23 whatsoever of the project.

24 So that's the kind of cumulative experience that I
25 think folks paddling will have. And I don't think it will

1 be so extensive in terms of the view, the presence of
2 turbines, where they are on the horizon line and how close
3 they are that will result in an unreasonable impact to
4 those users.

5 MR. LAVERTY: Thank you. Jim Palmer, do you agree with
6 that?

7 MR. PALMER: I don't know that we know enough about how
8 the cumulative impact is experienced to be able to say and
9 particularly with wind turbines. It may be that people
10 would relate to these as sort of landmarks to orient
11 themselves in the landscape as they're sort of weaving
12 around through these lakes. I just don't know. We'd have
13 to study it.

14 MR. LAVERTY: And, again, I want -- I want to be sure I
15 understand it. I mean, I understand that they're going to
16 be going past many more camps than they are turbines. I
17 understand that. So, I mean, there's some question about
18 the nature of that wilderness experience even without the
19 turbines. But I think it is an interesting question about
20 the cumulative impact of individual scenic impacts if one
21 is moving through the landscape, not just standing in one
22 particular place.

23 MR. PALMER: Yeah. No, I would agree -- I mean, the
24 only time that I can think of this -- a different, but sort
25 of simulative -- similar cumulative impact was there was a

1 proposal before DEP to put in a power line parallel to the
2 Stud Mill Road, but several miles off. And at that time I
3 was real concerned about the cumulative impact because
4 you'd hit bridges and stuff and then you'd hit -- you know,
5 a couple miles after you get back into your wilderness
6 feeling, you come across this incredible huge power line.
7 So I was recommending to put them together. But the -- the
8 difference there is that you're kind of going under and you
9 get surrounded by these things. The turbines aren't that
10 kind of experience, it's a back -- it's an out there
11 orientation.

12 And I don't know, I just don't know --. I can project
13 what I would think, but that's not always the best way.

14 MR. LAVERTY: Well, thank you for your frankness. I
15 appreciate it.

16 MS. HILTON: As usual, Ed, you were right on where I
17 was -- some of my thinking. And, actually, both of you.
18 So thank you for those questions.

19 I want to take it maybe just a little bit further. One
20 of the things that I -- well, there's a couple ways of
21 looking at this. One of the things I think that we all
22 know that everybody fears is that we don't know where it
23 all ends. You know, how -- how many turbines will there be
24 spread across the landscape.

25 And so I always like to ask questions like, when you --

1 I think it was you, Neil, that commented and said, the
2 closeout capacity on Line 56 will -- we will have arrived
3 at that with -- with this project. But that doesn't mean
4 that that line can't be upgraded and -- correct? But that
5 would take a considerable amount of additional capital to
6 do that?

7 MR. KEARNS: Commissioner, since I was the developer
8 responsible for putting together Line 56 and the Stetson
9 project, I thought it would be appropriate for me to
10 answer. So the way we thought about Line -- so-called Line
11 56, which is a 38-mile radial line that runs from the
12 Chester substation up to -- it's actually at Keene Road in
13 Chester -- runs up to the Stetson project, it has a -- it
14 is a radial 115 kilovolt line, it has a 200 megawatt
15 capacity. And we thought of it as kind of a backbone for
16 these projects and really an example of kind of, you know,
17 careful planning. It is a bit of an economic leap to
18 invest roughly \$30 million in an electrical backbone that
19 you then have to kind of fill up.

20 So the line has a 200 megawatt -- nominally 200
21 megawatt capacity, there's some line rating issues that
22 reduce that slightly. So the notion was we would sort of
23 pay that down effectively through the incremental addition
24 of each project. So Stetson was the anchor tenant, if you
25 will, for the generator lead and then with each project you

1 begin to cover the costs. So with the addition of the
2 Bowers project, that does in fact occupy the full
3 electrical capacity of that 115 line.

4 It is a radial line that sort of goes -- and by that I
5 mean it just goes one way. And it's a single purpose
6 entity that serves just our projects so we're not providing
7 transmission service to other entities. So it's really
8 done from our perspective. When we thought about
9 Stetson 1, Stetson 2, Rollins and Bowers, that's the plan.
10 So from our perspective -- from our business planning
11 perspective, from the electrical and design perspective,
12 that work is -- that work is done from our perspective. So
13 the 115 line is full.

14 If you wanted to make significant upgrades, it would be
15 tremendously extensive and you are kind of already at the
16 branch of the branch of the tree. And I can explain that
17 if you need me to.

18 MS. HILTON: Okay. That was very helpful. And my --
19 another question, I guess and this is for Roger and David.
20 What -- in your mind, where is the tipping point? You
21 know, I always try to think about, okay, at what point in
22 time would there be too many turbines such that it would
23 totally destroy the experience? And what would that be,
24 say -- I guess Baskahegan Lake is a good place for you to
25 comment on.

1 MR. MILLIKEN: Well, it's a -- a really interesting
2 question. I had not been exposed to the visual analysis
3 before this morning. I think this issue of how much of the
4 view it takes up, you know, are we looking at an angle
5 that's, you know, 15 or 20 degrees, are we looking at 180
6 degrees in the sense of are they looming over you and are
7 they surrounding you is a -- probably has a lot to do with
8 the tipping point.

9 But this -- I had to smile when I heard, you know, this
10 discussion about the visual impact and the cumulative
11 visual impact. At the Nature Conservancy meeting I was
12 just at, the lead scientist of the organization -- and, of
13 course, it's a kind of quasi science that we're talking
14 about with visual because we're trying to take a subjective
15 experience and quantify it. But the lead scientist said,
16 conservation is an art and science can inform that art.
17 And I think that's the situation you face. It's really an
18 art to feel how much is too much.

19 And my sense of looking at those, particularly the
20 analysis of how wide the view is on the lakes, would be a
21 key element. And the fact that they are in the distance
22 and it's a portion of the view -- and I think part of what
23 I do when I go to Baskahegan Lake these days is I'll stand
24 on the -- at the landing, I'll count the turbines to see if
25 I can get all 38 and usually I have to count, you know,

1 once or twice to find the ones that I've missed and then my
2 attention goes to the wave patterns and the, you know,
3 birch trees on the shore and the loons. And so it's a long
4 way from being overwhelming.

5 And I guess I can't quantify this, but, you know, when
6 it begins to feel overwhelming and to overwhelming define
7 my experience instead of being a feature on the landscape,
8 I would say a tipping point has been reached.

9 MS. HILTON: So, like, 50 turbines or --?

10 MR. MILLIKEN: Well, I think it's more about do I feel
11 dominated by them or not, rather than the number. Because
12 if there were 50 and they were all kind of lined up like
13 that, it would be more like one.

14 MS. HILTON: Okay. I gotcha. And I guess more
15 specifically to the project at hand, David, what would you
16 say would be a tipping point for you in this particular
17 project?

18 MR. RAPHAEL: Well, first of all, I think Mr. Milliken
19 was very eloquent in sort of describing that situation and
20 the fact that it is indeed an art and a science. And I
21 think that's really the challenge of undertaking this kind
22 of work. And it's never easy to -- to assess the visual
23 impact let alone, you know, what the threshold would be for
24 cumulative.

25 However, I think, you know, it's kind of like you would

1 know it when you see it type of thing. But I think I would
2 -- I would defer to some of the comments that Mr. Palmer
3 has made in terms of that notion of, you know, surrounding
4 you. If we were on these lakes and there was no escape
5 from the view, if everywhere you looked there were
6 turbines, that would be too many, that would be too much.
7 I think if you were on a small lake and, you know, you had
8 turbines really close to that lake, you know, less than a
9 mile or a mile and -- and they were surrounding you on two
10 sides rather than all four sides or 360, that might, you
11 know, seem -- depending on the view.

12 So, I mean, there are a lot of factors that would come
13 into play. Mr. Milliken's point, for example, about the
14 long array of turbines is really well taken because I was
15 at Baskahegan Lake and indeed you look at it as a unit. So
16 it also might depend on the placement of the turbines, the
17 array, is it a jumble, you know, do you see some near, some
18 far so, therefore, there's actually discordance between the
19 placement of the turbines.

20 And Wind Power in View, which is a book I've often
21 referred to, probably the most comprehensive book, you
22 know, about wind energy and aesthetics that's been, you
23 know, published thus far talks about the notion of the
24 layout having a relationship to, you know, whether you see
25 these as a unit or in harmony or disharmonious. So that

1 if, again, you have a jumble of turbines everywhere, that
2 would obviously be a cumulative impact that might be
3 untoward.

4 One last point is that -- and where has this come to
5 roost? There was a project very recently in Vermont that
6 proposed a series of turbines on a number of ridges in a
7 whole region; it wasn't just one ridge, it wasn't just one
8 kind of line of turbines, but it was a number of ridges
9 with a number of turbines with valleys in between. And
10 there was a sense in just looking at it on paper that there
11 would be too many and that there would be -- you know, if
12 you looked in one direction, you couldn't look away in
13 another direction without seeing more turbines.

14 So I think, you know, this notion of being surrounded
15 by the turbines really would be one element that might
16 result in a cumulative impact that was unreasonable. It
17 might also just have to do with the nature of the layout
18 and having several projects in a region, different projects
19 where you could see them all at once. And that also might
20 reach that threshold. But I think that's a very good
21 question and a challenging one at that.

22 MR. FARRAND: Can you refresh my memory, because in
23 this context I'm thinking of the Scraggly Lake skein of
24 turbines. What's the -- what's the cone of visualization
25 there? Because I'm scanning through the various files that

1 I have and it doesn't come to mind. But there -- what did
2 we say, there are 23 out of the 27 that are visible in that
3 --

4 MR. RAPHAEL: That was a 41-degree cone of vision. So
5 you were -- you were sitting in that simulation location
6 and if you -- if you took your eyesight and kind of took
7 two lines to where the beginning and the end of the array
8 was --

9 MR. FARRAND: It's 41?

10 MR. RAPHAEL: Yes.

11 MR. FARRAND: So that's a pretty long string of --
12 string of turbines. And that's -- I think that's the only
13 lake that I recall where it's that extensive.

14 MR. RAPHAEL: Correct. Pleasant Lake is about the
15 same. Shaw Lake might -- I don't have that number in front
16 of me, but that might be a little bit wider, it might be
17 close to 50, 45 degrees.

18 MS. HILTON: I'm going to -- I have one more --
19 probably more observation than question. With respect to
20 the lighting issue which we discussed earlier and -- this
21 cumulative impacts related to the lighting, I think, is
22 huge. And I guess I just want to say that I'm concerned
23 about that particular -- you know, we haven't really delved
24 into that I don't think, but I -- I would like to see us at
25 least begin to address the lighting issue as has been

1 suggested here.

2 So I will ask, does anybody else -- any of the other
3 commissioners have any more questions on the scenic that we
4 --?

5 MR. LAVERTY: I just have one. Going back to this
6 notion of feeling surrounded or -- I forget the other term,
7 dominated, whatever it's called, okay. Several people last
8 night, citizens of Lincoln, expressed concerns that seemed
9 to touch on that, but in a way that we haven't really
10 discussed or hasn't been addressed here. And that is, I
11 mean, when we -- when I first came here for Stetson 1 and
12 we went up and did the site visit and all of that and then
13 we come back today and do another site visit, it's
14 extraordinary to go through downtown Lincoln and see the
15 development at the east end of the lake, both at day and at
16 night, to drive down Route 6 and to see, you know, all
17 along that the indications of wind power.

18 And one begins to get the sense that this is a real
19 wind power corridor, that wind power is beginning to at
20 least -- maybe perhaps it's new, but at least it's
21 beginning to get people's attention as sort of everywhere
22 around here. I'm not suggesting that's good or bad.

23 My father used to take me up to see Ripogenus Dam all
24 the time and tell me what a great feat -- you know, human
25 feat it was to do that and we should be so proud of

1 ourselves as Americans for having accomplished that, it
2 indicated we were forward thinking, the application of our
3 technology. You know, so I'm not suggesting that in and of
4 itself that's necessarily bad, but in terms of this sense
5 -- rather than it be an individual project, but the
6 cumulative -- I suppose it's a cumulative impact of
7 projects in a particular location that begins to define
8 that location, you know, as a wind power area, that seems
9 to have -- to some people has this sense of beginning to
10 say we're hemmed in, we're overwhelmed with the project.

11 MR. MILLIKEN: Yeah, I think that's a really
12 interesting perspective, Commissioner Lavery. And I, you
13 know, travel back and forth regularly. What strikes me, if
14 I were sitting on your side of the table looking at the
15 whole unorganized territory in your care, to me it's like
16 cluster development and, you know, there's sprawl -- a
17 choice between sprawl and cluster development.

18 And so as it turns out, First Wind has focused on areas
19 of low elevation to avoid endangered species, to avoid
20 people, to avoid dramatic scenic impact. And so from a
21 statewide perspective, even though I'm a landowner here, it
22 makes sense to me that this would be the place that wind
23 energy infrastructure would be concentrated instead of
24 along the high peaks or in view of the Appalachian Trail or
25 other places.

1 So I think you're right, it is beginning to define this
2 region. But looking statewide, if we were to pick a region
3 that ought to be defined by wind, I think this is one of
4 them.

5 MR. RAPHAEL: I guess I would also add to that point a
6 couple things. One is that, you know, it's important to
7 remember that when you're on these lakes that we're talking
8 about today you're not going to see Stetson, you're not
9 going to see Rollins from any of these lakes. So you won't
10 have that sort of sense of sort of cumulative impact in
11 that regard, number one.

12 Number two, you know, the view from Route 6 is a very
13 distinct view in the sense that, you know, you come in and
14 out of glimpses. But I was struck -- to your point about
15 seeing it from Lincoln, I went down to the park yesterday,
16 you know, and -- and, again, not to overstate this, but the
17 park was packed, people were having fun, they were
18 swimming, they were playing volleyball, they were doing all
19 kinds of things. The wind turbines were right out there
20 and, you know, life goes on and it didn't -- you know, if
21 we were to say impact to enjoyment, they seemed to be
22 enjoying themselves, you know, quite readily in full view
23 of the wind projects.

24 MS. HILTON: I'm not sure. Staff? Go ahead, whoever.

25 MR. TODD: Are we sticking solely on scenic for the

1 time being?

2 MS. HILTON: I think so.

3 MR. TODD: All right. I'm going to let Jim take over.
4 But I have one question just to be sure Jim does -- in case
5 he doesn't cover it. David, in your testimony you
6 mentioned a number of studies of recreationists and their
7 views on the impact of wind power on their experience.
8 Were any of those studies of canoeists?

9 MR. RAPHAEL: Well, I think the Baskahegan study
10 probably took into account folks who were using canoes and
11 paddlers, yes.

12 MR. TODD: And other than that study?

13 MR. RAPHAEL: Not off the top of my head I don't
14 recollect that canoeists specifically were interviewed.
15 You know, again, when the -- when Portland Research Group,
16 you know, conducted the surveys for this project, you know,
17 I would think -- and I'd have to go look back at the data,
18 but I would imagine some of those folks were would-be
19 paddlers or canoeists, but I would have to confirm that.

20 MR. TODD: Okay. Thank you.

21 MR. PALMER: How long do I have?

22 MS. HILTON: Well, we do have to take a break in about
23 five minutes. So that's your first and we'll see where
24 we're at. How is that?

25 MR. PALMER: That sounds good. So I do have a series

1 of questions, obviously, on scenic.

2 MR. RAPHAEL: Sure.

3 MR. PALMER: On your pre-filed -- and I'll try to
4 clarify where I'm picking up these quotes that I'm going to
5 read -- in your pre-filed rebuttal testimony on the first
6 page you're talking about the Lawrence study. And one of
7 the things -- you're critiquing that you say, quote,
8 specifically this testimony addresses the following
9 issues -- meaning your testimony addresses these issues
10 about the Lawrence study -- the Lawrence report lacks an
11 objective quantifiable data and analysis which undercuts
12 the report's usefulness as a means for assessing the
13 project's compliance with regulatory standards. You
14 recognize that?

15 MR. RAPHAEL: Yes.

16 MR. NADEAU: And then at the bottom of Page 9 you say
17 -- you're summarizing: In short, the Lawrence report fails
18 to create a substantive, analytic objective case that the
19 project will result in an unreasonable adverse effect on
20 the scenic character of the project area for the following
21 reasons. And then you start listing reasons. I won't go
22 into those, I don't think that's really important, though,
23 I could if you'd like. So you recognize these statements.

24 What I'm interested in is sort of the commitment of
25 LandWorks to trying to get at the data-driven objective

1 process to the extent possible.

2 MR. RAPHAEL: Good question. You know, I think the
3 basis for that, you know, has to do in part with some of
4 the technical analysis that we do and how we really look
5 at, for example, viewsheds and, you know, the extent of
6 visibility and the number of turbines that are visible. We
7 try to look at, you know, fact based, you know, the
8 surveys, that do provide data. So we -- we reviewed a
9 whole range of intercept surveys for this project as well
10 as the work that was done specifically for this project.

11 You know, we -- we really do try to use, you know,
12 objective analyses techniques, you know, to the extent that
13 they have been developed and are continuing to be refined
14 in this -- in this arena of work. And I think it's really
15 important to base your -- you know, base your analysis on
16 those kinds of sort of objective assessments of where you
17 can see the project from, how far, the extent of that
18 visibility.

19 For example, if we're -- if we're on a scenic road,
20 will -- to the extent that we have a technical analysis,
21 we'll assess those points along that scenic road where
22 you're going to see the project and for how long you're
23 going to see the project. So we have, you know, a real
24 sense of the extent of visibility. And, in fact, when we
25 were looking at the Rollins project a couple years ago,

1 even though it wasn't part of our charge necessarily, we
2 did go up and down Route 6, we did go up to Winn and to
3 Springfield to really get a sense of how widespread would
4 this project be visible. So that's our point of departure.

5 You know, I appreciated Mr. Lawrence's, you know, sort
6 of eloquence in part with regard to his feel for these
7 lakes. My sense was that it was focused more towards Grand
8 Lake Stream than specifically to these lakes. And while
9 his observations and conclusions, you know, are his own and
10 certainly he's entitled to them, I felt it lacked the rigor
11 of analysis that we are compelled to go through under the
12 provisions of the Act.

13 MR. NADEAU: So -- but it sounds to me like you would
14 say, where we could find ways that are relevant, we should
15 be trying to do these kind of measurements and you can
16 measure qualitative things, too. So, for instance, it
17 would be helpful if we could figure out some way to measure
18 something analogous to what you were talking about, the
19 exposure as you're going down a scenic road. And the
20 problem is we don't know where people are on these lakes so
21 it's really hard to do that. So we're lacking some
22 information.

23 But as an objective, a goal, you would agree that
24 that's where scenic assessment should be going if possible?

25 MR. RAPHAEL: Absolutely. Absolutely. Because that

1 will help us all because it will give us better tools with
2 which to really understand the full breadth of this
3 project. I think we're all -- I mean, I think those of us
4 who are involved in this field of study, like yourself, I
5 think we're -- we're looking for -- we're constantly trying
6 to improve our tools and our understanding of how to use
7 them.

8 MR. PALMER: So I'd refer back to your comment about
9 the chief conservationist that actually you would be amazed
10 at how reliable scenic assessments are, that the statistics
11 would put anyone doing a timber cruise to shame. It may be
12 qualitative, but it's actually pretty amazing. Compared to
13 most social science, it is way out there in terms of
14 reliability and validity.

15 On the other hand, I also agree that there is some art
16 and skill and interpretation involved, we don't always
17 agree, just as there is in good conservation planning, it's
18 not just science. And it's evolving and developing, we
19 don't have the perfect answers yet.

20 So I -- I think I just wanted to make sure that
21 LandWorks and I were in agreement with that. There's more
22 development to be done, but there's actually a whole lot
23 that's already known and it doesn't need to just be all
24 professional-based stuff. Just like we wouldn't send out
25 somebody to go look at bat habitat and say, yeah, this is

1 pretty good bat habitat and not do studies for a couple
2 years like you're forced to do. I don't see any reason why
3 that would be true for the scenic stuff either.

4 MR. RAPHAEL: Yeah, and I think just to.

5 MS. HILTON: Can I just jump in here? This sounds like
6 a great conversation and I'm sure you guys could go on and
7 on, but Angie over here needs a break. So why don't we
8 pick up on this when we come back. And we need to be back
9 here in about ten minutes.

10 (Whereupon a recess was held at 10:09 a.m., and the
11 hearing was resumed at 10:28 a.m. this date.)

12 MS. HILTON: Okay. Here's what we'd like to do. Jim
13 Palmer has a few -- wants to continue the questioning on
14 the scenic impacts and I know Fred has a few questions and
15 I -- well, actually, we'll finish up the scenic impacts and
16 then I think we need to give Jeff some time to talk about
17 conservation. And then we do have other more general
18 questions with respect to the project that we haven't even
19 touched on yet, so --. Go ahead, Jim.

20 MR. PALMER: So I'll keep going. So I -- I'll let you
21 know a little bit about where I'm going first. I'm going
22 to talk some about the survey stuff. In our experience --
23 your experience, but our experience, the evaluation of
24 scenic quality is going to get affected by things like how
25 many turbines we can see, how big the turbines are, you

1 know, the horizontal angle that the project occupies, all
2 those kinds of things. And you agree with that?

3 MR. RAPHAEL: Yes.

4 MR. PALMER: Okay. So I'll admit that I was in on the
5 planning of the telephone survey, I won't lay all that
6 responsibility on you. You know, I thought it was an
7 experience well worth trying. But in retrospect, the
8 responses don't make sense to me when they're saying what
9 they think the scenic impact is going to be because they
10 have no idea what they're actually going to look like, they
11 don't have any visuals that are accurate.

12 So they may be imagining Mars Hill or they may be
13 imagining offshore turbines in Scotland. We have
14 absolutely no idea what they're imagining, but we know that
15 specific locations make all the difference in the world and
16 we know that the Wind Act only cares about specific
17 locations. So, like, Route 6 is irrelevant even if we
18 wanted to evaluate that.

19 So I guess I'm asking for your agreement that probably
20 our experiment -- not the survey itself, but a visual
21 impact -- a scenic impact assessment without
22 visualizations, a survey of that doesn't make sense, you've
23 got to have visualizations. And I would like your opinion
24 about that.

25 MR. RAPHAEL: Well, I wouldn't -- well, first of all, I

1 might let Bruce speak a little bit to the survey and its
2 efficacy and purpose. But let me just preface that by
3 saying, I don't necessarily agree with you that it doesn't
4 make sense. I think -- my feeling is that the more
5 information that we can have, the better, number one.

6 Number two, while I agree with you unequivocally that
7 when you're on a mountaintop or you're at a very specific
8 advantage point and you give someone a visual simulation,
9 they'll have a better idea of yes or no, whether they're
10 looking at something they can accommodate or they're
11 looking at something they will find offensive. I think
12 it's a lot more difficult in lakes because lakes have so
13 many different advantage points.

14 And, actually, Bruce and I were just talking about
15 that. How would you get at that because --. We were
16 talking about bass fishing. I mean, bass fishermen are on
17 the shorelines, they're close into shore where they're
18 going to be less likely to be focused on a long distance
19 view to a turbine, you know, taking up part of the horizon
20 line. So that -- you know, while I agree unequivocally
21 that when you're talking with a very specific advantage
22 point that lots of people frequent like a scenic
23 mountaintop with extensive views that include a project,
24 that's where -- that's where a visual simulation makes all
25 the sense in the world, is really the only way to go.

1 But I think on lakes you're going to have views of the
2 project and you're going to have views without the project
3 in view. And how do you get at that, you know, reaction,
4 how do you really assess -- again, we were talking about
5 this. When people paddle, unless they're fishing for
6 something specific in the middle of the lake and the
7 conditions are propitious for that, there -- you know, I go
8 from Point A to Point B. I go -- I get into my boat,
9 whether it's a canoe or a kayak, and I'm going to a point
10 maybe for lunch or something. And I think a lot of
11 paddlers are like that. We've talked about the boat -- the
12 paddle tours, for example.

13 So that's why I think it's a little bit more
14 challenging to, you know, have one intercept survey at a
15 Pleasant Lake boat launch and assume that's the visual
16 impact and show them a visual simulation and that's what
17 they're going to get because they're going to get a lot
18 more than that in many of these lakes.

19 MR. NADEAU: But you're assuming that I'm saying it
20 should be an intercept survey. I'm not. I'm just saying
21 that they have to have visualization. So I could see, for
22 instance, that what we do is give an iPad to people at the
23 beginning of their trip, assuming they're going to come
24 back, and that at 100 different places on their trip they
25 get a beep and the simulation pops up and so they get

1 information about what the relative scale is going to be
2 and they evaluate that.

3 You know, that -- there are marketing surveys that
4 would -- they're not using I-pads, but use that kind of
5 information --. All I'm doing is saying that it's a
6 complicated experience and we know it changes by location
7 and so the visualizations are important -- not that we --
8 that the previous studies would have captured it either. I
9 mean, that's why we haven't done anything on water is
10 because nobody could figure out an easy way to do it.

11 It's really that visualizations are important to doing
12 a scenic assessment. Yeah, I wouldn't argue with that
13 overly except to say that I think in the case of the
14 telephone survey, and in some instances with regard to
15 wind, you know, I think people either get it or they don't.
16 In other words, I think they either -- there's increasing
17 awareness and knowledge of what wind turbines look like and
18 what wind projects look like in Maine. So I think there is
19 some basis for asking people, as we've done in Maine and
20 Vermont and other places, whether if you saw wind power on
21 the ridge line, can you -- can you agree with that or not?
22 Without a visual simulation I think people are beginning to
23 have enough knowledge to say whether they like it or they
24 don't without having to see the visual simulation.

25 Having said that, in terms of the specific resource in

1 getting more information and more quantitative analysis, I
2 would not argue with you that that would be a very, very
3 good tool to give us more specific information. But I
4 think in terms of the validity and the utility of the
5 telephone survey, I'm going to let Bruce maybe add a couple
6 of comments, if you would.

7 MR. PALMER: Before you start, Bruce, having looked at
8 it, if you're doing a Nova, there's differences between
9 both, whether people support or oppose wind, and different
10 locations. So the -- I mean, yeah, we -- you know, in the
11 telephone survey you can capture the part -- I'm sorry this
12 is technical -- you can capture the part of the evaluation
13 about whether they already have a predisposition toward or
14 against wind, but I don't see how you capture the part that
15 different locations are different and, in fact, even if
16 you're a supporter, your reactions are going to be
17 different, you'll recognize that.

18 So if you could address that part, that would be of
19 interest to me.

20 MR. LOCKWOOD: Bruce Lockwood, Cape Elizabeth,
21 representing Portland Research Group in Portland, Maine.
22 One of the great challenges of market research, as you well
23 know, is trying to figure out the best way to get a
24 representative sample of the target population that you're
25 addressing in your research. So so far in working on these

1 types of projects I've actually used four different
2 methodologies. And we're trying to do our best to reach
3 the people who are most relevant to -- to share their
4 opinions for the questions that we're trying to answer as
5 part of the research. And so intercepts to show visual
6 simulation certainly came to mind when we were considering
7 this project and so forth. And for all the reasons that
8 David stated, we were entering a season that wasn't going
9 to allow us to do that.

10 And to do a perfect visual assessment using photo sims,
11 what you really want to do is have somebody rate the actual
12 view -- rate the photo of that view without the project
13 imposed upon it and then rate the same photo with the
14 project imposed upon it. So as you can imagine, from all
15 the different lakes and so forth there would have been a
16 number of different photos and photo sims that would have
17 had to have been created and try to find people. And we
18 didn't feel that we could collect in a reasonable amount of
19 time and effort a representative sample of people using the
20 lakeside. So that's why we decided to go with the
21 telephone survey.

22 Another reason for the telephone survey was one of our
23 hypotheses going into the research was, just what is the
24 level of awareness of this particular part of Maine among
25 people coming to Maine taking part in outdoor activities

1 that are suitable for this region for the study area? I,
2 being a very avid hiker, a through hiker, a member of the
3 Appalachian Mountain Club, I had to go to my DeLorme
4 Gazetteer and look up where some of these lakes were
5 located. And so we thought that part of the equation for
6 this assessment is to get a sense as to just what is the
7 level of awareness of this beautiful region of Maine that
8 we have here in Washington County. So a telephone survey
9 serves that purpose much better than say a web survey,
10 which as you know, we used for another -- another effort --
11 research effort that we did because a telephone survey you
12 can get top of the line awareness of the lakes in the study
13 area and so forth.

14 So to -- then we did a snowmobiler survey where we went
15 to an actual function in the Stetson project and we
16 intercepted snowmobilers, because that was a winter
17 activity that takes place around these lakes. And we were
18 able to speak with snowmobilers while they were in the
19 midst of one of the wind projects. So we were trying to
20 use these as proxies.

21 What came out in the telephone survey is that the 30 --
22 we were able to gather a sample of 31 individuals who
23 actually were aware of one of the -- at least one of the
24 eight lakes in the study area and had used the lakes for
25 one of the outdoor activities that you could easily do

1 around the study area. And among those 31 individuals, 94
2 percent said that they had seen a wind turbine in the state
3 of Maine. So there's a proxy.

4 So we took that proxy, we took the proxy of the Stetson
5 project for the snowmobilers and we compared it to other
6 wind-related market research that has been conducted --
7 that has been conducted in recent years for these various
8 projects. And the consistency between the results of these
9 different research initiatives, granted totally different
10 projects, different levels of impact and so forth, but the
11 consistency between the results on expectations of seeing
12 wind turbines, impact on enjoyment and likelihood to
13 return, while not perfect, were very much in line and gave
14 us some confidence in the proxies that we used in place of
15 doing the actual photo simulation research.

16 So we felt confident that our results indeed reflected
17 the kinds of results that we would have gotten from a photo
18 sim type intercept.

19 MR. PALMER: Except that we know that, for instance,
20 the impact from Duck Lake or Shaw Lake is going to be
21 higher than, say, the impact from the Pug Lake that we
22 didn't look at because Pug Lake is so far away and you
23 can't capture that, you don't know about that.

24 You raised the Highland web survey and the Highland
25 survey as a whole. So you did an intercept survey there

1 and you did the web survey there?

2 MR. LOCKWOOD: (Nods head affirmatively.)

3 MR. PALMER: As you know, one of the other interests
4 that I have is that the Wind Energy Act wants us to get a
5 sense of the extent, nature and duration of activities.
6 And especially on the water we don't have a whole lot of
7 knowledge about that. And what David did do is interview,
8 I don't know, three or four sort of civic leaders in
9 Lakeville and, you know, got some -- some numbers, which
10 then I used in my report, more, not in a way that I'd ever
11 thought of until he'd done what he did, but just kept
12 trying to pull it. So it was developing a more
13 quantitative approach like we were talking about before the
14 break.

15 So one of the things that I'm interested in is that in
16 the Highland example are you aware how -- how accurate the
17 estimate of usage was compared to what the Appalachian
18 Mountain -- Appalachian Trail Council -- I don't know what
19 they're called now, AMC. Your figure was real close to
20 what they thought the figure was for using it. So, I mean,
21 one of the things that's really nice about an intercept
22 study is you can actually get some -- assuming your days
23 are probability chosen type days and you crunch the
24 numbers, you can figure out what the usage is. And we --
25 we really don't have a good example or sense of that in

1 that case.

2 So it's not necessarily a choice of one or the other.
3 And I agree during the winter is not the time to do that
4 maybe because I don't know what ice fishing is like. But,
5 you know, you were caught in a season --. But one of the
6 reasons I'm asking these questions is because I think we
7 should be establishing a protocol just like we evolved the
8 protocol for birds and bats. So I'd like you to comment on
9 the usefulness of the intercept model in some form as a way
10 to estimate, as we're required to do, the extent, nature
11 and duration of use, say, on these lakes.

12 MR. LOCKWOOD: Right. I think the intercept surveys
13 have been used most often for sites that are on ridges
14 where there's one point of view. For example, for the
15 Highland project we were on -- we were on a portion of the
16 Appalachian Trail that was the only viewshed within the 8
17 miles of the project. So you're able to get a
18 representative sample because everybody comes to that one
19 specific point. What we were afraid of in this situation
20 is that, as you -- as you mentioned, Dr. Palmer, there's
21 all kinds of viewsheds that would have some level of
22 impact, was to fairly represent all of the viewsheds that
23 would be impacted in a survey and make sure that we did get
24 a well-rounded view of what those impacts would be and what
25 the perceptions are of the individuals using the resource.

1 You're able to do that on a mountain summit because
2 there's no other places to go. I'm sorry, I don't mean to
3 be --. Whereas, here we took out -- again, we took out our
4 maps and started to plot out the different boat launches,
5 there's -- there's public boat lunches, there's rustic boat
6 launches, there's campsites, there's rustic campsites. And
7 we felt we would try these other tools and then see how
8 well they aligned with some of the more traditional
9 approaches such as intercept. And we thought they aligned
10 pretty decently.

11 MR. PALMER: But we still don't get an estimate of use
12 meaning that -- what we're doing is getting responses. We
13 don't know about -- necessarily about the quality of those
14 responses, but we're getting an estimate of those sort of
15 perception sides, but we're not getting an estimate of what
16 we normally think of as the harder quantitative thing, that
17 is, the counts of people, estimates of what -- like, we
18 have no idea whether the Lawrence report's characterization
19 of, you know, heavy canoe usage, all this paddling is
20 accurate or not. It may be, but we don't have -- all we
21 can do is talk to people and get their gut -- their gut
22 reaction.

23 And, in fact, we know ways -- the Baskahegan study is
24 an example -- we know ways to get good estimations. I
25 mean, we have an estimation from them of how many boats and

1 how many people are in each boat for the summer. Right? I
2 mean, the Baskahegan study did that.

3 MR. RAPHAEL: And that's one -- but that was easy
4 because there's one public boat launch.

5 MR. PALMER: No, no, they did three public boat
6 launches and it's not just Baskahegan, it's Baskahegan and
7 then -- oh, there's a town that begins with D. I'm
8 terrible on names, I'm sorry. Danforth. There's a
9 Danforth launch and there's a third launch. They did three
10 launches, only one of which is on Baskahegan, that's the
11 furthest away launch.

12 So they -- I mean, that -- and they talk about that in
13 their methods, that's one of the challenges that they had.
14 They'd spend a certain amount of time at the Baskahegan
15 launch and then get in their vehicle and tear up -- up the
16 road to get to the other launch. So it wasn't easy. And
17 it doesn't all necessarily have to be that way.

18 Again, as you know, you could leave postcards, for
19 heaven sakes, on the windshields or in camps for people --
20 you know, there's only three or four questions that we
21 actually care about because the Act is pretty specific
22 about that stuff. You know, we -- there are other ways
23 that we could gather this data that are commonly used in
24 recreation research and we could be doing that.

25 But I agree, you've got to do it in the season that

1 people are doing things. We can't study canoeing in the
2 winter. We could study ice fishing in the winter, though,
3 or snowmobiling --

4 MS. HILTON: Hey, Jim.

5 MR. PALMER: I'm sorry, yeah.

6 MS. HILTON: I know this is very important and I know
7 that it is a developing science. If there's some way to
8 sort of wrap --

9 MR. PALMER: Yep.

10 MS. HILTON: And I know where you're going, but is
11 there a way to wrap it up? And then I know you have a few
12 more scenic questions.

13 MR. PALMER: I'm sorry, I have one other major one and
14 then I'll stop.

15 MS. HILTON: Okay.

16 MR. PALMER: So it's for David and it's about the
17 visual absorption capability stuff. So I distributed or
18 had LURC distribute a couple selections, one of them was
19 from the -- the Forest Service Landscape Aesthetics Manual,
20 I'll just call the SMS, the Scenery Management System for
21 short. And the other was your, as I remember, award
22 winning report of Lake George, which I learned about
23 because we used it for Plum Creek because it was a good
24 example of hillside development regulation.

25 So quoting from the Scenery Management System handbook,

1 that appendix: Landscape visibility as a perceptual factor
2 is dynamic, it varies dramatically depending on the
3 location of the observer. So that's the visibility part.
4 Although many think landscape visibility is part of visual
5 absorption capability because it's associated with
6 perceptual aspects of the scenery, it's not. And then a
7 little later it gives a definition. Visual absorption
8 capability is a classification system used to indicate the
9 relative ability of any landscape to accept human
10 alteration without loss of landscape character or scenic
11 condition.

12 And I need a blank sheet of paper, but the basic gist
13 is the Forest Service was interested in how you hide
14 clear-cuts. And if you drew a patch on a piece of paper
15 and you put it at eye level horizontal, you could see that
16 it's very -- it's not possible to see that clear-cut. But
17 as you tip it up, i.e., you put that clear-cut on a slope,
18 it becomes highly visible. So that's the image. And they
19 developed a system to evaluate that.

20 The difference is landscape absorption capability is a
21 characteristic of a site and visibility is a perception
22 characteristic that's not a -- it's not about the
23 viewpoint, it's how much of the landscape out there,
24 everywhere but the site, can be perceived from a viewpoint.
25 So there -- they're very different.

1 One is a perception measurement, even though the way
2 visibility is done is all geometry, but the Forest Service
3 still considers it perception. And the other is an
4 intrinsic physical characteristic or the --. Can this
5 specific point site hide something?

6 So I'd like you to turn to your simulation -- your
7 simulation for -- let's try Exhibit 10, which is Pleasant
8 Lake boat launch. Actually, you could pick any of them.

9 MR. RAPHAEL: Okay. I've got that right here.

10 MR. PALMER: So, I mean, I don't want to beat you over
11 the head with it, but if you think of the back, the visual
12 absorption capability as a characteristic of a site, so not
13 a characteristic of the viewpoint here, but a
14 characteristic of the base of each turbine, are those sites
15 able to hide these turbines?

16 MR. RAPHAEL: No.

17 MR. PALMER: Yeah.

18 MR. RAPHAEL: And -- yeah. And, you know, in all
19 honesty, I use the Forest Service terminology and concept
20 really as a point of departure. And I think as we
21 discussed, I'm, you know, still trying to find the best way
22 to express how I have tried to adapt this notion of visual
23 absorption for utilities and utility scale. And so there
24 -- I think that might be the difference between the strict
25 interpretation of what the Scenery Management System

1 intended, which is, absolutely you're right, can the
2 landscape hide it versus does the landscape have enough
3 going on or other elements within it that the project is
4 not as prominent? And that's probably the best way I can
5 explain it.

6 MR. PALMER: So my -- it's not that I disagree that
7 there isn't something that considers, say, the effect of
8 distance and how the dominance of an object in the
9 landscape diminishes as distance increases, I don't
10 disagree with that. All I'm disagreeing with is that
11 visual absorption capability is something that the Forest
12 Service has developed since our national landscape in '79,
13 there were two papers on it, and that what you were doing
14 was not that.

15 MR. RAPHAEL: Correct. That's right.

16 MR. PALMER: Okay. And that we need to find some
17 different language that everybody can agree on to describe
18 what it is you were trying to express, but it doesn't help
19 to use the thing in a way that it was never intended to be
20 used.

21 MR. RAPHAEL: Understood. And I think I -- I
22 interpreted the concept differently, I used the term
23 without necessarily using how that term was developed and
24 applied in the Forest Service. So I wouldn't argue with
25 that.

1 MR. PALMER: So I won't go on other than to say, for
2 those of you that are interested in ridge line development
3 issues, LandWorks did a great report for Lake George about
4 that that basically has several recommendations that --
5 that say, you know, keep big development off of ridge
6 lines. And, frankly, the reason that that's not applicable
7 here is that the Legislature already told us the turbines
8 are going to be on ridge lines, they understand that and
9 they're going to be visible and they understand that.

10 MR. RAPHAEL: Absolutely.

11 MR. PALMER: And, you know, that's not an effect that
12 -- that the developer has to address because the
13 Legislature already said that, per se, they don't have to
14 address that, they already know that that's going to be the
15 case.

16 MR. RAPHAEL: And that's why I've argued that we need
17 new standards to evaluate these types of projects. And I
18 think you agree with that.

19 MR. PALMER: Yeah. And I think, actually, the survey
20 work is a central thing -- a central way to do that and I
21 have a lot of ideas about that. But I think visualizations
22 are going to be messy and we can talk more about that, I'm
23 sure that we will over time.

24 I just have one -- maybe one other and I think it will
25 be short. I'm -- I mean, you understand that the Wind

1 Energy Act has six criteria to evaluate scenery with. And
2 I'm interested why you resisted the obvious utility of just
3 using exactly their six with their words and why you
4 changed the language a little bit and you added some in
5 your VIA, but then in your testimony you collapsed them
6 down to three? Why not just do it the way that the Act
7 lays it out? Because that's actually what the Commission
8 is supposed to do, they're supposed to use exactly what the
9 Act tells them to do, not add -- I think you'd agree that
10 they're not supposed to add things, or they open themselves
11 up to a court case, and they're not supposed to subtract
12 things for the same reason.

13 MR. RAPHAEL: Right. Yeah, I would agree with that
14 except to say that I think the reason we did expand or
15 alter maybe a little bit of the language was only because
16 -- only in the interest of trying to better understand and
17 better assess this project. And, you know, I guess it's my
18 active mind always looking to find new ways with which to
19 understand these impacts and assess them.

20 MR. PALMER: So my suggestion would be that we use the
21 six -- and I've got to say, I mean, you should come back to
22 me. I used seven because I split one of them, right,
23 because -- because the use one where you count numbers, I
24 see that as different than the perception half of that
25 question. So E is E-1 and E-2 in my category. So I'm not

1 doing --

2 MR. RAPHAEL: Fair enough.

3 MR. PALMER: I mean, I'm not doing it exactly the same
4 either. But I think what we need to do is define -- we
5 have to define those criteria. And I -- I need partners
6 here, it's not right for me just to be writing these
7 reports and defining them. I -- I need developers and
8 opponents to help clearly define what those criteria
9 actually mean. So it would be my strong preference that if
10 we start with what the Act says and then we somehow
11 dialogue, in this horrible process that we have to all work
12 in, to try to get some common definition of what those
13 types of things are.

14 But the Legislature gave us our marching orders and
15 until that Act is revoked, we really don't have an honest
16 choice to do something different.

17 MR. RAPHAEL: I agree.

18 MR. PALMER: That's all I have, Gwen.

19 MS. HILTON: I appreciate all of -- all of that. So at
20 the little bit of risk, does anybody have any more scenic
21 questions at this point in time that they'd like to --?
22 All right.

23 Why don't we talk about -- give Jeff Selser some time
24 to talk about -- tell us about conservation. Is that --?

25 MS. BROWNE: That is. And what I was going to ask is

1 -- I think you said we have two minutes?

2 MS. CARROLL: Three.

3 MS. BROWNE: Three minutes. And in the interest of not
4 having him rush and give the court reporter heartburn, I
5 would request for an additional three minutes and I will
6 forgo cross of Gordon Mott at the end of the day. We have
7 five minutes set aside. So if the chair is okay --?

8 MS. HILTON: That sounds fine.

9 MS. BROWNE: Please don't speak too quickly, Jeff.

10 MR. SELSER: That's a tall order. So I have six total
11 now, three plus the three.

12 While she's getting the exhibit up, my name is Jeff
13 Selser, I'm an attorney with Verrill Dana. My background
14 and qualifications are in my pre-filed rebuttal testimony.
15 I'll just summarize by saying that for more than a decade
16 I've focused my legal practice almost exclusively on
17 natural resources law related to forestland and
18 conservation and recreation issues. I've worked in 27
19 states, in three Latin American countries, I've handled
20 some of the largest land transaction and conservation
21 projects in the history of the United States. I have at
22 times represented landowners who own more than one-third of
23 LURC's jurisdiction. So I have a unique perspective on
24 conservation policy and initiatives all over the country
25 and I'm intimately familiar with the federal and state

1 programs.

2 So I think it would be really useful to start by
3 addressing a comment that Commissioner Hilton made a little
4 while ago when she said, we don't know where it all ends,
5 related to cumulative impacts of additional wind power
6 coming online. In this case, however, we do to some extent
7 know where it all ends because this project, as you can see
8 in this slide here, sits on the very periphery of a vast
9 conservation resource. So we know that -- here is the
10 Bowers project -- or the proposed Bowers project, no wind
11 or any other development is going to invade the core of
12 this conservation project. So you've got 400,000 acres of
13 either easement or fee conservation lands that will never
14 be impacted by any additional development.

15 So in this case you have a benefit in that, to some
16 extent, you do know where it will end here. And that's --
17 that sort of highlights the great benefit of this
18 conservation project. It was really a pretty remarkable
19 project in how it came together. You've got 312,000 acres
20 of easement, which is this light green area here, you've
21 got a fee -- 33,000 acres of fee acquisition that's owned
22 by the Downeast Lakes Land Trust which is known as the Farm
23 Cove Community Forest, you have ownership of 500 miles of
24 shoreline along the St. Croix and other rivers, and then
25 that all connects with state lands here -- or federal

1 lands, national wildlife refuge, and state public reserve
2 land here at Duck Lake and Niatous, and you also have vast
3 conservation resources across the Canadian border. All
4 said, you've got about 1.4 million acres of conservation
5 resource.

6 This little piece here -- I say little, it's 22,000
7 acres -- right there that's outlined in red, that is the
8 West Grand Lake Community Forest, that is the final piece
9 of this conservation project. It is not yet online. As I
10 said in my testimony, fundraising is underway. But there
11 is an option, so the rights are secured as long as the
12 money can be secured.

13 This is what is presently the number one funding
14 priority under the Forest Legacy Program. One of the
15 reasons this has a number one funding priority is because
16 it's an in-fill project. And in-fill projects are huge
17 right now at the federal level because it's a way to
18 leverage federal dollars to really maximize a conservation
19 impact. But it's important to note that this is the only
20 piece of this whole project that's the number one funding
21 priority, it's only for 2011 dollars and it sits well --
22 well away, in some cases 15 to 20 miles away, from the
23 project area.

24 So it's not accurate to say that the number one funding
25 priority sits at the -- in the shadows of Bowers Mountain,

1 it's quite some distance away. And it also talks about,
2 you know, the importance of these federal dollars. You
3 know, right now we have -- there's a lot of competition for
4 federal dollars and conservation easements are the way to
5 go, it's a way to leverage conservation funds so you can
6 conserve more land for less money.

7 The problem is you have to have a willing landowner.
8 All the regulations require a willing landowner. And as
9 Roger Milliken said, conservation is an art and
10 conservation easement negotiation is a particularly tricky
11 art. These are very difficult to come by. And there are
12 some very significant issues that need to be addressed at
13 the negotiation stage of easements.

14 I've negotiated some easements for six or seven years,
15 including what was then the number one conservation
16 easement priority in the country under the Federal Forest
17 Legacy Program using 2010 dollars, and that easement
18 specifically carved out a corridor for wind power. It was
19 not an in-fill project so it had more sort of pure
20 conservation value than this project does.

21 And so landowners and conservation groups and
22 regulators are doing this delicate dance. In order to
23 leverage conservation funds it's more beneficial to buy an
24 easement. It costs a lot less money, but if the landowner
25 is retaining the land, they need to retain the value and

1 the ability to continue to work that forest as a working
2 forest. And so we always walk the line and the
3 negotiations are incredibly tenuous and they've broken down
4 in several circumstances.

5 If you add another layer to that, if you say to these
6 landowners, not only are you giving up value on the land
7 for which you're being paid under the conservation
8 easement, but you are potentially subjecting land outside
9 of the easement to an additional higher level of scrutiny
10 on uses that are allowed uses under the zoning, you are
11 really setting a precedent that is going to put a horribly
12 chilling effect on future conservation priorities. From my
13 experience representing landowners all over the country and
14 in South America on conservation projects, I can tell you
15 in many cases that will tip the balance and landowners will
16 walk away from the table.

17 Landowners need to know with certainty what they're
18 giving up. It would be impossible to put any sort of
19 qualitative description around what they're giving up
20 outside the boundaries of the conservation easements if
21 there's going to be a loss of value related to additional
22 scrutiny because of the proximity of easements. And this
23 is specifically contemplated under all of these funding
24 programs and under the conservation easements themselves.

25 Maine's assessment of need for its Federal Legacy

1 Program specifically allows carve-outs for wind power
2 projects to sit right inside or right next to conservation
3 easement projects that are funded through these programs.
4 So Maine is already -- Maine is actually at the forefront
5 of this. Maine is already saying, look, we recognize that
6 wind power and other uses are vitally important to the
7 economic health of the forest products industry, but we
8 also still want to be able to capture these conservation --
9 critical conservation pieces. So we understand that
10 they're going to, you know, sit side by side with each
11 other.

12 So it's -- and I really urge you to think very
13 carefully about the weight that you would give to the
14 proximity of conservation lands in assessing whether or not
15 to have further regulation on adjoining properties. That's
16 really the point I -- I wanted to get across.

17 I'm happy to answer any questions. The reason I went
18 last is I can talk for hours about conservation policy and
19 Federal Legacy scoring criteria.

20 MR. LAVERTY: Are you familiar with the Moosehead Lake
21 concept plan that was approved by the Commission?

22 MR. SELSER: Yes. I actually helped negotiate the
23 easement.

24 MR. LAVERTY: You -- then you appreciate that in that
25 there is a provision for wind power.

1 MR. SELSER: Absolutely. In fact, that -- that's an
2 excellent point because that's not even a carve-out, that
3 is within the easement boundaries itself.

4 MR. LAVERTY: So I guess what -- you're preaching to
5 the choir here in a sense, but I think it's important that
6 it be on the record and that everybody understand that.

7 MR. SELSER: Right. And, see, what's going to happen
8 if we start -- if we start further regulating or further
9 restricting land outside the easement and landowners are
10 then losing value that way, eventually you're going to come
11 to a point where landowners have nothing left to seize on
12 to or to get value out of their land than the recreational
13 use. And right now that's open to the public for free.

14 The easements help secure that forever for everybody.
15 In a lot of other states that doesn't happen. In a lot of
16 states recreational use is a private preserve for the
17 limited lucky few with a lot of money. That's not the case
18 in Maine, but Maine is an anomaly in that. And if you
19 force landowners into a situation where they can't figure
20 out where their value is, their investors are going to
21 insist that that recreational access be shut down and
22 monetized. And we really want to avoid that.

23 So we've got to encourage conservation through these
24 conservation easements, but not make it so uncertain as to
25 what happens outside of the bounds of that easement that

1 you scare landowners away because you're already -- we're
2 already right on that line here in Maine.

3 MS. HILTON: Does anybody else have any questions for
4 Jeff?

5 MR. PALMER: So the easements here do not allow for any
6 wind projects, is that what you're saying?

7 MR. SELSER: These easements have some fairly specific
8 defined purposes. And it's -- I want to make sure we
9 understand that there's a -- this piece here, this is owned
10 outright in fee by the Downeast Lakes Land Conservation
11 Trust. These are state lands, these are tribal lands. So
12 all connected you get your 1.3 million -- it's actually 1.4
13 million acres once this is done. This big green -- light
14 green here is a conservation easement and this will be a
15 conservation easement. And these easements are primarily
16 designed to serve as a working forest, to create economic
17 continuity for the working forest.

18 Shoreland conservation -- and this is, you know, 10
19 percent of the loon habitat is here -- I mean, 10 percent
20 of the loons go through here. So there's a loon management
21 agreement that's in connection with the easement and it's
22 really designed to protect those resources. It's not
23 designed to protect outside scenic resources. There are
24 legacy easements that protect scenic resources. There's
25 one right here in Maine, the Millinocket forest, protected

1 the viewshed from Katahdin.

2 In all of this massive conservation effort when all of
3 these resources were identified, the ridges of Bowers
4 Mountain were not included in what was sought to be
5 protected even though it certainly could have been included
6 in the legacy project. I mean, this is -- and it was done
7 at a time when wind power was known. I mean, this -- we're
8 talking 2005 to 2008. Ridge line development was a
9 significant issue that we were talking about in the Plum
10 Creek project. So this wasn't done at a time when wind
11 power wasn't contemplated. You know, if that was vitally
12 important to protect those ridges at the very periphery of
13 those easement projects that could have been included.

14 MS. HILTON: Did you get your question answered, Jim?

15 MR. PALMER: It was really just a yes or no. So wind
16 power is excluded?

17 MR. SELSER: Yes, it -- almost all development is
18 prohibited. It does not relate, you know, to, like, forest
19 roads and stuff.

20 MR. PALMER: But I assume on the tribal lands if
21 there's an appropriate place one could be proposed?

22 MR. SELSER: If it was consistent with the tribe's
23 policies for those lands, that's correct. But everyone --
24 at least currently the current conventional wisdom is that
25 those lands are treated as conservation lands. Sort of in

1 the thinking of let's talk about the -- how much of
2 contiguous property we have, usually the tribal lands are
3 -- because public reserve land there's no -- you know,
4 public reserve land could -- you know, the state could do
5 something with that.

6 MS. HILTON: So could you put a wind power project on
7 the tribal reserve lands?

8 MR. SELSER: They're -- it would have to be an allowed
9 use. You know, it's the same as a state public reserve
10 land in that the state has ultimate control over what to do
11 with that land. The state could --

12 MS. HILTON: So yes is the answer? Maybe?

13 MR. SELSER: Maybe. I would have to look at your
14 zoning and -- and look at what the tribe's policies are for
15 that land. So it's -- it's not a definite yes and
16 certainly not a definite no.

17 MS. HILTON: Okay. All right. Thanks. Anybody else?

18 MR. LAVERTY: You're not suggesting that all tribal
19 land is primarily held for conservation?

20 MR. SELSER: No, I'm not at all. No. It's -- in
21 connection with this project, this -- the Downeast Lakes
22 Forest Project, when they're counting the acreage of the
23 contiguous conserved land, when they promoted this to the
24 feds, that land was included as being part of this
25 contiguous block. And contiguity is a huge scoring bump

1 for the feds, in-fill and contiguity and -- and how ready
2 it is to come on line.

3 Those are -- you know, those are just as important to
4 the feds as the actual conservation values of the project.
5 In fact, in some cases they're more important. You know,
6 the dollars need to get spent.

7 MS. HILTON: Okay. Why don't we -- I know Fred has
8 some more questions about decommissioning and tangible
9 benefits. Do commissioners want to lead off or do we want
10 to let Fred lead off with the questioning of those
11 questions?

12 MR. LAVERTY: I just have a clarifying question and
13 that is that apparently there was a question to the
14 applicant by staff for additional information on
15 decommissioning. Has that information been submitted?

16 MR. TODD: I couldn't hear the question.

17 MR. LAVERTY: Okay. I'm sorry, Fred. The applicant
18 was requested by staff, I understand, to submit additional
19 information into the record regarding decommissioning. Has
20 that information been received by staff?

21 MR. TODD: Yes.

22 MR. LAVERTY: Okay.

23 MR. TODD: It was in the supplemental filing of, I
24 think, April 22nd.

25 MR. LAVERTY: Okay. Thank you. If that's the case,

1 why do I have an e-mail from you Fred on June 26 which says
2 that the information has not been received?

3 MR. TODD: I'm sorry? You've got to remember I'm hard
4 of hearing, Ed.

5 MR. LAVERTY: Okay. I'm sorry. Don't worry about it.
6 I'm sorry. You have the information from the applicant
7 about decommissioning?

8 MR. TODD: I did request, as did Don on Bull Hill,
9 additional information on decommissioning. They responded
10 to that in a supplemental filing on April 22nd.

11 MR. LAVERTY: Okay. Thank you.

12 MR. TODD: And I have a question on the issue of
13 decommissioning.

14 MR. LAVERTY: Please.

15 MR. TODD: In Appendix -- or excuse me, in Exhibit 20
16 of the application there's an explanation of how the funds
17 would accrue and at what point you would reevaluate the --
18 the procedure for that fund. It says the funds would
19 accrue for a seven-year period. It's on Page 2 of Exhibit
20 20. And then on or prior to the end of calendar year 15
21 you would reevaluate the decommissioning cost.

22 My question is, why wait another eight years, why not
23 reevaluate at seven if that's the end of the cash flow, if
24 you will?

25 MR. KEARNS: So -- this is Matt Kearns, VP of business

1 development for First Wind. And the answer is, basically,
2 that what we have proposed traditionally is the seven year
3 -- there's a seven-year true-up and a 15-year true-up.
4 And, basically, those are check-in points to check the
5 scrap value and make sure there hasn't been any change.
6 And if there is, resize the security to make sure that
7 there is ample security to cover the full decommissioning
8 costs or the -- the costs required at that point by the
9 permit.

10 MR. TODD: Okay. But my question is the timing of when
11 you do that. I mean, why wait for another eight years
12 after the cash flow has ended or just been discontinued to
13 reevaluate what the decommissioning costs would be?

14 MR. KEARNS: So why do it at seven and --?

15 MR. TODD: Well, it -- you don't say you're going to
16 reevaluate at seven. At least that's not what I'm reading.
17 You're saying you're going to wait another eight years
18 before you're --

19 MR. KEARNS: Right. So as I understand it, we have now
20 proposed to check in at seven so that we --

21 MR. TODD: Oh, you have?

22 MR. KEARNS: Yes. Yes. I apologize for --

23 MR. TODD: Was that in your pre -- your --

24 MR. KEARNS: I think it's in the -- in the follow-up
25 information.

1 MR. TODD: Okay. All right. My next question has to
2 do with the -- the tangible benefits. I'm not sure who to
3 direct this to.

4 Neil, in Intervenor Gordon Mott's testimony, his
5 pre-filed testimony, he tries to make a comparison with the
6 per turbine tangible benefits, which is roughly \$5,200. He
7 tries to draw a comparison between that -- essentially, an
8 expenditure by the -- by the company to the return by the
9 power that's generated by the turbines. He says that it
10 equates to roughly three to four minutes out of a day.

11 Is that a fair comparison and would you agree with the
12 values that he came up with?

13 MR. KIELY: I have not analyzed his math on that thing,
14 but I think it's important to back up a little bit and talk
15 a little bit about the tangible benefits statutes because
16 I'm not sure that's an appropriate analysis or point.

17 As the Commission is aware, last -- I think it was last
18 March the Legislature reevaluated kind of local economic
19 benefits and they said, you know, separate and aside from
20 taxes we want to set a baseline of tangible benefits to
21 these local communities. And they made a determination to
22 get that at \$4,000 per turbine. So they kind of -- this is
23 not something that existed in law before, it doesn't apply
24 to any other energy generation source in the state of Maine
25 or, in fact, any other developer in the state of Maine. So

1 this is a unique burden for wind power.

2 And the Legislature came to that figure which was
3 negotiated by, obviously, a number of stakeholders during
4 that process and that's the \$4,000 per turbine, that's
5 where that \$4,000 per turbine figure came from. So it
6 wasn't tied to production, et cetera, it was a number that
7 was negotiated and deemed appropriate by the Legislature as
8 a threshold, if you will.

9 Obviously, they gave the developers in the law a
10 certain amount of flexibility of how that money could be
11 delivered to the local communities. There are essentially
12 three buckets, community benefit agreement to the
13 communities which was a direct payment, a conservation
14 bucket or an energy fund bucket. But, again, they gave the
15 developers flexibility on how -- which bucket they would
16 use and how they would meet that. And, obviously, we're
17 using all three in this project. And we're well in excess
18 of the \$4,000 per turbine in the project.

19 MR. TODD: Okay. My -- the purpose for my question was
20 the Commission has to make a judgment as to whether or not
21 that's significant. That's the term that's used in the
22 law. So I was just wondering if that -- the analogy that
23 Gordon used was an appropriate way of looking at whether or
24 not it's a significant benefit.

25 MR. KIELY: Again, I haven't looked at his math, but I

1 also don't think -- I don't think that would be a
2 significant approach to doing that.

3 MR. TODD: My other questions are to Kevin -- excuse
4 me, Adam Gravel. Is he here?

5 (A discussion was held off the record.)

6 MS. BROWNE: Can I just clarify one point because I
7 think it's created a lot of confusion? On the
8 decommissioning costs, the application actually had the
9 true-up occur at year 15, which was really a holdover from
10 the prior project. And in the Bull Hill project this
11 question came up and the applicant committed to doing a
12 check in, a true-up, in year seven, there was a
13 post-hearing submission confirming that.

14 There's nothing in the record yet other than the
15 testimony today that for this project the applicant is also
16 willing to do a true-up in year seven as well as year 15.
17 We'll certainly put that in writing following the hearing,
18 but right now the evidence in the record is just the
19 testimony from First Wind here.

20 MR. TODD: Okay. Thank you.

21 MR. FARRAND: Can I ask a decommissioning question as
22 long as we're on it? Under Section 4 in the third
23 paragraph it says that in the interest of increased
24 efficiency and minimal transportation impacts, components
25 and materials may be stored on site in a pre-approved

1 location until the bulk of similar materials are ready for
2 transport. Is there any kind of a time frame of when that
3 material would be transported? Are we looking at the
4 15-year point or the seven-year point or --?

5 MR. KEARNS: So I would probably defer to James Sewall
6 who prepared this plan -- the details of the plan.
7 Patrick, maybe you can answer that.

8 MR. FARRAND: And I guess what I'm really looking at is
9 that we're not talking about an endless storage of
10 materials after a facility has been decommissioned.

11 MR. GRAHAM: Sure. Good morning, Madam Chair Woman,
12 commissioners. My name is Patrick Graham, I'm director of
13 renewable energy services for James W. Sewall Company, a
14 resident of Bangor, Maine. In terms of your question, what
15 we're referring to in that is when the project is
16 decommissioned, which right now is presumed to be at the
17 end of the lifetime, which is estimated at 20 years, that's
18 when the storing of material would be.

19 So, for example, as one turbine is disassembled and
20 components are arranged, then there may be limited storage
21 so that they can be packed most efficiently on the various
22 trucks that would be used to transport them to the scrap
23 facility. So that's really what that's getting at. So
24 we're talking a matter of maybe a couple of days material
25 would be stored on site while it's awaiting transport to

1 the scrap facility.

2 MR. TODD: Adam, there was a late submittal into the
3 hearing record from Stantec to U.S. Fish & Wildlife in
4 regards to their concern about some evaluation of lynx
5 habitat. And can you tell me, first off, have you had a
6 response from U.S. Fish & Wildlife on that study and are
7 they -- if so, are they satisfied with what you provided?

8 MS. PRESCOTT: We -- I talked to Mark McCollough from
9 U.S. Fish & Wildlife Service who that was directed to, I
10 talked to him before we were submitting it after the
11 request came in and let him know it would be coming that
12 week. And I checked in with him again last week and at
13 that point he indicated that he had been instructed to
14 specifically work on other issues at that point and he was
15 not certain when he would be able to review it. He also
16 indicated that he thought this issue should be reviewed by
17 Maine Fish & Wildlife -- Maine Island Fisheries & Wildlife.

18 We had copied them on our submission to U.S. Fish &
19 Wildlife and my understanding is that they're reviewing it
20 at this point, so --. And, unfortunately, U.S. Fish was
21 not able to indicate when they would be able to review it
22 and provide a response.

23 MR. TODD: Okay. And I have a follow-up question to
24 that. And maybe this may be an unfair question to put to
25 you, but since U.S. Fish & Wildlife are not here, I can't

1 pose it to them. But the way you assess the lynx habitat
2 in that report was to, essentially, determine whether or
3 not there was snowshoe hare habitat. Is that the -- is
4 that the U.S. Fish & Wildlife protocol for determining lynx
5 habitat is to, basically, look for the -- the habitat for
6 its food source.

7 MR. GRAVEL: Yes every -- my name is Adam Gravel, I
8 work with Stantec Consulting. We -- that is typically the
9 method for mapping potential habitat for lynx. Snowshoe
10 hare are their primary food source, almost 75 percent of
11 their diet. So that is how you try and key on where lynx
12 could potentially occur.

13 MR. TODD: So there's a written U.S. Fish & Wildlife
14 Service protocol on how you do that and --?

15 MR. GRAVEL: I'm not necessarily aware of any written
16 protocol, but it's based on recommendations from Mark
17 McCullough at U.S. Fish & Wildlife Service.

18 MR. TODD: Okay. Could you describe the current
19 understanding between Stantec or First Wind and Maine Fish
20 & Wildlife on the issues of the post-construction mortality
21 survey and the -- the operational curtailment to avoid bat
22 fatalities?

23 MR. WEST: My name is Jeff West, I'm the environmental
24 coordinator for First Wind. And I can address that comment
25 for you, Fred. We have been working with I F & W, Maine

1 Department of Island Fisheries & Wildlife on this
2 curtailment study. As you may be aware, during the Bull
3 Hill project I F & W requested a curtailment from 3 meters
4 per second to 5 meters per second with the cut in speed
5 from the time period of April 20th through to October 15th
6 when they felt that you might see the highest risk to bats
7 on the project. Based on the literature and a number of
8 the studies, we worked with I F & W to develop a
9 curtailment study that looks at curtailing a portion of the
10 turbines, in that case, 50 percent of the turbines, to
11 various cut in speeds and the -- the remaining 50 percent
12 would be fully operational.

13 They agreed with that study and we're going to have a
14 third-party or a principal investigator such as Bat
15 Conservation International really plan that study and carry
16 it out for us. We may also have additional contributors
17 like the University of Maine at Orono and possibly the Bat
18 and Wind Energy Cooperative. So I think it's going to be a
19 good statistical robust study to tell us, A, if curtailment
20 -- is it significantly reducing mortality in bats; and
21 then, B, what are the actual time periods that we should be
22 curtailing our turbines.

23 You know, Maine is -- we're at the kind of northern
24 extent so we may see different migration patterns of bats
25 in Maine at different time period. So this study, I think,

1 combined with our efforts at the Bowers project -- we're
2 proposing a similar study there, a minimum of a two-year
3 curtailment study -- will provide us with, I think, a
4 pretty good sample size when you combine the two projects
5 to give us a statistically robust result.

6 MR. TODD: Okay. So the study will involve Bowers, not
7 just Bull Hill?

8 MR. WEST: Correct.

9 MR. TODD: Okay. And there's information in the record
10 from I F & W that they would like to have the
11 post-construction fatality studies outlined before the
12 permit is issued. Is that going to occur or --?

13 MR. WEST: Yeah. We've -- you know, historically with
14 these projects we've -- we've set up a -- kind of a plan, a
15 concept plan, for our post-construction mortality studies.
16 And then as we get further along and prior to commercial
17 operations, we finalize that plan. In this kind of field
18 there's the study and how you, basically, search for
19 carcasses under turbines and come up with an estimate of
20 total mortality for the project is continually evolving.

21 So we use the best available literature to adjust those
22 study plans. And so we have a final study plan typically
23 prior to commercial operations and we're constantly in
24 review and consultation with I F & W. Like our Stetson 1
25 and Stetson 2 permits, we're required to meet quarterly

1 with I F & W as well as U.S. Fish & Wildlife Service to
2 discuss the mortality in those study plans. We submit, I
3 believe, for the -- our pre-filed testimony a revised study
4 plan that is a little more detailed and is what I F & W is
5 looking for.

6 MS. PRESCOTT: If I can just add to that as well. One
7 of the things with that that's an example of the
8 consultation is that on Bull Hill they provided some
9 specific comments that they wanted to see incorporated into
10 the post-construction plan. And realizing that those would
11 be similar comments that they would want for Bowers, we
12 worked productively with them to incorporate those in. And
13 that's part of what was submitted as a revised plan. And
14 then we'll work continually with them before it goes prior
15 to operation so that if there are additional things that
16 are found, those can be incorporated as well.

17 MR. TODD: Okay. So -- so in terms of the timing, are
18 you anticipating that you'll have some understanding with
19 Fish & Wildlife, assuming the Commission issues a permit
20 for this project, that that will be in place prior to the
21 permit issuance; is that correct?

22 MS. PRESCOTT: (Nods head affirmatively.)

23 MR. TODD: The other question -- and I'm -- it was in
24 Adam's testimony, there's a map that's -- I think it's
25 Exhibit H to his pre-filed testimony -- and it's this -- I

1 printed out a separate copy, but it's this -- this map
2 here. And down in the lower left corner of that map
3 there's a note, which I didn't notice until just recently,
4 that says: In the Maine Wildlands Lake Assessment, Keg
5 Lake is listed as inaccessible, undeveloped, Lombard Lake
6 and Junior Lake are listed as accessible, undeveloped.
7 However, based on field information, these lakes are
8 categorized as accessible, developed.

9 Did that change in the Commission's findings affect the
10 outcome of your analysis in any way?

11 MS. PRESCOTT: Well, I can answer the first part of the
12 question, but I think the second part of the question is
13 probably for David Raphael. We were simply providing
14 information that under -- in the Maine Wildlands Assessment
15 those lakes were ranked as, I believe, either inaccessible
16 and undeveloped or accessible and undeveloped. And based
17 on our observation, both of doing desktop analysis of the
18 structures that are around the lakes as well as visiting
19 those lakes, it was clear to us that there was development
20 such to the point that it would not be considered
21 undeveloped. So that's the piece that's there.

22 MR. TODD: The -- I should have explained the purpose
23 for my question, which is those findings are fixed in rule,
24 they're codified in rule in Chapter 10 and the way to
25 change those is through a rule making petition to the

1 Commission as opposed to -- I mean, it's perfectly
2 understandable as a researcher you like to change those
3 things on the fly when you find that they're no longer
4 accurate. But my major concern was did your changing of
5 those findings affect the outcome of your analysis in any
6 way?

7 MS. PRESCOTT: I think that's probably a question best
8 directed to David Raphael rather than --.

9 MR. RAPHAEL: The answer is, no, we were perfectly
10 aware of the classifications. We may have made
11 observations in the field that might warrant changing those
12 classifications because of the time when they were first
13 made and what's changed in the elapsed time since then.
14 But, no, we -- that did not alter our conclusions at all.

15 MR. TODD: Okay. All right. Thank you. That's all I
16 have for questions.

17 MR. HAMMOND: I have just one additional question. And
18 you'll have to indulge me a little bit, I'm coming up to
19 speed here slowly and probably you've gone through this
20 numerous times. But just -- just a brief description of
21 from a practical standpoint what will the site look like
22 after it's decommissioned? What's left, transmission --
23 and probably it's all in writing somewhere, but I haven't
24 caught up with the curve yet and it's just something I'd
25 like to know.

1 MR. GRAHAM: The -- just sort of in basic form, the
2 decommissioning process involves taking down, disassembling
3 the turbines, taking down meteorological towers and
4 removing the pad mounted transformers. So, basically,
5 anything above the ground. In terms of project components
6 that are below the surface, for instance, like, the
7 foundations for the turbines, those will be removed to
8 2 feet below the ground surface. After all that work is
9 done, these areas will then be filled in and graded --
10 graded back so that you don't have, basically, pits left so
11 it's nice and smooth so you don't have problems with
12 erosion or anything like that.

13 So once the -- once the project is complete, in terms
14 of what you would see, immediately after decommissioning
15 you would see potentially the -- the clearings that were
16 made for construction of the turbines as well as the
17 project roadways. And the -- over time those clearings
18 would likely re-vegetate naturally. I think that the
19 project roads would probably continue to be used by the --
20 the underlying landowner, potentially for logging or
21 something like that. Obviously, that would be up to them.
22 But into the future you will probably still see the roads.
23 That would be my speculation on that.

24 MR. HAMMOND: And what -- regarding collector lines and
25 transmission lines, how far back and where do they go?

1 MR. GRAHAM: Yes, thank you for your question, I forgot
2 about those pieces. So all of the aboveground components
3 in terms of the electrical system would be removed. So all
4 the poles would be removed, the electric wire would be
5 spooled back up and -- and taken to be scrapped or
6 recycled. And particularly with this project there are
7 small sections of underground electric conduit and those
8 would also be removed for those section -- pieces that are
9 certainly within 2 feet of the surface.

10 MR. HAMMOND: Thank you very much.

11 MR. LAVERTY: I have just a clarifying question with
12 regard to I F & W's comments concerning operating regime
13 curtailment and post bat mortality studies. Has I F & W --
14 is there -- is there information in the record, evidence in
15 the record, that I F & W has accepted the study option and
16 perhaps a different operating curtailment and is -- no
17 longer has reservations in this area?

18 MR. WEST: Yes, I believe Mark Caron had submitted some
19 -- some regarding that. And I know I F & W is here today,
20 I don't know if they can come up and say. And Mark's
21 comments specifically address our curtailment study. So I
22 would say, yes, but if you want to ask him, he's here as
23 well.

24 MR. LAVERTY: I would like to. I don't want to put our
25 colleague on the spot. If he feels it's appropriate, I'd

1 like to have him comment to that effect.

2 MR. WEST: And there's some clarification. It was in
3 -- we included the Bull Hill letter that I wrote to I F & W
4 in our record as an exhibit, but I F & W has not
5 specifically commented that they are -- or accepting -- or
6 it's not in the record that they're accepting a curtailment
7 study.

8 MR. LAVERTY: Could we ask I F & W?

9 MS. HILTON: We do have time set aside on the schedule
10 at our next commissioner's meeting at July 6 --

11 MR. LAVERTY: Okay. So we'll have that opportunity
12 then. Thank you very much.

13 MS. HILTON: -- so we can thoroughly go into that.

14 MR. WEST: And I'll just reiterate that they did accept
15 it for the -- it's in the Bull Hill record and they
16 accepted that. So in conversations with them, I mean,
17 today even it's -- it makes sense that we would increase
18 the sample size and get a more robust study by including
19 this in the same program.

20 MR. LAVERTY: Thank you.

21 MS. HILTON: Any other questions? Okay. I think what
22 I'm going to suggest -- we are behind schedule. But why
23 don't we move forward before taking a break for lunch. The
24 next session is cross-examination by PPDLW and that's about
25 25 minutes.

1 MS. BROWNE: Madam Chair, a housekeeping request. I've
2 spoken with the PPDW and David Corrigan and neither have
3 requested to cross-examine Roger Milliken. So if there's
4 no objection, I would like to -- he has got scheduling
5 conflicts and if he could be excused, that would be great.

6 MS. HILTON: Okay. That's fine.

7 MS. BROWNE: Do you want to remind us who you want up
8 here and we can just make sure we have that right?

9 MR. GURALL: Actually, due to the great job that the
10 Commission and staff did, I don't think we have any
11 questions for Sewall anymore, our questions would be for
12 Mr. Raphael.

13 MS. BROWNE: Okay. And what about Stantec, any of the
14 Stantec people?

15 MR. GURALL: They're not on our list to begin with, no.

16 MS. BROWNE: Okay.

17 MR. GURALL: My name is Kevin Gurall, I represent the
18 Partnership for the Preservation of the Downeast Lakes
19 Watershed. I live in Lakeville, Maine and have lived there
20 for the past 10, 11 years.

21 EXAMINATION OF DAVID RAPHAEL

22 BY MR. GURALL:

23 Q I just had a couple of questions for Mr. Raphael here. In
24 regards to your testimony about the Baskahegan Lake
25 surveys, is it true that this survey would not meet the

1 criteria of a non-biased survey?

2 A I don't know if I can answer that question and I don't have
3 a basis for determining bias or unbiased in that regard. I
4 did not conduct the survey, so I couldn't --

5 Q Well, you've certainly referred to it numerous times, so I
6 thought perhaps you would have an opinion on that.

7 A I do not.

8 Q Let me ask, is it true that everybody who was surveyed in
9 the Baskahegan survey was already on the lake -- at or on
10 the lake, which, therefore, would preestablish that they
11 didn't mind recreating in the shadow of the Stetson
12 turbines, which, therefore, make the -- the survey biased?

13 A I don't necessarily agree with that. I mean, I think,
14 yeah, they were out -- they were at the lake, but, you
15 know, they may have -- didn't necessarily predicate what
16 their opinions were about wind when the survey was
17 conducted.

18 Q Did -- did Mr. Palmer not make a rebuttal to your comments
19 regarding the snowmobile survey that it was of little
20 relevance because snowmobilers were already there, they had
21 been fed a dinner, fed drinks and everything else, so it's
22 really not a -- you know, an unbiased survey, I'm not sure
23 how this would be considered different.

24 I mean, if the people are already at the lake
25 recreating under the turbines, then I think it's a fair

1 assumption that all of those people are okay with it, so
2 it's going to skew the results pretty dramatically.

3 A I don't necessarily agree with that. I mean, they may be
4 at the lake, that doesn't necessarily indicate that they
5 liked having the turbines in view or -- or disliked having
6 the turbines in view.

7 Q Okay. Do you realize that Baskahegan Lake is not a scenic
8 resource?

9 A Yes.

10 Q So aren't we comparing apples to apples or apples to
11 oranges here?

12 A I think it had to do less with the designation and more
13 with what the viewers' response was to seeing the turbines
14 in view or not response because there was no -- no response
15 in that regard. So I don't think whether the lake was
16 designated as scenic or not scenic was necessarily relevant
17 in that regard.

18 Q I'm a little bit confused with your testimony this morning.
19 When you first asked -- answered Commissioner Laverty's
20 question regarding the possible ninth lake of statewide or
21 national significance, you didn't seem to have any
22 awareness of this ninth lake was your immediate response;
23 is that correct?

24 A Well, it -- you know, we certainly were aware of the lakes,
25 we looked at all the lakes in the region, our analysis --

1 if you look at our maps and so forth --

2 Q I didn't ask what you had looked at. I asked if that was
3 your response?

4 A Okay. Please repeat the question then.

5 Q This morning when first questioned by Commissioner Laverty
6 if, in fact, you were aware of a ninth lake referred to as
7 Junior Bay or Pug Lake, you initially said that you didn't
8 have any awareness of that resource; is that correct?

9 A It did not -- the listing did not come up as it being
10 outstanding or significant and that's why it was not
11 addressed in that regard.

12 Q Why is it then that you came back two minutes later,
13 roughly, saying that you had looked at it and that there's
14 1 and a half miles of that lake that would be impacted?

15 A That's because --

16 Q There seems to be a conflict here.

17 A Well, no, not really because I became aware of it,
18 obviously, last night when it was brought up in testimony
19 and, therefore, I did some research over the evening to
20 kind of look at it, look at what we had -- you know, how it
21 had appeared in our report and was aware of the viewshed in
22 particular hitting a -- you know, a corner of that lake
23 which, you know, again, has been determined to be Pug Lake,
24 so --.

25 Q So is your testimony that that is a ninth resource or is it

1 not a ninth resource?

2 A We're still trying to sort that out.

3 Q And what's going to determine that? I assume you've had
4 your 8-mile limit mapping done that you would know if it
5 cuts across that body of water.

6 A It does cut across that body of water. I think there's
7 still uncertainty as to whether it's actually considered
8 either outstanding or significant as a resource.

9 Q You've also said several times here that you're a paddler
10 and sportsman; is that correct?

11 A Yes, sir.

12 Q Do you consider yourself fairly active in that area, an
13 experienced paddler?

14 A Yes.

15 Q Is it true in your VIA that you describe the thoroughfare
16 between Junior Lake and Scraggly Lake as narrow, rocky and
17 shallow and suitable only for small crafts such as kayaks
18 and canoes?

19 A That may have been a mischaracterization. I realized after
20 getting back to the lake and paddling that -- or traveling
21 over that it's a little bit wider. I don't know exactly
22 what the depth is. There are definitely rocks there. I'm
23 also aware that the lakes are drawn down periodically and
24 that the water level drops.

25 So I haven't been on the lake when the water level is

1 low, but I know there are certain of those kind of
2 navigable areas that become trickier.

3 Q I just was wondering if maybe part of the tour that went
4 yesterday was a little concerned about that because they
5 were in a 21-foot -- I mean, Lund boat with 135 horse motor
6 on it and they didn't seem to have any problem negotiating
7 that thoroughfare. And I can tell you as a person who
8 lives on those lakes that the water there is approximately
9 30 feet deep and in the fall after drawdown it's around 14
10 to 18 feet deep at that spot. So I --

11 A I would imagine more rocks -- are more rocks exposed at
12 that time?

13 Q Not in the main travel fare. That lane -- I mean, that
14 thoroughfare is pretty well divided left and right. The
15 right-hand is rocky and shallow, the left-hand is
16 adequately deep for any boat that could possibly go on that
17 lake. So I just wanted clarification there.

18 A Thank you.

19 Q On Page 10 of your VIA you listed eight different books,
20 eight websites and eight tour guides. However, unless I've
21 missed them, I didn't see any footnoted references to any
22 of these books, websites or guides. Is it true then that
23 you found no redeeming qualities in any of these 24
24 documents that you would include in your report?

25 A You know, we review these, we don't necessarily have to

1 site them to accommodate or understand what they might
2 imply or if there's any information that specifically
3 relates to the visual impact assessment.

4 Q The reason I'm asking is I noticed in your -- in your
5 pre-filed testimony it does not say that you read those, it
6 said you gathered them. So I was wondering if you had
7 actually used those. If you're going to list 24 resources,
8 one would think that there was a reason for you to list
9 them, such as you actually read them or --

10 A Either myself or my staff and associates reviewed them. I
11 wouldn't -- I couldn't tell you that I read them cover to
12 cover. For example, the AMC, you know, Quiet Waters -- I
13 mean, the Quiet Waters Maine, I definitely looked at that
14 and read sections to -- that were applicable to this area
15 so that I had an understanding of, you know, paddling in
16 the region.

17 Q So it is your testimony then, am I correct, in stating that
18 of the 24 resources you listed, eight books, eight websites
19 and eight tour guides that there was nothing that you took
20 from them and footnoted in your report?

21 A The second part may be true, although, actually, there was
22 a reference to the Quiet Waters Maine in our report. We
23 may have read them. If we didn't footnote them, that
24 didn't necessarily mean that, you know, we didn't incorporate
25 information in our analysis.

1 MR. GURALL: Okay. That's all the questions I have.

2 MR. RAPHAEL: Thank you.

3 MS. HILTON: So I guess, David, do you want to -- David
4 Corrigan.

5 MR. CORRIGAN: Hi. David Corrigan. And I think I'd
6 like to start with Stantec Consultants today. All right.
7 And I believe since most of the testimony I'll be referring
8 to is -- was signed by Adam Gravel, Dale Knapp and Joy
9 Prescott simultaneously, I'll direct them and let them
10 decide who's best to answer.

11 MS. HILTON: Okay. And remember to slow down.

12 EXAMINATION OF ADAM GRAVEL

13 BY MR. CORRIGAN:

14 Q For you folks, is it true that in your pre-filed testimony
15 on Page 7, Table No. 1 in listing other wildlife you listed
16 no threatened or endangered species or habitats that
17 support these species for the project area?

18 A You said Page 7.

19 Q Page 7, Table No. 1.

20 A That is correct.

21 Q Okay. And on Page 26, No. 6, other wildlife, is it correct
22 that you said: Other predators expected to occur in the
23 project area based on their habitat requirements include
24 red fox, bobcat, fisher, long-tailed weasel and raccoon?
25 Is that a proper listing?

1 A Yes, that's correct.

2 Q Okay. And in the same paragraph did you say: Listed
3 species in the state such as Canada lynx, northern bog
4 lemming, spring salamander, roaring brook mayfly are not
5 known to occur in this region of the state or the habitats
6 within the project area and are not expected to be impacted
7 by the project?

8 A That's correct.

9 Q Okay. And finally on Page 27, Section 4 in the conclusion,
10 did you say: Importantly, the project area does not
11 include unique habitat that requires protection from
12 development and does not host the species that require
13 special protection?

14 A Yes, that's correct.

15 Q Okay. I've heard from commissioners a little bit of -- a
16 question about the lynx studies. I'd like to follow up on
17 that a little bit.

18 Can you tell me the qualifications of the people who
19 did your tracking -- winter tracking studies?

20 A What studies are you referring to?

21 Q Did you do winter tracking studies?

22 A No, we did not.

23 Q You did not. Can you tell me how many area bobcat hunters
24 or other outdoorsmen or trappers you spoke to about lynx in
25 the area?

1 A No, I can't.

2 Q So you spoke to none; is that correct?

3 A We spoke to the relevant experts of the state, which
4 include the U.S. Fish & Wildlife Service and the Maine
5 Department of Island Fisheries & Wildlife.

6 Q Okay. Did you consult with the local game warden, Paul
7 Farrington, about lynx in the area?

8 A No, we did not.

9 Q You did not. Okay. On that note -- just give me a second
10 to find the right paper. Are you aware of a document
11 entered into the record from U.S. Fish & Wildlife Service
12 dated November 17, 2009 originally addressed to Sean Casto
13 at Normandeau Associates where the U.S. Fish & Wildlife
14 Service -- it was in reply to the initial request for
15 information from the U.S. Fish & wildlife Service on
16 endangered species and such?

17 A Yes, I am.

18 Q Okay. On Page 2 of that document it says: Wind power
19 construction activities may cause adverse effects on the
20 Canada lynx depending on size and scale of habitat
21 alteration the project may cause. It goes on to say:
22 Evaluations of boreals, spruce fir habitat and/or snow
23 tracking surveys in the vicinity of the proposed towers,
24 roads, transmission lines and other facilities would help
25 assess the potential for the occurrence of lynx. Maine's

1 D I F & W conducted lynx snow tracking surveys in northern
2 and western Maine in recent years. And you should contact
3 Jennifer Vashon, M D I F & W lynx biologist, with an
4 address, to determine if surveys were conducted in your
5 project area or nearby townships. Ultimately, this
6 information will be needed by federal agencies permitting
7 or funding your project to determine if adverse effects on
8 lynx or critical habitat are anticipated. Are you familiar
9 with that section?

10 A You -- excuse me, I missed the last couple words.

11 Q I'm sorry. Are you familiar with that request that --

12 A Yes.

13 Q -- that was in the record? Did you in fact consult with
14 Ms. Vashon?

15 A No, we did not, but we did stay in contact with Fish &
16 Wildlife Service.

17 Q Okay. So you did not follow up on the request of U.S. Fish
18 & Wildlife Service to consult with the I F & W on this?

19 MR. WEST: I think I -- this is Jeff West,
20 environmental coordinator for First Wind. I think what
21 Mr. Corrigan is getting at is whether or not we consulted
22 with the Fish & Wildlife Service and I F & W on the lynx
23 issue. Let me just -- and if he would let me -- permit, I
24 will kind of give you a brief overview of how we do our
25 environmental assessments and risk analyses, because that's

1 what we're getting at here is a risk assessment.

2 MR. CORRIGAN: If we could get a brief statement of
3 that, I'd find it helpful.

4 EXAMINATION OF JEFF WEST

5 A First of all, the letter he is referring to is a letter
6 that was sent out when we consulted with U.S. Fish &
7 Wildlife Service on our met tower application. At the time
8 our met tower application did not trigger any federal
9 funding as the letter would request additional information
10 on or, you know, fill of any wetlands that are permitted by
11 the U.S. Army Corps of Engineers. So the met tower itself
12 didn't have any impacts that they would require Army Corps
13 permitting; and, therefore, consultation was not necessary
14 between the Army Corps and Fish & Wildlife Service.

15 Q May I make one clarification here? That letter that he's
16 referring to says: Thank you for your letter dated July
17 14, 2009 requesting information on recommendations from
18 U.S. Fish & Wildlife Service concerning the proposed wind
19 project located at Bowers Mountain. It does not mention
20 met towers. Just for clarification.

21 A Yeah. And that was part of the -- our critical issues
22 analysis that we do. So as we're developing and we're
23 putting up the met towers, we do a critical issues analysis
24 that looks at issues in the area. It's kind of a high
25 level approach, 35,000 foot approach, in determining what

1 kind of issues we need to spend more time on and study in
2 depth. So it looks at sensitive habitat, it looks at
3 resources, endangered species, state listed birds, bats,
4 historical properties, cultural properties, flood plains,
5 FEMA zones, aviation constraints. It's kind of a whole --
6 a whole breadth of studies. And so it helps us identify
7 where our risks are and what we need to concentrate on.

8 The lynx critical habitat is over 29 miles away from
9 the project. The historical review areas are north of the
10 collection line. We - we didn't feel that the lynx
11 presented a substantial risk to this area or used this area
12 at the time. And -- and we also knew if the project was
13 permitted and going forward within the Army Corps process
14 that the U.S. Army Corps of Engineers would consult with
15 U.S. Fish & Wildlife Service.

16 And that's exactly where we are today. We have
17 submitted Army Corps application and the U.S. Fish &
18 Wildlife Service has requested a review -- a risk
19 assessment review of -- or habitat assessment for lynx in
20 the area and the potential to occur. So the best way to do
21 that is a desktop analysis and looking at potential hare
22 habitat.

23 And Adam can talk more about the biology, I'm just
24 talking about the process that we're going through. So
25 we've identified, you know, in the area of 4 percent of

1 potential hare habitat that intersects with our roads. So
2 out of 11 miles of roads, we have .4 miles of potential
3 hare habitat that intersects with our roads. And it's
4 moderate value hare habitat. And this was developed -- or
5 we concluded this from our aerial photography that we took
6 in 2009 under leave-off conditions. And these are high
7 resolution ortho photos that we used. And these are the
8 similar assessments we've used at Oakfield -- at the
9 Oakfield project as -- and that was also used, I think, at
10 the Kibby project.

11 Q I appreciate the overview of what you've done and it seems
12 to match everything that's in the record to date, but I'm
13 still wondering why you never followed up -- now that we're
14 in this position why you never followed up on the U.S. Fish
15 & Wildlife's recommendations to check with I F & W about
16 tracking surveys, actual on the ground field research to
17 see if lynx use this area?

18 A Well, we meet with I F & W as well as we're -- was we're
19 developing a project. And we come out -- we develop a
20 study plan in consultation with I F & W. This was not an
21 issue that was raised by I F & W, it wasn't something that
22 was requested like in -- in our similar project in western
23 Maine in the Bingham project where I F & W actually
24 identified tracking surveys and we conducted them.

25 Basically, the risk here is not high enough to warrant

1 tracking surveys or -- or more studies on lynx.

2 Q Okay. To follow that up, if it's not high enough to worry
3 about lynx and tracking surveys, are you aware that in
4 December of last year I F & W issued emergency rule making
5 to change the trapping rules for this area because they
6 were concerned about accidental catches of lynx?

7 A As I understand that, that was for the entire state of
8 Maine, especially the critical habitat --

9 Q That's not correct.

10 A -- where --

11 Q That is not correct. They issued -- on December 10th they
12 specifically issued the rule making change for WMD that
13 this project is in which made it similar to the critical
14 habitat because there had been -- had been incidental
15 catches in the area and they were worried about it
16 continuing.

17 Does that not contradict what you're telling us that
18 this is not a lynx area?

19 A Well, WM -- you're talking about wildlife management area
20 at 19?

21 Q That's correct.

22 A That's a fairly large management area that covers a wide
23 breadth of Washington County. There is potentially lynx
24 habitat in the rest of that management area of Washington
25 County, I would not disagree with that.

1 Q Okay. Are you -- are you aware that -- that there are
2 historic lynx sightings from Route 6 south through the
3 project area?

4 A Yeah, I believe there are several and I think Adam Gravel
5 probably has more expertise on those sightings than I do.

6 Q So you -- the fact is you were aware of historic lynx
7 sightings in the area, you're aware that I F & W was
8 worried about trapping -- accidentally trapping lynx in the
9 area and yet you decided to do nothing but desktop surveys
10 and do no fieldwork to determine if lynx use the area; is
11 that correct? I would just like a yes or a no.

12 A As I follow-up, yes, based on our -- our initial habitat
13 assessment, yeah, we do not -- we do not feel that it
14 warrants further tracking surveys.

15 Q Okay. I tend to disagree and I wish the Commission would
16 look further into this because while U.S. Fish & Wildlife
17 Service is charged with handling this on the federal level,
18 I believe LURC commissioners are also charged with this on
19 a state level as far as looking out for these species and
20 requesting further information for agencies as appropriate.
21 So I will let off on that one.

22 A And if -- if we will, I would let Adam, who's got -- the
23 biology expert, maybe he could talk about in terms of
24 habitat and the risk associated with the lynx there.

25 MS. HILTON: It's your time, David, so --

1 MR. CORRIGAN: I would rather not get into right now.
2 I believe the fact has been established that they have not
3 followed up on the questions that were asked from U.S. Fish
4 & Wildlife Service and I will leave it to the Commission to
5 possibly follow up on that later.

6 MS. HILTON: Okay. And you know that on Wednesday the
7 agencies -- you will have an opportunity to.

8 MR. CORRIGAN: Yes. But I also know Fish & Wildlife
9 will not be there. So I would like to just keep it in the
10 commissioners' minds that it's something that needs to be
11 followed up on as appropriate. All right. I would like to
12 move on to -- if I can get my paperwork right here --
13 Mr. Kiely, Kearns and West. I think I'm done with the
14 Stantec consultants on the wildlife issues.

15 And this is in relation to their pre-filed testimony
16 that came in under the names of Matthew Kearns, Neil Kiely
17 and Jeff West all together. So I'll let them decide who to
18 address.

19 EXAMINATION OF NEIL KIELY

20 BY MR. CORRIGAN:

21 Q On Page 6 of your pre-filed testimony under Section 3,
22 No. 1, it's headed Potential to Generate Significant Energy
23 in the Proposed Location, is it correct that you said the
24 Bowers project has the capacity to generate significant
25 energy at the proposed location, specifically the average

1 wind speed projected for the Bowers project as 7.5 meters
2 per second -- which is between a Class 4 and Class 5 wind
3 resource. The 27 turbine project is expected to produce up
4 to approximately 200,000 megawatt hours of energy per year;
5 does that sound correct?

6 A I'm waiting to find the exact location, if you don't mind.

7 Q In Page 6, Section 3.

8 A I think we have different pages here.

9 MR. CORRIGAN: This was page 6 of the testimony of
10 Kearns, Kiely and --

11 MS. BROWNE: The direct or the rebuttal.

12 MR. CORRIGAN: -- and West. I'm sorry?

13 MS. BROWNE: The direct testimony?

14 MR. CORRIGAN: Yes, direct testimony.

15 A Section 1?

16 MR. CORRIGAN: I believe it's Section 3, No. 1.

17 A Okay. Yes, I have you.

18 BY MR. CORRIGAN:

19 Q Okay. Is that an accurate classification of what you say
20 there?

21 A 7.5 meters per second, correct.

22 Q Okay. Have you entered -- I have not been able to find --
23 have you entered into the record any actual meteorological
24 test data from the Bowers site to confirm that?

25 A We have not entered that into the record. We've never

1 entered that into the record during application process.

2 Q May I ask why not?

3 A Two -- I'm sorry. It has never been a requirement, it is
4 also -- we would consider that proprietary wind data. We
5 do enter into the record the projection on the actual hours
6 that will be produced. And we -- we also, as part of our
7 post-permitting process, supply that information to LURC.

8 So, for example, Stetson you have now operational data
9 for Stetson 1 and Stetson 2 that you can compare to the
10 projections that were made to that application process.

11 Q So you are basically asking us to take your word for it and
12 you will tell us afterwards if it worked out without
13 providing any documentation beforehand?

14 A Well, I -- take our word for it. I think we have a long
15 track record that speaks for itself in our ability to
16 predict and project the wind speeds. And, obviously, we're
17 getting financed and we're attracting folks that are
18 reviewing this information.

19 In other words, in discussions, I think, with staff,
20 this data really, without the appropriate sophisticated
21 software modeling techniques, would be unintelligible to
22 the staff.

23 Q I would like to ask, how can you consider proprietary
24 information -- if you have told us what you believe the
25 average wind speed is, you already have options tied up on

1 the land, obviously, and a permit before this Commission,
2 how could -- how could giving us the actual hard data
3 compromise -- compromise your company?

4 A This hard data -- I mean, there's a difference between the
5 actual number of hours that are produced and the quality of
6 the winds and the way we take advantage of the quality of
7 those winds with our technology and the technology we
8 select that is really an art and that -- you know, it could
9 be considered our secret sauce, if you will, about how we
10 approach wind sites. So that is proprietary data to us.

11 Q But the data that tells us 7.5 meters per second, how can
12 that be proprietary if you've admitted openly that that is
13 what you have?

14 A Well, that's what -- that's where we're talking about the
15 average wind speed, but we're not talking about
16 the underlying --

17 Q I'm not asking for that, I'm asking for the proof that that
18 is the actual wind speed on the site that you've
19 documented. That's not entered into the record. I don't
20 -- I wonder how the Commission can take that into
21 consideration if it's an unsubstantiated claim not entered
22 into the record as fact. That's what I'm getting at.

23 A Well, that's not been a requirement of the permits in the
24 past. We provide our protections and we've actually
25 followed that up with post-construction production.

1 Q But is it not true that any claims made by either applicant
2 or intervenor has to be -- legally has to be followed up by
3 hard, documented facts? Is that not a requirement of these
4 hearings?

5 A I don't think this a requirement.

6 MS. BROWNE: I object. If he's asking for legal
7 conclusions, that's not an appropriate forum to do so.

8 MR. CORRIGAN: I'll withdraw that. I'm sorry. My
9 concern is that we are being asked to take your word for
10 data that's not in the record and I don't believe that's
11 appropriate. So with that, just a couple things -- give me
12 just just a moment here. I have pre-filed rebuttal
13 testimony of Patrick Graham, Jeanine Murchison and Jody
14 O'Neal which came in too late to ask for cross-examination
15 time on them, but I believe, perhaps, Mr. Kiely and the
16 rest could address some of this and if they can't, we'll
17 move on.

18 MS. BROWNE: I mean, if they're the appropriate people
19 to ask --

20 MR. CORRIGAN: If they're here, I'd like to ask them.
21 I just didn't know if they're available.

22 MS. BROWNE: Yep. All our witnesses are available.

23 MR. CORRIGAN: Okay. Yes, I would like to address
24 Mr. Graham, Ms. Murchison and O'Neal. And I'll keep this
25 as brief as possible, I just have a couple of questions

1 placed at the headwaters of a similar watershed in Maine on
2 ridges?

3 A I can't say that I am because I haven't done that kind of a
4 study of the whole state of Maine. What we were attempting
5 to do in the rebuttal testimony was just provide some sort
6 of measure that was -- that could be easily recognized in
7 terms of being able to relate to the amount of concrete --

8 Q I appreciate that.

9 A -- that is in the foundations to something that an average
10 person and certainly the commissioners would be familiar
11 with.

12 Q No, I appreciate that. So on average we're looking at each
13 one of these turbines taking the same amount of concrete as
14 two to three average-sized homes; that's your opinion?

15 A Yes, approximately.

16 Q Okay.

17 A Obviously, it depends on the size --

18 Q There are differences, but that's a good approximation we
19 can all kind of understand. And you say there will be --
20 these foundations will be on average 6 to 8 feet deep.

21 What about the -- the retaining bolts for these
22 turbines, how deep are those holes drilled or blasted or
23 placed in the bedrock?

24 A Are you referring to the anchor bolts.

25 Q The anchor bolts that hold everything down, yes.

1 A Okay. The anchor bolts -- and these are -- I guess if I
2 could take one step back to clarify so that everybody is
3 aware. There are typically two types of foundations that
4 have been used so far in the projects that we've been
5 working on here in Maine. One is called a rock anchored
6 foundation and the other is called a spread footing
7 foundation. And it depends on the underlying substrate,
8 namely whether or not we have bedrock close to the surface.

9 And so the foundation that you're referring to is a
10 rock anchor foundation. And in that type of foundation
11 there are borings that are drilled for the rock anchors
12 that are approximately 40 feet deep into bedrock. That is
13 so that the foundation can be secured properly to safely
14 hold the turbine.

15 Q Okay. So in this project we're talking the major
16 excavation will only average 6 to 8 feet, but there will be
17 holes bored approximately 40 feet into bedrock at every one
18 of these turbines?

19 A Yes, there will be borings for any of the rock anchor
20 foundations. And --

21 Q Can you tell me approximately how many rock anchors per
22 turbine?

23 A I can look that up for you. I can't tell you right off the
24 top of my head exactly how many rock anchors there are. I
25 would -- just without looking --

1 Q Just a rough estimate.

2 A -- I would say roughly two dozen.

3 Q Two dozen. So we're looking at a couple dozen times 27 to
4 get a rough figure for the project? That would be roughly
5 correct without looking up the specifics?

6 A Well, I would say that that's assuming that every turbine
7 had that type of foundation. And currently we don't know
8 for each turbine what type of foundation it will have
9 because that requires geotechnical studies that have not
10 been completed as of yet.

11 Q So at this time we have no idea how many 40-foot holes will
12 be drilled in the -- in that ridge line; is that correct?

13 A I can't tell you exactly how many, no.

14 Q Okay. That's what I wanted to know. And this gets to my
15 concerns over -- over deep groundwater. I have reviewed
16 and haven't come up with too much to dispute on their
17 surface water -- surface water plans as compared to other
18 wind plans I've seen, but I still have deep concerns about
19 groundwater in this issue. And I think the Commission -- I
20 wish they would keep an eye on --

21 MS. BROWNE: Is there a question, Madam Chair, as
22 opposed to testimony by the --

23 MR. CORRIGAN: I apologize and I will conclude. Thank
24 you. I'm all set.

25 MS. HILTON: Thank you. We've got redirect and then

1 we'll break for lunch. And I guess that's you, Juliet.

2 MS. BROWNE: Yes, I do have some redirect.

3 EXAMINATION OF MATT KEARNS:

4 BY MS. BROWNE:

5 Q Thank you. There were some questions early on -- and this
6 is for you, Matt -- about the OCAS technology for night
7 lighting of turbines. And I have two questions. The first
8 is, what has First Wind done with respect to evaluating
9 that technology? And then the second question is whether
10 you could elaborate on the question you received earlier
11 about the willingness of First Wind to evaluate it moving
12 forward?

13 A Thank you. So we have done, as I indicated to Commissioner
14 Hammond and Laverty, we have done this kind of rolling due
15 diligence of the technology that's out there and we are
16 really interested in finding that perfect solution. We
17 haven't found it yet, but we are working on it. And OCAS
18 came -- they've actually spent, as I understand it, a fair
19 amount of time talking to agencies and LURC may be among
20 them, I'm not sure. But the technology is new and, as I
21 understand, it is very, very expensive and not quite there
22 in terms of FAA approvals.

23 So -- but I would say, you know, we are in the process
24 of diligencing that further. So we're going to keep doing
25 that and see if we can figure out a way to address the

1 concerns that have been raised here because, frankly, it's
2 -- you know, we realize it's a critical issue. To the
3 extent that we can mitigate lighting impacts, we're going
4 to find a way to do that. So we're committed to finding
5 solutions.

6 We don't think we're quite there yet with OCAS, the
7 cost was just staggering, frankly. And the -- again, the
8 idea about timing, maybe pushing it down the field, I mean,
9 we will certainly take those thoughts under consideration
10 and try to come up with a -- with a solution. So I hear
11 where the Commission is coming from and I'm anxious to find
12 -- and folks often say to us, you know, if only the
13 turbines weren't visible, right, I mean, because that's the
14 key issue and the lighting is -- is similar.

15 But the FAA makes us paint a certain color, they have
16 to come in in a certain paint chip, and the lighting
17 requirements are also dictated to us by FAA. And then
18 we're boxed into the cost constraints, just the straight
19 economics of the project. So I just wanted to further
20 address that. Thank you.

21 EXAMINATION OF PATRICK GRAHAM:

22 BY MS. BROWNE:

23 Q Thank you. Patrick, a quick question for you. You were
24 asked whether you're familiar with any residential
25 subdivisions that are built on ridges in sensitive

1 watersheds. Are you familiar with any wind power projects
2 that have been built on ridges and sensitive watersheds?

3 A Certainly. There are a number of them. And if you look at
4 the projects that have been built in the state, almost
5 every single one of those that have been built to date
6 would fall into that category. So this is something that
7 we have dealt with before many times and certainly we've
8 used these types of foundations on all of these projects.
9 So this is standard practice and we know it works and can
10 be done safely.

11 MS. BROWNE: Bruce Lockwood, have you come back up? I
12 had a question for you.

13 EXAMINATION OF BRUCE LOCKWOOD

14 BY MS. BROWNE:

15 Q I can't remember -- Dr. Palmer asked -- it may have been
16 David or -- I think it was David about the telephone survey
17 done by PRG didn't give us any information on the level of
18 use of these lakes. My question to you is whether the
19 telephone survey gave you any qualitative information about
20 the relative use of these lakes?

21 A Yes. Bruce Lockwood again from Cape Elizabeth representing
22 Portland Research Group in Portland, Maine. The telephone
23 survey -- one thing that we were able to determine from
24 that survey is from the -- we surveyed from the New England
25 area and the state of Maine and all of the respondents that

1 we interviewed where we got to the point where we were able
2 to ask if they were aware of this region and actually used
3 the study area for some of the outdoor activities that you
4 can do around the lakes, we found that only 5 percent of
5 the people that we actually spoke with were aware and used,
6 at least rarely, at least one of the eight lakes that we've
7 been looking -- researching in the study area, so just
8 5 percent.

9 Q Okay. Although you may not have hard numbers from an
10 intercept survey, you have qualitative information on the
11 relative level of use?

12 A Yes. And a number of the different uses such as canoeing
13 and kayaking and hiking and so forth that take place in
14 this area, yes.

15 MS. BROWNE: Thanks. Joy, are you up there?

16 EXAMINATION OF JOY PRESCOTT

17 BY MS. BROWNE:

18 Q At the risk of revisiting a question that has created a lot
19 of confusion, could you please explain for the Commission
20 the issue of Pug Lake and whether there is somehow a ninth
21 resource that hasn't been identified that's within the
22 study area?

23 A So in the Maine Wildlands Assessment, which is a table that
24 is primarily available in hard copy, there is a listing for
25 Pug Lake, there is not a listing for significant or

1 outstanding scenic quality for that lake. So the question
2 that we need to look at, that Palmer explained and that
3 Fred explained, is that we need to identify whether that
4 Pug Lake is the Pug Lake that was referenced in the
5 testimony yesterday or whether that Pug Lake is part of
6 Junior Bay or if it's on its own lake. So that's the --.

7 Q So as I understand it, if you look at a DeLorme map there
8 is a separately identified Pug Lake that is within the
9 outer edge of the study area?

10 A That's correct. And if you look at a DeLorme there is a
11 channel that connects Pug Lake to Junior Bay which then
12 connects to West Grand Lake.

13 Q And if Pug Lake is its own lake, the classification for
14 that is not either significant or outstanding for scenic
15 quality?

16 A That's correct. And I'm looking at the table as we look in
17 the Maine Wildlands Assessment.

18 EXAMINATION OF ADAM GRAVEL

19 BY MS. BROWNE:

20 Q Adam, there was some discussion about lynx habitat. And I
21 guess I'd like to ask you, are you aware of any difference
22 in threats presented to lynx from trapping activities which
23 are the subject of the emergency rule referenced by David
24 Corrigan and the risk presented by an operating wind farm?
25 And could you comment if there's any difference in those

1 risks?

2 A Yes, there's a -- there's a huge difference between the
3 two. What we're talking about is direct mortality as a
4 result of vehicle collision or trapping, which trapping has
5 been shown to be the biggest threat in Maine to lynx
6 populations, versus habitat loss which is an indirect
7 impact. And as -- as we have -- now that we've completed
8 the habitat assessment on site, we're not showing -- the
9 project area doesn't contain that high value snowshoe hare
10 habitat that lynx prefer. We do have -- there are some
11 small patches of moderate value lynx habitat, but these
12 patches are so small that they wouldn't support a single
13 lynx because of the size of their home range. The home
14 range requirements for lynx are up to 18 square miles.
15 We're talking about, you know, tenths of a mile here.

16 Q And are you aware of U.S. Fish & Wildlife having evaluated
17 the threat to lynx associated with other wind power
18 projects that might be located in higher value lynx
19 habitat?

20 A Yes. Certainly the -- the Kibby wind project, as located
21 in core habitat -- critical lynx habitat in Maine, it also
22 has very high value snowshoe hare habitat, a lot of
23 softwood cover. And the determination was that the habitat
24 loss and -- to vehicle traffic was insignificant,
25 basically, not presenting adverse impacts to lynx.

1 Again it is true for the Oakfield project. It's not
2 within designated critical lynx habitat, but it is -- it
3 does about lynx habitat. The same determination was made
4 there. And we're talking more roads and better -- at least
5 in terms of the Kibby project, better habitat.

6 MS. BROWNE: Thank you. Nothing further. Thank you.

7 MS. HILTON: We're going to adjourn for lunch and be
8 back here -- we'll be back here at 1 o'clock sharp.

9 (Whereupon a recess was held at 12:22 p.m., and the
10 hearing was resumed at 1:08 p.m. this date.)

11 MS. HILTON: Okay. So first up is the Conservation Law
12 Foundation, Shawn.

13 MR. MAHONEY: Good afternoon, Chair Hilton and members
14 the commission. My name is Shawn Mahoney and I'm the
15 director of the Conservation Law Foundation in Maine.

16 Almost four years ago to the day I was in the same
17 position I am right now addressing this commission and
18 providing testimony in support of another wind project,
19 Stetson 1. And since then a number of things have
20 happened. And the first is I have to wear these cheaters
21 in order to see what I wrote.

22 Second is the Commission has approved and denied a
23 number of subsequent applications for wind power
24 developments, two separate inclusive task forces have
25 addressed the development of onshore and offshore wind

1 developments, and legislation has been passed to try and
2 address the issues that the Commission, its counterpart,
3 the DEP, and agency staff have wrestled with raising new
4 issues in its wake.

5 Some things have not changed over the course of the
6 last four years; Maine remains the state most dependent on
7 oil for its energy needs, Maine remains the New England
8 state with the greatest amount of wind power capacity, and
9 the threat to Maine's natural resources and economy from
10 climate changes is as great, if not greater, than it was
11 four years ago outlined in the testimony of Dr. Wake. And
12 the Commission's charge to balance the benefits of wind
13 power verses their impacts on the scenic resources of the
14 surrounding area remains a Gordian Knot.

15 In the application that's before you today for the
16 Bowers wind project that knot is the issue. This is a low
17 elevation project situated in a working forest with few
18 impacts on the natural resources of the project itself.
19 This project is essentially clustered with the Stetson 1
20 and 2 projects and the soon to be operational Rollins
21 project and is able to tie into the existing transmission
22 line reducing its impacts -- further reducing its impacts.

23 Whether this project has an unreasonable adverse effect
24 on scenic character requires you to balance the benefits
25 and costs of the project and determine if on balance the

1 effect is reasonable or not. The Wind Energy Act sets
2 forth specific criteria for you to apply to this
3 application, as you well know.

4 The testimony that we're providing today speaks to the
5 balance that you must strike. What are the tangible
6 benefits of the project beyond those assumed by the Act
7 itself or the required community benefits? And what is the
8 proposed development's purpose and context? That's why
9 we've submitted testimony and why we're here.

10 Specifically, Dr. Cameron Wake, who also appeared
11 before you four years ago, provided testimony on the
12 adverse impacts of climate change on Maine's forests, on
13 its winter recreation industry and on Maine's freshwater
14 and marine resources. Dr. Wake has been excused from
15 testifying here today so his testimony is part of the
16 record. His testimony provides facts that we believe are
17 important for you to keep in mind as you wrestle with the
18 difficult task of balancing the costs and benefits of this
19 development.

20 Similarly, Ms. Krich's testimony provides you with the
21 facts in which to place this project in the context of
22 Maine and New England's energy needs. As you heard last
23 night and no doubt will hear later today and again tonight,
24 there are many heartfelt and genuine concerns about this
25 project's potential impacts on existing uses associated

1 with the scenic resource. There's also an increasingly
2 vocal minority who generate misleading, downright false
3 claims concerning wind power and its role and impact in
4 providing electricity to Maine and New England. We heard
5 some of that last night. As you will hear, Ms. Krich's
6 testimony is provided so that you all understand the facts
7 and the context about how the energy from this wind power
8 project will impact Maine and New England.

9 In preparing for this hearing I was struck by the
10 testimony of Roger Milliken and share his appreciation for
11 your thoughtfulness, dedication and hard work. You do not
12 have an easy task and we recognize that.

13 However, when the purpose and impacts of this project
14 are viewed in the proper context, we strongly believe that
15 the benefits of this project outweigh its costs. And we
16 urge you to approve the application before you. I now turn
17 it over to Ms. Krich.

18 MS. KRICH: My name is Abigail Krich, I'm president of
19 Boreas Renewables, a consulting firm that works with the
20 wind developers in the northeast on advising them during
21 the development phase of their project as well as doing
22 industry advocacy work in the electricity markets on behalf
23 of renewable energy.

24 I know I don't have the gray hair that many witnesses
25 would have, but I've been working in the wind industry

1 since 2004, including some time working at the Department
2 of Energy's national renewable energy lab, National Wind
3 Technology Center, on specifically wind integration issues
4 and how the power system handles variable electricity from
5 wind. I also have a master's degree in electrical
6 engineering from Cornell University focused on power
7 systems. And additional background and qualifications are
8 in the direct filed testimony that we submitted.

9 I've been retained by CLF to provide independent
10 assessment for the Commission.

11 MS. HILTON: Could you speak up a little bit? I --
12 we're having a hard time hearing.

13 MS. KRICH: Sorry. I was worried about feedback. Is
14 this better?

15 Okay. So the purpose of my testimony is the Bowers
16 wind project, like other wind projects in Maine, would have
17 a positive economic and environmental impact in Maine. And
18 as Shawn was saying, I want to provide you some context for
19 how the electricity produced from the Bowers wind project
20 and from wind projects in Maine interacts with the system,
21 what economic impact it has and sort of address some of the
22 urban legends regarding wind energy and the variability of
23 wind energy that have been put forth recently and
24 especially what was mentioned last night in the public
25 testimony.

1 So all generators -- electricity generators and all
2 customers of electricity, consider load, they're tied
3 together by the electrical transmission and distribution
4 wires. And the system as a whole is operated by the
5 independent system operator of New England. And one of the
6 -- their primary task is to ensure the reliability of our
7 electrical system in New England.

8 One of the key pieces of that is making sure that the
9 generation, the electricity being put into the system, and
10 the -- the load, the electricity being pulled out of the
11 system, are in balance at all times. There's not
12 significant storage on the system, we have very minimal
13 ability to store electrical energy. So it's a constant
14 balancing act trying to make sure that the generation being
15 put into the system and the load being pulled off of the
16 system are in balance.

17 And the reason that that's important is that when wind
18 energy produces electricity, by definition it must displace
19 other electricity that would have been fed into the system,
20 it must replace electricity that would have been produced
21 by other generators. And ISO New England runs the
22 electricity markets, they have a number of markets in
23 New England, that determine which generators are going to
24 produce electricity when and which -- which generators
25 would be displaced by wind energy. So primarily they do

1 that on an economic basis while ensuring reliability for
2 the system.

3 So wind energy has an extremely low variable operating
4 cost. Their costs are primarily capital expenses. So from
5 the day that they start operation and producing
6 electricity, most of their costs have already been sunk
7 into the ground. They don't have very much cost for
8 operating, you know, the next day. They have some
9 operational maintenance costs, but not -- not much of it is
10 related to how much electricity they produce in any given
11 day.

12 So what that means is every quantity, every unit of
13 electricity that the wind farm can produce, they'll take
14 any price that they can get in the market because they have
15 very small variable costs per producing the next kilowatt
16 of electricity. So they operate in the market as what we
17 call price takers. They will offer their electricity when
18 it is available and take any price that the market can
19 offer them for that electricity. So price takers in the
20 market have the effect of suppressing the price for
21 electricity.

22 So in my testimony I discussed some of the variable
23 costs of energy for different types of generation in
24 New England. So wind and hydro that don't pay for their
25 fuel have an extremely low variable cost of energy. And

1 their electricity generally will be taken any time it's
2 available. Nuclear has a slightly higher cost to produce,
3 but generally produces all the time. It's about 1 cent per
4 kilowatt hour is their variable cost of energy. Coal, a
5 little bit higher than that, maybe 3 to 6 cents per
6 kilowatt hour.

7 And then you start getting into more expensive units.
8 So combined cycle, natural gas units might be 5 to 7 cents
9 per kilowatt hour. Gas turbines -- natural gas turbines
10 would be 7 to 15 cents per kilowatt hour. Oil or steam --
11 oil or gas steam turbines are typically 15 to 23 cents per
12 kilowatt hour. And then typically the most expensive
13 peaking units, the oil combustion turbines, range from
14 about 23 to 37 cents per kilowatt hour.

15 So I wanted to give you that context to explain that
16 when ISO New England operates the markets, they take all of
17 the bids from all of the generators who are offering to
18 supply electricity in a given hour and they line them up in
19 what's called a bid stack. So they line them up in
20 economic order. And then they determine what load they
21 need to meet, how much electricity needs to be produced by
22 those generators. And they pick the lowest cost generators
23 to meet the load and they select those and pay them all a
24 marginal price. So the most expensive bid that was
25 selected to produce electricity to meet a load sets the

1 price that's paid to all generators that produce during
2 that time period.

3 So wind energy, because it operates as a price taker,
4 its effect is actually -- generally it's considered net
5 load that you would have once you include wind in that
6 system. So ISO New England would look at what load needs
7 to be met in a given hour and then they would subtract from
8 that the amount of wind energy that would be expected to be
9 produced and only purchase that amount of electricity from
10 the other conventional generators. So because you're
11 reducing the amount of electricity that needs to be
12 purchased from those other conventional generators, you're
13 lowering where in the bid stack the marginal unit is and
14 you're actually lowering the price that all generators in
15 the entire region get paid.

16 So in some parts of the bid stack it's fairly flat and
17 a small change left or right in the bid stack doesn't have
18 a huge effect, but it always does -- price taking energy
19 always will reduce the price being paid to all generators.
20 But there are parts of the bid stack, especially when you
21 get up to peaking units and high demand days or days when
22 some of the larger base load generators are offline for
23 maintenance or an unexpected outage, at those times the
24 economic bid stack can get very steep. And a very small
25 change in how much electricity ISO New England needs to

1 clear in the market to meet load can have a significant
2 impact on reducing the market clearing price for
3 electricity.

4 So natural gas in New England is the most common fuel
5 type that would set the clearing price in our market. So
6 our electricity prices in New England are very closely
7 correlated with natural gas prices. And if you look at
8 fluctuations in natural gas and electricity prices over the
9 last -- well, any period of time, it's extremely volatile.
10 So there are huge spikes, there are huge troughs and
11 there's very little ability to predict what the price of
12 natural gas or electricity will be a few years into the
13 future.

14 Wind, on the other hand, from the day it starts
15 construction, it knows exactly how much it will cost and it
16 knows how much electricity it will produce over its
17 lifetime, approximately. So it can offer a fixed cost or a
18 known cost for electricity over the lifetime of the
19 project. And the Bowers wind project, like any other wind
20 project that would be proposed in Maine, typically has a
21 20-years operating lifetime. There is no other type of
22 electricity where fuel needs to be purchased in order to
23 produce electricity that can guarantee prices even ten
24 years in the future let alone 20 years in the future. So
25 it allows stability in the market, which we can't get from

1 natural gas or other fossil fuels.

2 So as an example that was in my testimony, as recently
3 as June 2008 natural gas prices were roughly three times
4 what they are now. So they're now around \$5 per million
5 BTU; they were around \$15 per million BTU only two years
6 ago. And electricity prices in Maine at that time were
7 averaging 10.3 cents per kilowatt hour and they actually
8 peaked at 40 cents per kilowatt hour. And those are
9 wholesale electricity prices, not retail price. Retail
10 prices, if they were counted before that, would be higher.

11 So the -- the types of long-term contracts that many
12 wind farms have signed up for -- generally onshore wind
13 projects have contracted for long-term price agreements
14 that are much below those levels that we saw in the
15 wholesale markets just two years ago. So they allow some
16 cushioning from market fluctuation.

17 So in that way -- any price taking electricity, and
18 wind in particular, will always reduce the clearing price
19 and reduce the electricity rate for the entire region.
20 Now, even -- it's hard to know ahead of time whether a
21 long-term contract for electricity will end up being above
22 or below market rates, it really depends on what fuel
23 prices do over the length of the contract. But the
24 electricity that is signed up for in long-term contracts
25 still gets entered into the electricity markets that I was

1 describing earlier that were run by ISO New England and
2 they're entered in by price takers.

3 So independent of what price is paid in a long-term
4 contract outside of the market for electricity, it still
5 reduces the overall market price for electricity. So I
6 wanted to make sure that was clear in terms of the economic
7 benefit that price taking stable energy like wind from the
8 Bowers project would have.

9 In terms of -- shifting gears a little bit to talk
10 about operational impacts of wind energy. There have been
11 a lot of questions about how the system deals with the
12 variables of wind power. Wind is not constant, we can't
13 schedule it and tell it when to blow, so we have to take
14 the electricity as it comes. And ISO New England
15 recognized that this was an important issue to address and
16 in December of last year they released the final report of
17 a two-year study called the New England Wind Integration
18 Study, NEWIS, that looked into how operationally we could
19 handle up to 12,000 megawatts of wind in New England. So
20 that would be sufficient to produce about 24 percent of the
21 electricity used in the region.

22 And they found in their study that New England could
23 integrate up to 12,000 megawatts of wind without the need
24 for any additional generators, any additional resources --
25 generators or storage to balance the variability of the

1 system. Our current fleet of generation has immense
2 flexibility in its ability to ramp its output up and down
3 and deal with the variability inherent in wind the same --
4 same way that they deal with the variability that's
5 inherent in the load.

6 So we have about 280 megawatts of wind today. So the
7 ISO New England study was saying that more than 40 times
8 the amount of wind that we have today, there is no need to
9 build any more natural gas-fired power plants to balance
10 the variability from the wind, there's no need to install
11 any additional storage on the system.

12 MS. HILTON: Could you repeat that, what you just said?

13 MS. KRICH: Sure. So the New England Wind Integration
14 Study found that -- the most it studied was 12,000
15 megawatts, it didn't speak to more than that. But even
16 with 12,000 megawatts of wind on our system, even with the
17 variability of, you know, the wind blowing sometimes and
18 not blowing at other times, the ability of our current
19 fleet of generators, natural gas power plants, coal,
20 nuclear, hydro, in particular, that's sufficient to deal
21 with balancing the variability that's inherent in the wind
22 project. There's already significant variability in the
23 load patterns and how much electricity is being used by
24 customers at any given time. And wind is very similar in
25 the type of variables it exhibits as compared with the type

1 of variability that the load exhibits.

2 And so the current existing generation is able to deal
3 with any fluctuations that would be expected in 12,000
4 megawatts of wind on the system. So I know there's
5 oftentimes concerns that because of the variability of
6 wind, if you build a new wind plant, you might need to also
7 build a new natural gas-fired power plant that could
8 balance it out, and that's not the case. And this was --
9 this was a two-year study that ISO New England worked on
10 that specifically was looking at our power system here. So
11 I thought that was a very important conclusion that they
12 came to.

13 There may need to be some market changes to incent to
14 buy the existing generators to offer the flexibility that
15 they have, but we have more than enough flexibility in the
16 generators that we have right now.

17 MS. HILTON: Okay. I thought you said something about
18 the -- that there was enough -- it had to do with the
19 future and the capacity to serve -- or to add additional
20 wind power. We could have considerable more wind power and
21 the system would continue to be balanced. Is that what you
22 -- and I didn't quite --

23 MS. KRICH: Right. So they studied a number of
24 different future scenarios with up to 12,000 megawatts of
25 wind. 12,000 megawatts of wind would produce about 24

1 percent of the electricity needed in New England, which --
2 of new wind on the system. And that's 40 times the amount
3 of wind that we have on the system now -- it's more than 40
4 times the amount that we have now. So any concerns about
5 needing new power plants specifically to balance wind are
6 -- have been shown to be unfunded in this region.

7 MR. LAVERTY: What makes NEPOOL different than the
8 issues that arose in Texas?

9 MS. KRICH: Texas has been at the forefront of a lot of
10 these issues because they have installed more wind more
11 quickly than a lot of other regions. So they have sort of
12 been the first ones to figure out a lot of issues.

13 So there are two recent big events related to wind
14 power variability in Texas that a lot of people point to.
15 I think it was 2007, it might have been a year before or
16 after that, there was an event where there were blackouts
17 in Texas because they had many thousands of megawatts of
18 wind that were producing at very high levels and then a
19 storm front passed through the area, the wind dropped off
20 and -- the wind dropped off and was producing less power
21 than the operators had been expecting, so there were
22 blackouts.

23 However, ERCOT, Electric Reliability Corporation of
24 Texas, I'm not sure, they're the system operator in Texas,
25 ERCOT. They had a wind forecast, they were paying a firm

1 to do wind forecasting to let them know how much wind to
2 expect. That was not available to the operators. It was
3 in the next room. If they had looked at the forecast in
4 the next room, they would have seen, we have a front coming
5 through, the wind is going to be decreasing over the next
6 few hours, we need to ramp our other generators up. So it
7 was a lack of -- it was a lack of knowledge and it was a
8 lack of pairing the information that they already had with
9 what the operators were doing.

10 There's also an issue that that decrease in wind power
11 output happened over a period of approximately four hours,
12 which is plenty of time -- if they had looked at the
13 forecast, that is more than enough time for them to be able
14 to increase the amount of generation from other sources on
15 the system. So they solved that, it's now standard
16 operating practice to have forecasts available to
17 operators.

18 MR. LAVERTY: I guess my point is -- by the way, I have
19 to say that your explanation of NEPOOL and pricing is one
20 of the more lucid I've heard in a long time because it's a
21 very complicated subject matter and you've done a really
22 good job.

23 But having said that, you sort of left the impression
24 that this was all a magical, mystical hand of the market,
25 you know, Adam Smith was out here balancing, you know.

1 When, in fact, we had major issues in Texas, some of them
2 technological, informational issues, you know, operational
3 issues. We also now, according to the -- the Economist --
4 I read the Economist -- and there have been a number of
5 articles about what's going on --

6 MS. HILTON: Ed, can you talk up a little bit?

7 MR. LAVERTY: There's another set of issues here that
8 seem to be presented in the west and that has to do with
9 the way in which that pool is managed and that there has
10 been a determination on the part of the pool managers, who
11 are, essentially, public managers, to forgo the use of wind
12 power in order to accept additional power from hydro
13 electric facilities, okay, not irrespective of immediate
14 price, because of the long-term -- some costs invested in
15 hydro electric projects and also the tremendous head that
16 was available this spring from water power.

17 And, again, all I'm -- that's my understanding. I'm a
18 layperson, so please correct me. But I guess the point I'm
19 trying to get at here is this is not necessarily this
20 magical, it just happens thing or it's based purely on
21 price.

22 MS. KRICH: Right. So I was -- given time constraints,
23 I was trying to simplify a bit. The primary concern of ISO
24 New England is system reliability. So they will not do
25 anything that could compromise the reliability of the

1 system. Within that constraint, they try to operate the
2 system in the most economically efficient manner that they
3 can. So at times there are constraints that would change
4 how they dispatch the system to ensure reliability.

5 Now, what you're referring to is the Bonneville Power
6 Authority. They have -- I don't know what percentage -- a
7 much higher percentage of the electricity in that region
8 comes from hydro than what we have in New England. These
9 operational wind studies are very system specific, it
10 really depends on what resources you have in your local
11 area for balancing. So the conclusions that I pointed out
12 from the New England Wind Integration Study are really
13 specific to this region.

14 Now, in BPA, BPA recently started curtailing a
15 significant amount of wind projects because they have quite
16 a bit of water behind their dams and they have -- their
17 environmental regulations that say how much water they have
18 to let pass through and there are limits right now on how
19 much water they're allowed to let spill over the dam as
20 opposed to passing it through the wind turbines. And
21 that's to deal with dissolved oxygen content in the water
22 for managing the fish populations in the rivers.

23 Now, BPA has started curtailing wind so that they can,
24 even -- even when there's excess wind, excess hydro and the
25 electricity is not needed, they have to back something

1 down. So they have started producing electricity through
2 their turbines and they've told the wind generators in the
3 area to stop producing. And that's being contested at the
4 Federal Energy Regulatory Commission right now.

5 MR. LAVERTY: Right. But, essentially, they shut down
6 a number of producing wind power projects that were left
7 stranded, at least according to the Economist. And it
8 raises some questions about the stability and the --

9 MS. KRICH: Well, the issue is they have said that they
10 are not -- they're shutting down the wind because there's
11 no market for the electricity and because they have no
12 ability to export it to other areas. However, at the times
13 that they have -- they have curtailed the wind, at all of
14 those times they have had excess capacity on their
15 transmission lines to export that electricity to
16 neighboring regions, like, California. And at the majority
17 of those times, the price that the California market would
18 have paid for that electricity was positive.

19 So this is happening, it's an issue. I think wind
20 integration is an evolving --

21 MR. LAVERTY: We're learning.

22 MS. KRICH: -- process, we are learning. You know, it's
23 only in the last few years that we've had more than one
24 percent of our electricity being provided by wind. So
25 there are -- there is a process to learn how to deal with

1 it and how to manage it. I wouldn't take the BPA example
2 as an indication that it's not possible to -- to manage the
3 wind. And I think it's very contested righted now what
4 they're doing and whether it's actually required for them
5 to be curtailing wind.

6 MR. LAVERTY: Please don't misunderstand, I was not
7 suggesting that these problems won't be overcome or that
8 that would be a reason, you know, to raise substantial
9 concerns. It's just that the way you were presenting it
10 was sort of that, you know, this all worked based on, you
11 know, the cheapest power available. There are other
12 extraneous variables that in many instances have come into
13 play and we're beginning to realize that, we're beginning
14 to address that, but this not a simple and easy process.

15 MS. KRICH: Right. So one of the assumptions used in
16 the New England Wind Integration study, the NEWIS study,
17 took into account hydro and the fact that we can't just
18 hold back all of the water behind the dams in New England.
19 So they assumed that hydro on a weekly basis had to produce
20 the same amount of power that it would have without the
21 wind. So it might be shifted forward or backwards a day or
22 by a few hours, but, you know, not indefinitely.

23 Also, with nuclear they recognize that the nuclear
24 units that we have in this region were not designed to ramp
25 up and down, so they did not allow wind energy to displace

1 nuclear energy because they recognize those operating
2 limits that we have in the system. So I don't mean to
3 imply that it's magic and completely easy, but it is
4 possible is really what the report --

5 MR. LAVERTY: And perhaps preferable. I mean, I'm not
6 even going so far as to say it's not, but I just --

7 MS. KRICH: Right. So ISO is independent, they -- they
8 would not state a preference for one type of energy over
9 the other, but they have said that they would be able to
10 maintain reliability.

11 Now, also related, I know there's a lot of concern --
12 well, there's a lot of talk about oil and whether wind
13 displaces oil and a lot of folks say we don't produce
14 electricity from oil. New England is actually fairly
15 unique in that we actually do have a significant amount of
16 oil-fired electrical generators in this region. So in
17 terms of our capacity to produce electricity in this
18 region, over 20 percent of that is from units that can only
19 produce electricity based on oil as their fuel. So more
20 than 20 percent of our electrical generating capacity is
21 oil-fired in New England. That's very unique.

22 Another 18 percent of our electricity capacity comes
23 from dual fuel units that can run on either natural gas or
24 oil. And really it's based on the economics and which fuel
25 is more or less expensive which one they use. So recently

1 oil has been significantly more expensive than natural gas
2 because natural gas prices have come down in the last few
3 years. That's been an anomaly historically that natural
4 gas is so much less expensive than wind.

5 So currently a lot of that generating capacity that
6 would burn oil is not producing power very frequently.
7 Less than 1 percent of our electricity in 2009 was produced
8 by those oil-fired units. But if you go back as recently
9 as 2005, close to 5 percent of our electricity came from
10 those oil-fired units and more came from the dual fuel
11 units. We're not sure exactly how much came from oil
12 versus natural gas.

13 So as I mentioned before, fossil fuel prices are very
14 volatile. We're in a period now where natural gas is
15 significantly less expensive than oil, but we don't know
16 what the future holds. It's very possible that that
17 situation could -- could flip again as it has very
18 recently. And in that case, oil-fired generation would
19 become more common in New England given that, you know,
20 about 40 percent of our capacity in New England could be
21 producing electricity with oil.

22 So wind, as I said, operationally it can't really
23 displace hydro really much, it can't really displace
24 nuclear. It's really going to be displacing fossil fuel
25 generation, which was one of the main conclusions of the

1 NEWIS study. They looked at what the emissions reductions
2 would be from the various levels of wind and they found
3 that 20 percent of our electricity if provided from wind
4 power would actually reduce our NOx emissions from
5 electrical generation by 26 percent. So 20 percent wind
6 would have a 26 percent reduction in NOx.

7 And that's because it's disproportionately displacing
8 the fossil fuel generators. SOx emissions would be reduced
9 by about 6 percent. And that's direct wind displacing coal
10 resources. And then carbon dioxide emissions would be
11 reduced by 25 percent. So the wind is disproportionately
12 displacing the fossil fuel generators in the region when it
13 produces power.

14 And I just wanted to close with one comment. I know
15 that another concern related to the electricity being
16 produced by wind energy is that it takes far more
17 electricity -- far more energy to produce a wind farm, to
18 build a wind farm than the electricity than the wind farm
19 actually produces over its lifetime. And there are a
20 number of life cycle energy assessments that have been done
21 for wind farms.

22 But a recent one in 2009 that looked at a 2-megawatt
23 turbine, very similar to the ones that would be installed
24 in the Bowers wind project, looked at the entire life cycle
25 from manufacturing, transportation, installation,

1 operation, decommissioning, disposal, the entire life
2 cycle, looked at the embedded energy in that entire life
3 cycle and found that even a very low wind speed site, much
4 lower than the Bowers project, the energy embedded in that
5 project would be paid back over approximately four to five
6 months of the operation of the project.

7 So these projects have a 20-year lifetime and that's 2
8 percent of the project lifetime that would be needed to
9 sort of pay back the energy debt. So they produce a
10 significant amount of clean, emissions-free electricity
11 even after accounting for all the energy that's been
12 embedded in the system.

13 MR. LAVERTY: Let me ask you a question that may -- be
14 seem more mundane, but actually is probably, for me more,
15 significant. I mean, I live in a really small town not
16 very far from here and I go to breakfast at a restaurant,
17 the 95er in Howland, Soucy's, and people know that I'm on
18 this Commission. And I'll tell you something I've been
19 getting a lot lately and that is, here you guys go, you're
20 permitting all these additional kilowatts and wind power
21 that's supposed to be cheap, you know, it's supposed to be
22 green. Why is it my electric bill keeps going up?

23 Now, below that, although maybe not voiced or not fully
24 appreciated, is the fact that we talk a lot about natural
25 gas. We have a major pipeline going through the state of

1 Maine, I can't access that. Natural gas is not available
2 to me as an energy alternative. As you point out, fossil
3 fuel power generation in New England, particularly from
4 coal, is not a tremendously significant factor.

5 So I'm just wondering, why -- two things. What real
6 benefits are we deriving here in the state of Maine and why
7 is it we're not seeing a reduction in our utility rates?
8 There is a request right now before the PUC for additional
9 increases in utility rates in the state of Maine and we
10 export more power than we consume.

11 MS. KRICH: Right. I'll get to your main question, but
12 you made a comment that I had said that fossil fuel is not
13 entirely significant.

14 MR. LAVERTY: Coal.

15 MS. KRICH: Coal. I don't think I had mentioned that
16 coal was insignificant.

17 MR. LAVERTY: In New England?

18 MS. KRICH: Right.

19 MR. LAVERTY: Okay, I stand corrected.

20 MS. KRICH: I said in terms of emissions reductions
21 NEWIS showed that 20 percent of our energy from wind would
22 reduce SOx emissions by about 6 percent. So that -- and
23 the SOx is produced by coal. So wind energy would likely
24 displace less coal than it would natural gas, but it would
25 be displacing coal.

1 And, actually, some later evaluation and critique of
2 the NEWIS study found that they were assuming that every
3 coal generator in the region pays the same price for coal
4 and so -- when they're doing their economics. There are
5 actually a lot of units in New England that are paying much
6 higher than average prices. So that's actually how --

7 MR. LAVERTY: To be more specific, what do I tell
8 Junior Bubar? What do I tell him?

9 MS. KRICH: It's a difficult question.

10 MR. LAVERTY: I mean, because I would like to give him
11 an answer. You know, I'm not --

12 MS. KRICH: So there a lot of pieces that go into
13 retail electrical rates. And I know on my bill -- I'm in a
14 different service territory, but I know on my bill there's
15 a line item for generation and then there's a different
16 line item for transmission. And at least, I think,
17 recently the transmission piece of that retail electric
18 bill has been rising significantly lately. A lot of that
19 is due to reliability standards that have become mandatory
20 across the country.

21 So reliability standards used to be voluntary to follow
22 and now they're actually mandatory at the federal level.

23 MR. LAVERTY: If it weren't for that, though, okay,
24 let's assume that weren't occurring, wouldn't my utility
25 bill go down as a result of the generation of wind power?

1 MS. KRICH: Right. So the wholesale clearing price for
2 electricity will go down when wind power is introduced to
3 the system, but that's only one small piece of what goes
4 into the retail --

5 MR. LAVERTY: So we in Maine can't expect any real cost
6 savings from the generation of wind power?

7 MS. KRICH: I wouldn't say that. So the retail bill,
8 the piece for transmission, what I was trying to say, is
9 that piece may be rising even as the generation piece might
10 be going down. So overall, you know, it would look like
11 the retail bill was going up --

12 MR. LAVERTY: It doesn't look like.

13 MS. KRICH: Overall retail bills are going up, but
14 there are different pieces of it. And the actual
15 generation is actually a small part of that. There's
16 actually an issue of a time lag. But there are different
17 contracting time periods for the utilities to contract with
18 suppliers of electricity for last resort service. So if
19 people are buying their electricity straight from the
20 utility, they actually contract out with someone else to
21 provide that electricity. And they typically do that in
22 one to three year contracting periods with set prices. So
23 there's some time lag between market signals and then when
24 you actually might see the next contract come through.

25 And as market prices for electricity go down, those

1 prices for the generation would also go down.

2 MR. LAVERTY: All right. Thank you for your
3 explanation, but I really -- I think it would be really
4 helpful to all of us if we could somehow respond to that
5 concern. And I know it's very difficult, it's very
6 complicated and you've done a good job explaining it. But,
7 again, you have just given me a lot of information. Now
8 I'm going to go home, tomorrow morning when I got to
9 breakfast, Junior Bubar is going to say, you know --. I'm
10 going to say, well, it's complicated, you know. And I
11 don't mean to -- I don't mean to belittle what you're
12 saying, it's an absolutely great explanation. It's just
13 how do we -- it seems to me we need to convey this -- we
14 need to explain this better.

15 MS. KRICH: Right. So there -- which I was pointing
16 out. So there may be -- so they may see a reduction in the
17 electricity portion of their bill, but if the transmission
18 part of their bill goes up, they're going to be seeing the
19 whole picture and the wind is just a small piece of that.

20 MR. LAVERTY: Okay. I can explain that better. I'm
21 sorry, Shawn.

22 MR. MAHONEY: Could I ask a question just to --? So
23 what you're saying is that the cost of the actual
24 electricity is going down, but the cost of transmitting the
25 electricity is going up. So there are cost savings that

1 are being recognized as more wind gets on the system, as
2 more renewable -- zero fuel costs get on the system, but
3 the cost savings will not necessarily result in a lower
4 electricity bill and, in fact, you may get a higher
5 electricity bill because of the transmission costs, and the
6 perfect example is the cost of the MPRP, that even though
7 Maine has a 7 percent share of that, that's an increased
8 cost; is that right? That was a leading question.

9 MS. KRICH: Yes, that's correct. And, also, it's going
10 to depend on the price of the other units. So it really
11 depends on the price of natural gas, oil and coal.

12 MR. LAVERTY: Which we don't have access to unless you
13 live right along that corridor or you live in Portland.

14 MS. KRICH: Right. And we don't have control over
15 those prices. So the wind energy price taking electricity
16 on the system would reduce the electricity price from what
17 it would have been without the wind, but if fuel prices are
18 going up for the other resources, we may still see
19 electricity prices rising, but rising less quickly than
20 they would have without the price taking electricity
21 market.

22 MR. LAVERTY: One final mundane but important question,
23 which I get all the time, too, how come we're exporting
24 power? Why don't we just take this power, dump it into
25 Maine markets and reduce the unit price of power in Maine?

1 MS. KRICH: So -- it's a good question.

2 MR. LAVERTY: And there's a good answer to it, I know.

3 MS. KRICH: Supply and demand have to be equal at all
4 times because we don't storage in -- we don't have much
5 storage in the system. So we can't keep any electricity in
6 Maine that's not being used in Maine. So we can't -- we
7 can't produce extra and put it on the shelf and then use it
8 later. However, Maine electricity prices are lower than
9 the rest of New England because Maine is an exporter of
10 electricity, because there is some transmission congestion
11 and costs to export that power to other regions. Southern
12 New England is paying much higher prices for electricity
13 than Maine. And the more -

14 MR. LAVERTY: That's good to know. It's not good to
15 know, but it's important to know.

16 MS. KRICH: The more generators that are -- especially
17 price taking generators like wind in the Bowers project
18 that are built in Maine, the lower the Maine prices should
19 be. So there's a difference between New England pricing
20 and Maine pricing, Maine pricing is lower. And the more
21 generation in Maine, the more exporting, the more that's
22 the case.

23 MR. LAVERTY: Thank you.

24 MS. HILTON: Are you finished with your direct?

25 MS. KRICH: Okay.

1 MS. HILTON: Any other questions, commissioners, staff?
2 Do you want to do a redirect or was that --

3 MR. MAHONEY: I'd love to. No. No. Thank you very
4 much.

5 MS. HILTON: All right. So The Partnership is up next
6 for their opening statement and summary of testimony.

7 MR. LAVERTY: Mr. Gurall, I have to leave at 2 o'clock,
8 I have a class I have to teach. And so I just wanted to
9 let you know in advance, I didn't want you to think I was
10 being discourteous or in any way reflecting on you.

11 MR. GURALL: Before you leave -- it's appropriate you
12 mention that to me, I guess, because before I start my
13 testimony, I would like to make a little sidebar remark.
14 Last night there was a woman here who testified against
15 this project, but was not a member of our organization nor
16 had any of us ever seen her before or heard of her. And I
17 wanted to congratulate you, Commissioner Laverty, for
18 shutting her down very quickly. Her verbiage was way out
19 of line, her potential accusations of graft and corruption
20 or whatever and I just think you did a great job of that
21 and you did us all a service because nobody deserves that.
22 So I just wanted to say that.

23 My name is Kevin Gurall, my family and I reside
24 year-round in Lakeville, Maine. I'm here representing the
25 Partnership for the Preservation of the Downeast Lakes

1 Watershed. The Partnership is a nonprofit group comprised
2 more than 200 concerned property owners, residents and
3 traditional small businesses in the Downeast lakes
4 watershed who are committed to protecting this scenic
5 resources of statewide or national significance. We have
6 very limited resource, we don't have access to federal tax
7 dollars, we don't have a cadre of lawyers. In fact, if you
8 look down the line here, we don't have a single lawyer.
9 But we're hard working people, we've volunteered our nights
10 and weekends for almost two years trying desperately to
11 protect this increasingly rare resource.

12 Our argument for denial is straightforward. First, the
13 project will have an unreasonable adverse effect on the
14 scenic character of the scenic resource of state or
15 national significance anticipated in the expedited wind
16 law. This project, if constructed, would significantly
17 compromise views from a scenic resource of state or
18 national significance. Statutes of development -- the
19 statute after development has an unreasonable adverse
20 effect on the scenic character or existing uses related to
21 scenic character of the scenic resource of state or
22 national significance. This negative scenic impact cannot
23 be mitigated and, therefore, the project must be denied.

24 According to the State of Maine Wildlands Lake
25 Assessment, there are 13 lakes within the 8-mile limit that

1 fall under the outstanding or significant resource for
2 scenic value based upon the Maine Wind Act, nine of which
3 will have turbine visibility. To take the most
4 conservative approach possible, we ignored the Maine Wind
5 Act criteria in terms of the number of lakes and used a
6 much more stringent overall LURC -- much more stringent
7 overall LURC lake ratings.

8 There are six lakes with Class 1A and 1B ratings with
9 five of those having project visibility. They are Pleasant
10 Lake, Scraggly Lake, Junior Lake, Lower Sysladobsis and
11 West Grand Lake. The scenic views from these lakes will be
12 significantly compromised by the proposed turbines and
13 their flashing red lights at night. The impact of the
14 views will greatly alter the traditional recreational uses
15 of these lakes and the viewer expectations of tourists who
16 come to the area for wilderness camping, hunting, fishing
17 and remote padding experiences.

18 In addition, due to the existing industrial wind power
19 projects in the area -- and what I'm referring to is
20 Rollins Mountain, Rocky Dune Dean, Stetson 1 and 2 -- the
21 scenic impact on those who use the Downeast lakes to fish,
22 hunt and paddle would be cumulatively more damaging if the
23 Bowers project were constructed. Visitors traveling to the
24 area up Route 95 leave Bangor behind and enter forested
25 lands.

1 When they exit near Lincoln, they encounter the
2 turbines of Rollins Mountain and Rocky Dune Dean. Then
3 they travel east on Route 6 and encounter more turbines
4 from Rollins Mountain. If in fact they are going to turn
5 north to go to the East Grand Lake portion of the overall
6 watershed, they're going to encounter Stetson 1 and 2.
7 Tourists who then arrive at the Downeast lakes will
8 experience a very negative cumulative effect and the impact
9 if they find another 27 turbines moving on the mountains
10 above the scenic lakes of these watersheds.

11 Second, the project will severely harm the traditional
12 recreational activities of the region, which are the
13 lifeblood of the watersheds' tourism economy that for more
14 than a century has coexisted with the local forestry
15 industry. Any adverse change to the wilderness character
16 of the region will cause severe damage to many small
17 businesses and hundreds of tourism-related jobs. While the
18 expedited wind law restricts consideration of scenic impact
19 to the area within 8 miles of the proposed wind turbines,
20 the economic impact of this project is much further
21 reaching and must be considered.

22 The Downeast lakes region is home to more than a dozen
23 sporting camps and similar hospitality businesses as well
24 as the largest per capita concentration of Maine guides in
25 the state. This is due to the topography of the watershed

1 that gives fishermen, hunters, snowmobilers, paddlers and
2 campers access to more than a dozen lakes. The fact that
3 it has had -- the fact that it has distinct wilderness
4 character is one of its main attractions. Defacing the
5 watershed's scenic beauty on one end will impact the entire
6 watershed and the tourism economy that is its largest
7 employer. Tourists who spend their hard-earned vacation
8 dollars have been documented to be less likely to return
9 when wind turbines dominate the skyline.

10 LURC's Comprehensive Land Use Plan has as one of its
11 broad goals to conserve, protect and the enhance the
12 natural resources of the jurisdiction primarily for fiber
13 and wood production, outdoor recreation and plant and
14 animal habitat and to maintain the natural character of
15 certain areas within the jurisdiction having significant
16 natural values and primitive recreational opportunities.
17 We submit that this project will directly violate those
18 goals and will alter and cause irreparable and permanent
19 damage to the character of these assets and the economic
20 activity that depends on it.

21 Locals here have been depending on sporting tourism to
22 earn a living for almost 200 years. Passamquoddy guides
23 were catering to sports as far back as 1830. And that's
24 been documented. These businesses include, but are not
25 limited to, lodges, sporting camps, guides, several stores

1 and all the employees and ancillary businesses needed to
2 support them. As one of only four watersheds that was an
3 original home to the land-locked salmon, its value was
4 acknowledged very early on when the Maine Department of
5 Inland Fish & Wildlife built the first salmon hatchery in
6 Grand Lake Stream in 1877, a hatchery that is still of
7 extreme value today since 75 percent of the salmon stocked
8 in all of Maine's other lakes come from there.

9 The region's beauty takes a backseat to no other in
10 Maine or in all of New England. Its history and unique
11 setting are far too valuable to be destroyed by the
12 proposed wind project. If approved, this project will
13 irreparably and permanently change the entire character of
14 the watershed and bring an eventual end to the many small
15 businesses that are home there. Clearly this is one of the
16 special places that helps define Maine's international
17 reputation for quality of place.

18 I turn this over to Mike Lawrence.

19 MR. LAWRENCE: I'm go to run the projector down here.
20 My name is Mike Lawrence, I live in Essex Junction,
21 Vermont, I'm a landscape architect. I wanted to add my
22 thanks to people who have expressed their thanks to you who
23 are volunteering your time on this. I volunteer in the
24 criminal justice system and I really truly believe that the
25 time we take to volunteer for things does make a huge

1 difference in our society. So I -- I do thank you.

2 The visual impact assessment that I did led me to a
3 visual impact statement. And that statement is: The
4 Bowers wind project will cause permanent, irreparable
5 damage to the scenic beauty of these lakes. And I base
6 that on seven important facts. And these are the facts.

7 Fact number one, the three lakes closest to the Bowers
8 project are classified as significant and outstanding. The
9 second fact, our focus needs to be directed to the lakes
10 and the shoreline, not the woods surrounding the lakes.
11 Fact number three, lakeshore integrity is maintained by
12 250-foot logging setbacks. Forest regeneration quickly
13 heels logged-over areas. And this fact needs to be
14 expressed because logging has been raised as an
15 illustration that the area is semi-developed.

16 Fact number four, these lakes are surrounded by lands
17 that have been conserved and put in trust because of their
18 intrinsic quality. Fact number five, any objective
19 analysis of scenic beauty must acknowledge the enormous
20 importance of ridge lines. Fact number six, these lakes
21 are scenically important because they have been designated
22 by law and they meet the criteria that define scenic. And
23 the last fact, except for logging, people who come to these
24 lakes expect quiet, a sense of wilderness, and a minimal
25 presence of urbanization.

1 And now I'd like to illustrate these facts. And the
2 first section is in the photo simulations. I'll just run
3 through these, these are places you were yesterday. And
4 these first two have the towers in white. And I must say
5 this morning I came from Bottle Lake Road down Route 6 over
6 here and last night I could see the towers that are in
7 Lincoln at about -- from 12 miles sounding out crystal
8 clear. This morning they were -- they were fuzzier. And
9 so there is this change in the weather, change in
10 visibility that goes on. But there are certainly some
11 times when these towers stand out -- completely stand out.
12 When I was here in late April, I took a series of
13 photographs from the same place and then I moved around.
14 This is over in the bay of Junior Lake west of what's
15 called -- or east of what's called Long Point as you're
16 heading over towards Scraggly. So there are certainly
17 places in the landscape on these lakes where you won't see
18 the towers, but there are other places where the topography
19 frames the towers.

20 And this was taken, you know, on a day where you can
21 see clouds -- cloud shadows on the mountains, which would
22 indicate the towers would be dark against a bright
23 background on those days. And this is on Pleasant Lake.
24 And comparing LandWorks' simulations and the simulations
25 that I prepared, I think you'll find they're very similar.

1 In this case, all 27 towers are visible. And I think
2 that's an important fact to consider, that Pleasant Lake is
3 the outstanding lake and it will be impacted the greatest
4 by these towers, that all 27 towers are visible over almost
5 the entire lake. And, again, this same photograph that you
6 saw under different lighting conditions where, of course,
7 the towers are going to be in silhouette and they -- they
8 are going to completely change the character of the ridge
9 line.

10 The second illustration is in visitor's expectations.
11 I stayed next to Mr. Gurall's house last night in a little
12 cabin because he had a house full of people and arranged
13 with his next door neighbor to let me stay there. So I was
14 by myself.

15 And I walked in and I looked up on the wall and there
16 was a sign on the wall in the cabin and it said: The
17 world's most beautiful place. And I looked at the doorway
18 and at the doorway heading out to the lake there were three
19 life jackets and kayak paddles leaned up against the wall,
20 which indicated to me that whoever lives there who thinks
21 this is the most beautiful place in the world does a lot of
22 -- does a lot of paddling. And the last thing I saw on the
23 refrigerator was a child's watercolor painting. And on
24 that watercolor painting it was a blue lake and it was a
25 great big sun. And it looked like it could be sunrise or

1 sunset, I wasn't quite sure.

2 I know a child therapist that does -- works with
3 children and analyzes their art, kind of looks at their art
4 and helps him to understand children through looking at
5 their art. And I learned from this person that when a
6 child draws the sunshine on a drawing, it means they have a
7 sense of belonging. And so when I looked at that, I said,
8 the child that lives in this place has a very powerful
9 sense of belonging. And I think those things all work
10 together. So it's hard to put your finger on viewer
11 expectations, but I think it's really not difficult to know
12 what our viewer expectations are in a place like this.

13 These are some comments, it's how I balance my world.
14 Memories of good times; natural beauty and splendor;
15 remoteness; lunch cooked over an open fire on special
16 coves; beaches and shorelines; relax, sit back, unwind
17 without the television; the contentment of wooded hills;
18 escape from my everyday life; the wilderness experience;
19 the mountains and lakes here are an important part of my
20 renewal. These are the kinds of things that I heard when I
21 talked to and I looked on these various websites about this
22 part of the world.

23 Ridge lines have to be considered in this landscape
24 context, they are very important. I won't read through all
25 six of these, but this is from a standard -- kind of a

1 standard list. I have the book -- I have the book that
2 it's in here with me if you want to know more about it.
3 Scenic landscapes considered most fragile and sensitive to
4 change, number five, ridge lines or areas seen from public
5 advantage points against the sky.

6 Conserved lands, we know that Pleasant Lake, Scraggly
7 Lake are surrounded and that Junior Lake has native
8 American and conserved land along its complete -- almost
9 its complete eastern shore.

10 The visual impact, this is the computer-generated
11 impact of where the towers will be visible, green being 1,
12 27 being red, you know, middle of the -- middle of the
13 gauge, if you will, yellow to orange. And this was put
14 together by a fellow who utilized this principle. He went
15 from the first -- if you can see the little green dot over
16 on the left, that's Tower No. 1. So as I go through the --
17 these, you see the percentage of visibility on each lake.

18 So I'm just going to go 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
19 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26,
20 27. That's how we came up with that total and that's how
21 that map came about. So you can see Pleasant Lake, the
22 outstanding lake, all of them significantly impacted, but
23 Pleasant Lake is the outstanding lake with 27 turbines
24 visible over almost the entire surface.

25 So the facts, the lakes closest to the Bowers project

1 are significant and outstanding, we need to focus on the
2 lakes and the shoreline. These lakes are protected by
3 250-foot logging setbacks, they're surrounded by conserved
4 lands, ridge lines must be considered. The lakes are
5 scenic by law and by aesthetic criteria and visitors desire
6 quiet and a sense of wilderness.

7 Conclusion, the Bowers wind project will cause
8 permanent, irreparable damage to the scenic beauty of these
9 lakes. Thank you.

10 MR. BUCKMAN: Good afternoon. I'm Andy Buckman, I've
11 logged many thousands of miles as a professional leader of
12 recreational canoe trips in Maine and Canada, I am a
13 registered Maine guide and since 2005 I've served as
14 executive director of Darrow Camp, a wilderness canoe trip
15 camp for youth based on West Grand Lake. The views
16 expressed in this testimony are solely my own and do not
17 reflect the positions or policies of Darrow Foundation.

18 Regarding the impact of the proposed Bowers Mountain
19 wind development project on the natural and historic
20 character of the area under consideration, Pleasant Lake,
21 Scraggly Lake, Junior Lake, The north end of Sysladobsis
22 Lake and Junior Stream are the hub of a distinctive ancient
23 system of Aboriginal canoe routes. These canoe routes were
24 subsequently followed by the early timber cruisers,
25 lumbermen, wardens and Maine guides and their sports. The

1 existence of these historic canoe routes and their
2 continued use into the present makes this area a living
3 museum of the cultural heritage of the region and of the
4 state of Maine.

5 The construction of wind turbines on Bowers Mountain
6 would have an undue adverse effect on these natural and
7 historic resources. It would no longer be possible to
8 travel by canoe through these areas and have anything like
9 the experience of undeveloped wilderness that characterize
10 the historic past and that still characterizes the present.

11 Regarding impact on existing uses, the attraction of
12 this area for recreational canoe trippers and kayakers is
13 the network of water routes interconnecting multiple lakes
14 of outstanding natural character. Within this area it is
15 still possible to go on multi-day and longer paddling and
16 camping trips and see very little visual evidence of human
17 activity. The most popular paddling trip routes are
18 located within or pass through the area that would be
19 affected by the Bowers Mountain wind project.

20 Along these canoe routes are a number of traditional
21 primitive campsites that have been in regular use for many
22 years. Campsite maintenance is periodically undertaken by
23 the Forest Service, but most maintenance is done on an
24 ongoing basis by canoeists and kayakers that --

25 MS. HILTON: Excuse me. Can you just slow down just a

1 little bit?

2 MR. BUCKMAN: Okay. I'm sorry. The canoe trip camps
3 and shoreline users are the courtesy to the next visitor.
4 Views of Bowers Mountain is a prominent feature of many of
5 these sites. Present day paddling trip users include
6 organized youth camps, scout groups, organized guided trips
7 for adults, small groups of adults and families and solo
8 paddlers from all over the U.S. and the world. Darrow
9 wilderness trip camp is the most frequent and extensive
10 paddling trip user sending eight to ten multi-day canoe
11 camping trip groups per summer into and through the
12 impacted area. The presence of wind turbines towering over
13 the lakes and landscape would substantially degrade the
14 high quality wilderness paddling and camping experiences
15 available in the area. In a paddle craft it would be
16 impossible to avoid viewing the proposed human alterations
17 of the environment on top of Bowers Mountain.

18 Regarding impact on scenic character, the absence of
19 manmade intrusions on natural scenic vistas is central to
20 the appeal of a given area for a wilderness paddling or
21 camping experience. When seen from a canoe, the natural
22 character of most of the impacted lakes show minimal
23 evidence of human intervention. When you are paddling the
24 lakes, the landscape and the unbroken horizon are the focus
25 of your attention for hours on end. They are unrolled in

1 front of a paddled canoe as a slowly ever changing scenic
2 vista filled with constant surprise and discoveries. The
3 impacted lakes and campsites are pristine examples of the
4 very finest canoe country that the United States has to
5 offer.

6 The most radical visual impact would occur at night.
7 The absence of artificial illumination in undeveloped
8 wilderness serves to intensify the scenic value of the inky
9 blue blackness of the clear night sky and the clarity and
10 brilliance of the moon and stars. The presence of aircraft
11 warning lights on wind turbines stretched across the
12 northern horizon would significantly degrade the expected
13 scenic value and the highly valued sense of remoteness for
14 recreational paddlers and campers throughout the impacted
15 area.

16 For these reasons, if wind turbines were constructed on
17 Bowers Mountain, the visual degradation of the impacted
18 canoe routes, lakes and campsites would significantly
19 reduce the attraction and marketability of the region for
20 high quality wilderness paddling experiences.

21 Whether or not Darrow Camp could continue to operate if
22 turbines were installed on Bowers Mountain is open to
23 question. The wilderness character and high scenic value
24 of the surrounding lakes are the centerpiece of Darrow's
25 marketing of canoe trips for youth. Darrow Camp employs

1 approximately 20 full-time and seasonal employees and for
2 over half a century its operations have made a substantial
3 contribution to the youth camp industry in Maine and to
4 numerous Maine businesses and vendors.

5 In conclusion, the economic loss to the recreation and
6 youth camp industries that could be reasonably projected to
7 follow the installation of turbines on Bowers Mountain
8 would be considerable and the damage that would be done to
9 the existing uses, scenic character and natural and
10 historic resources in the area that would be affected by
11 the proposed project would be irreparable. For these
12 reasons, the proposed project does not meet the statutory
13 criteria set forth in current Maine law for wind power
14 development.

15 MR. DRIZA: Hello. My name is Charles Driza and my
16 sister and myself are the owners of Leen's Lodge in Grand
17 Lake Stream, Maine. We purchased the lodge in May of 2001.
18 Leen's is a traditional sporting camp that has been in
19 existence since 1940. I'm a mechanical engineer by trade
20 and after many years in the corporate world I decided to
21 follow my dreams of owning a sporting camp in the
22 wilderness of Maine.

23 After shopping for ten years all over the state, I
24 chose to purchase in Downast Maine for the pristine
25 wilderness that defines this area. The area boasts many

1 lakes and streams as well as large tracks of wilderness
2 that can be enjoyed by all of my guests. We offer fishing
3 and bird hunting as the primary activities at the lodge.

4 When we purchased the lodge in 2001, the land was
5 leased land, it was leased to us by the Webber family. Two
6 years ago the land came up for sale, we took advantage of
7 the situation and we purchased the 23 acres that the lodge
8 is located on. The purchase was a very large investment
9 for our family and put a tremendous burden on the lodge
10 cash flow, but we were happy to own this land that we love
11 so much. Soon after purchasing the land we became aware of
12 the potential for industrial wind turbines to be placed on
13 Bowers, therefore, impacting the views that grace the lodge
14 each day.

15 The potential impact of the turbines is huge to the
16 guests at Leen's Lodge both from the views from the lodge
17 as well as the views while fishing or hunting in the
18 surrounding area. We fish all the lakes that connect to
19 West Grand including Junior Bay, Junior Lake, Pocumcus Lake
20 Junior Stream and Scraggly. All of these areas will be
21 impacted by the eyesore of the industrial turbines. Our
22 bird hunters also hunt in the area of Bowers Mountain and
23 are impacted both visually and by the fact that the land
24 will no longer be accessible to hunters and we do not wish
25 to hunt so close to turbines.

1 The turbine project will have a detrimental impact on
2 our land value as well and affect the business and hamper
3 our ability to meet our financial requirements. If I was
4 aware of the turbine project when I purchased the land, I
5 would not have purchased the land, but rather stayed on
6 that eight-year lease that I had.

7 One of the aspects of our area that makes it
8 challenging from a business point of view is the distance
9 that our guests have to travel. The closest metropolitan
10 area that we draw from is Boston, a seven-hour drive. Our
11 guests come from all over the country and from abroad, but
12 primarily from the east coast. Some of the guests that
13 have visited our lodge that are famous would be Ted
14 Williams, Curt Gowdy, Bud Leavitt, John Havlicek and many
15 of the Red Sox and Boston Celtics. They drive 10 to 20
16 hours to get to the lodge and usually take one or more days
17 to get there. They do that to enjoy the wilderness
18 environment once they arrive.

19 The pristine characteristics of our area allow our
20 guests to get away from it all and recharge their
21 batteries. Many of our guests have shown great
22 disappointment at the prospect of seeing industrial wind
23 turbines dotting the landscape of their wilderness haven.
24 One of our recent guests, Karen and Richard Daskell,
25 commented that if they wanted to see industrial growth,

1 they would have stayed in New Jersey. The unspoiled
2 landscape and natural character of the land surrounding
3 Grand Lake Stream are what make this area a destination for
4 our guests and the industrial wind turbines will forever
5 destroy the wilderness nature of the area.

6 Grand Lake Stream is the home, as you've heard, of the
7 largest concentration of registered guides in the state.
8 All of the local guides work at the lodge. One of the
9 events we have is 50 economists from all over the world
10 meeting there, and again this year, the first week in
11 August. And all of these economists go out with local
12 guides to enjoy our lakes and the wonderful fishing. And
13 the event is by Bloomberg or CNBC Financial. This group
14 alone requires us to hire 30 guides and many locals to cook
15 and attend the needs of this large contingency. Many of
16 the economists have commented on the potential of the wind
17 turbines and noted what a negative effect that they will
18 have on our environment.

19 The pristine nature of the area will forever be altered
20 by the wind turbine installation on Bowers Mountain. Our
21 economy is highly dependent on the natural resources in our
22 area. Our guides utilize it for fishing, hunting,
23 canoeing, et cetera. Our guests are here to see the
24 eagles, moose, bears, loons and other wildlife while
25 enjoying the lakes and streams in our watershed. A loss of

1 revenue to the lodge will result in a loss to all of the
2 guides that work there as well as the employees that
3 presently work for Leen's Lodge.

4 Washington County is presently one of the poorest
5 counties in Maine. And to further lose revenue due to the
6 negative impact of these turbines will have a disastrous
7 effect on the people who are already struggling to make a
8 living in our county.

9 Our dining room faces west on Leen's Lodge and looks
10 right down toward Bowers Mountain. There are two
11 frequently asked questions. The most frequently asked
12 questions at the lodge are, what is the weather like going
13 to be like for tomorrow? And every single evening, what is
14 that red light I see in the distance? That red light
15 happens to be a tower on the top of Almanac Mountain. The
16 event of the wind turbines on Bowers Mountain will result
17 in many, many red beacons on the towers for our guests to
18 see at Leen's Lodge from the dining room in the evening.

19 The northern lights might be welcome by our guests, but
20 the lights that mark the top of these wind turbines will
21 forever be a reminder to the guests at Leen's that a true
22 wilderness does not exist any more in Downeast Maine.
23 Thank you very much.

24 MR. NORRIS: Good afternoon, commissioners. My name is
25 Steve Norris, my wife, Nancy, and I own and operate the

1 Pines Sporting Lodge which is located on Sysladobsis Lake,
2 beautiful T5-ND. And this lake is presently classified as
3 1A for its high scenic and resource value. We have owned
4 this sporting camp for going on 20 years now. During these
5 years we have raised two children who have acquired our
6 passion for the outdoor life, I've served multiple terms on
7 boards of the Maine Sporting Camp Association and the Maine
8 Professional Guides Association, and currently I'm a proud
9 member of the Grand Lake Stream Guides Association.

10 Operating a sporting camp and guiding have been the
11 only profession that I've ever known. My parents, siblings
12 and I have run seven different sporting camps accumulating
13 107 years of operation in this one family generation here
14 in the state of Maine. I don't know if there's many others
15 that can claim that title, but --. So I feel qualified to
16 determine what affects a sporting camp and guiding in
17 Maine. This project's viewshed, if you will, stands to
18 strip the Downeast lakes of its most coveted attribute,
19 Maine wilderness.

20 Our guests travel here from all over the country just
21 like many that you've already heard. And many have the
22 means to go anywhere they want to find a true wilderness
23 experience. So why do they and so many others return year
24 after year to my lodge and these other lodges? They return
25 because we still have natural wilderness beauty around us.

1 Will we have it in the future? You commissioners sitting
2 right over there will be entrusted to answer that question.

3 An older couple from Virginia that have cherished
4 coming to our lodge for many years summed up the feelings
5 of most all of our guests, quote, this is the essence of
6 Maine, pristine landscape, blanketed with silence, crisp,
7 clean air, definitely one the last treasures on our planet.
8 To me that's pretty powerful. The adverse effects of this
9 project, whether you choose to label them unreasonable or
10 undue, would cast a large shadow over our watershed.
11 Should this project be approved, my business is going to
12 suffer.

13 Some of my guests may be polite and discretely choose
14 another distant lodge for their wilderness experience, but
15 others have already told me they can stay home to be graced
16 by industrial energy sites across the horizon. Whether the
17 commissioners choose to exercise a harmonious fit test or
18 not, I have. And this project fails that test. I haven't
19 seen too much harmonious fit at all today. I can only hope
20 for my sake and my family's sake and everyone in the
21 Downeast lakes watershed that the Land Use Regulation
22 Commission fulfills its duty and its responsibility to the
23 people of Maine. Please remember these three words as you
24 decide the fate of this project, unreasonable, adverse
25 effects, three simple words.

1 Listen to those of us who live and work in the region
2 because we truly treasure this priceless piece of Maine.
3 Thank you.

4 MS. WHEATON: Thank you for your -- thank you for your
5 time. I'm Lindsay Wheaton. My husband and I own and run
6 Grand Lake Lodge on West Grand Lake. Thankfully, most of
7 our guests return year after year to enjoy the outdoor
8 recreational opportunities that the Downeast lakes region
9 has to offer. Some guests have been coming over 54 years.
10 They come to fish for land-locked salmon, togue and
11 smallmouth bass; they explore the many interconnected lakes
12 of the watershed including West Grand, Junior and Scraggly
13 Lakes enjoying the quiet and the many, many miles of
14 undeveloped shoreline; they swim and paddle in the crystal
15 clear water; they hunt birds, bear and deer; they also come
16 to appreciate the rich cultural history of the traditional
17 Maine sporting camps and the guides. In today's fast-paced
18 ever changing world, they value that life here always stays
19 the same.

20 We feel so privileged to own our own business on West
21 Grand Lake and provide our guests with such unobstructed
22 access to pristine wilderness. In the midsts of a
23 recession and the era of the internet when people can
24 easily find a new vacation spot, we're trying hard to make
25 a living. It's this lifestyle we have chosen to raise our

1 daughter in and this is how we feed our family. The
2 natural resources are everything to us. We're trying hard
3 to maintain our way of life and the culture here.

4 Like everyone else in Washington County, we piece
5 together a living. My husband Chris is a guide and canoe
6 builder, his father was a guide and so was his grandfather.
7 Guides provide people with an experience that fishing or
8 hunting is only a part of. Our guests and sports get to
9 experience Maine's increasingly rare, undeveloped
10 wilderness. It's truly unique to travel around the lakes
11 in a handmade canoe and only be able to see the water,
12 trees, sky and wildlife. We're trying hard to keep our
13 small family businesses afloat in very hard economic times.
14 The Bowers wind project is going to make that difficult.

15 Please do not allow First Wind to go forward with this
16 project that will damage our community and the rich
17 traditions we value and on which we rely. Wind power may
18 be alternative energy, but we have no alternatives. We
19 have one town, one community, one culture, one landscape
20 and one economy. We in Grand Lake Stream have spent a
21 tremendous amount of time, effort and money to protect our
22 natural resources and to preserve our community in the
23 area. We've done so to support our economy and way of
24 life. Please do not let First Wind take it away from us.

25 MR. CATALDO: My name is Louis Cataldo, I'm a

1 fourth-generation Downeast lakes guide, my family settled
2 in the Grand Lake Stream area in the mid to late 1800s.
3 I'm also currently serving my fourth term as the first
4 selectman of the Village of Grand Lake Stream. The reason
5 I am testifying here today is I feel it is my job as first
6 selectman to protect the economy of Grand Lake Stream, and
7 as a professional guide, it's my job to protect my own
8 livelihood.

9 What I would like to address is the potential impact
10 this industrial wind power project will have on the economy
11 of Grand Lake Stream area an, in fact, the entire
12 watershed. It's no secret the entire economy of the whole
13 area is driven by tourism, either by people coming to
14 recreate at one of the many lodges in the area, or by
15 people who own second homes on our beautiful lake shores
16 who come for extended visits throughout the year.

17 Over the last century we have hosted many famous
18 people, Ted Williams, Buffalo Bob Smith, General Doolittle,
19 Kurt Gowdy, George Cowan, just to name a few. What makes
20 our area so attractive to people who come here from
21 literally all over the world is miles and miles of
22 unspoiled wilderness and shoreline. Countless hours of
23 hard work and many millions of dollars have been raised to
24 keep this area natural and beautiful.

25 We started this process protecting the area back 20

1 years ago when the east shore of Grand Lake Stream was
2 slated for development. Fly fishermen from all over the
3 world have been traveling to Grand Lake Stream for over 120
4 years to catch land-locked salmon in a natural setting. We
5 knew that we had something then and we had to save it.
6 Back then we appealed to the LURC commissioners not to
7 allow the beautiful stretch of stream to be developed. And
8 I'm proud to say today that the stream looks the same now
9 as it did 20 years ago and it will -- and it will be that
10 way forever.

11 The next threat to our existence was 10 years ago when
12 a large piece of land west of Grand Lake Stream was sold
13 and there was talk of forest liquidation, shoreline
14 development and gated access. That land that was used for
15 recreation and the backbone of our sporting camp and
16 guiding business was very much in question. The residents
17 of this area along with an expanded group of citizens and
18 friends of the area made a huge commitment.

19 And I am damn proud to say that the Downeast Lakes Land
20 Trust now owns two and a half townships west of Grand Lake
21 Stream and west of Grand Lake. And along with that deal
22 we've helped to put conservation easements on about 350,000
23 acres around the Downeast lakes watershed. This means that
24 this land will never be developed and the public will
25 forever have access on it. In a world where gates and no

1 trespassing signs dot more of the landscape each day, this
2 means a lot to the natural setting and the wilderness
3 character of the whole watershed.

4 Another benefit to the area is that the land will be
5 providing wood fiber for area businesses to keep working.
6 Places this large where the general public has access are
7 very rare now, but think of the future, 50 to 100 years
8 down the road, how important will this be to the outdoor
9 sporting public then. What worries me most about the
10 industrial wind power project being visible from all the
11 lakes north of Grand Lake Stream is whether or not we will
12 be able to keep our valued clients coming back to our area.
13 Certainly there will be a loss of business for all of us
14 making a living on the recreation-based tourism business.
15 The only question is how much. But equally important is
16 how would we be able to attract new clients to come to this
17 area in the future.

18 All the conservation work we've accomplished over the
19 last 20 years was done with a view for a long-term -- for
20 the long-term to ensure that additional generations would
21 be able to make a living in the traditional fashion that my
22 family has for four generations. I think this is where we
23 really suffer is the project will -- I think this is where
24 we will really suffer if this project is allowed to go
25 forward. Having these huge wind turbines on our horizon

1 will definitely have a negative impact on our ability to
2 attract and retain our current and future customer base.

3 An example of this is when I was guiding one of my
4 longtime clients on Baskahegan Lake several years ago when
5 the wind turbines were being built on Stetson ridge. You
6 could see those huge towers going up and it was -- it had
7 changed the whole feel of fishing there. We fished for a
8 few hours and my client spoke to me and said, Lou, these
9 windmills are so ugly, can you turn the canoe another
10 direction so I don't have to look at them? Well, I did the
11 best I could for the rest of the day and we had very good
12 fishing that day. But when we got to the boat landing and
13 we were loading up our gear, my client came over to me and
14 said, Lou, we have fished here for many years and always
15 done well, but those windmills have ruined it for me, let's
16 not fish here anymore. And we've never gone back there
17 again with that client.

18 My client came here to escape the large cities and the
19 industrial environments where many of them are forced to
20 live because of their careers. People come here to
21 experience nature at its finest. Long before viewing the
22 photo simulations of what the area would look like after
23 the turbines are installed I reached the conclusion, with
24 the help of the comments made by my best clients, that the
25 extreme size and visibility of this project will change the

1 natural character of this entire watershed forever.

2 This project will not fit harmoniously within its
3 environment and will definitely have a very substantial
4 negative impact not only on the character of the whole
5 watershed, but on our future ability to retain the
6 lifestyle and livelihoods we all enjoy today. I hope this
7 testimony helps you make your decision. If you vote to
8 approve this project, make no mistake, that you will be
9 voting to change the watershed of one of the most beautiful,
10 natural watersheds in the world forever. And if you vote
11 no on this project, I thank you from the bottom of my
12 heart. I only wish that Mother Nature could be here to
13 testify for herself. I think we all know where she would
14 stand. Thank you very much.

15 MR. GURALL: Thank you, Lou. I have just another
16 probably three minutes here to conclude our total
17 presentation. When viewing the map of the expedited wind
18 permitting law expedited zoning -- I am sorry. Go ahead,
19 Gary.

20 MR. CAMPBELL: I thought I had been replaced.

21 MR. GURALL: I'm sorry.

22 MR. CAMPBELL: When I first read through my testimony a
23 few days ago it took about 30 minutes and I was forced to
24 cut it down so it might be a little bit choppy. I'll keep
25 it brief. My name is Gary Campbell and I live in Lakeville

1 from May through October and the rest of the year I live in
2 Hingham, Massachusetts. The applicant would like us to
3 believe that this industrial project will be welcomed and
4 even sought out by some tourists. They cite studies and
5 surveys to support this opinion, but none of them are
6 relevant here because the visitor to this region does not
7 fit the profile of the participants in those studies. He's
8 not like the day hikers interviewed at a single scenic
9 viewpoint on Bull Hill, he's not like the locals who ride
10 snowmobiles on weekends or visit Baskahegan Lake. He
11 doesn't drive the Vermont countryside visiting Artisan
12 cheese makers, he isn't like the tourists surveyed in
13 Quebec, Scotland or Prince Edward Island.

14 The visitor to the Downeast lakes region is generally
15 more affluent and specifically looking to experience a
16 traditional Maine sporting camp and guide service in a
17 remote setting. He's well informed and very particular
18 about where he spends his valuable time off. He often
19 travels a great distance to recreate here and won't
20 hesitate to spend 400 to \$500 a day for lodging and a guide
21 and meals.

22 66 percent of the guests at Grand Lake Stream's
23 housekeeping cabins stay five nights or longer and a
24 remarkable 83 percent of them are repeat guests. But
25 because he's so particular, his loyalty does have limits.

1 The moment the Downeast lakes region fails to deliver the
2 remote natural experience he's looking for, he'll vacation
3 somewhere else. With a click of a mouse he can book a
4 vacation in Alaska.

5 This region hosts a traditional way of life where
6 people and the natural environment are interdependent.
7 Every small business and every individual depends on the
8 remote wild character of the region. Local residents
9 realize this and work hard to protect that symbiotic
10 relationship. Erecting turbines on the mountains of
11 Carroll and Kossuth will seriously hurt the area's
12 character, which will in turn hurt tourism.

13 You might say, so what if they lose a few tourists,
14 it's not the end of the world. But the impact is much more
15 painful than you'd think. You see, not only is the
16 Downeast lakes region's visitors unique, but the local
17 economy is as well. It's almost entirely dependent on the
18 tourism and forest products industries. As Mr. Milliken
19 testified this morning, the forest products industry is
20 currently struggling and that makes tourism that much more
21 important. The tourism segment is made up of many
22 businesses, including traditional sporting camps, lodges
23 and housekeeping cabins, hunting and fishing guides.

24 Here's what the 2010 CLUP had to say about sporting
25 camps on Page 266. Sporting camp owners benefit

1 significantly from the natural resources and remoteness
2 values in their immediate vicinity. Maintenance of
3 relatively pristine surroundings and the feeling of
4 remoteness are essential to most of these camps in
5 attracting and maintaining clientele. The number of
6 operating sporting camps within the jurisdiction has
7 dwindled over the past 50 years to the point where today
8 fewer than 40 traditional camps operate. Considering their
9 cultural value and compatibility with remote recreational
10 settings, a basic question is whether the Commission's
11 policies and regulations are adequately supportive and
12 protective of these facilities, end of quote.

13 It's easy to see how this project, if built, will have
14 economic and social impacts well beyond the arbitrary
15 8-mile radius. Some of Maine's last remaining traditional
16 sporting camps will undoubtedly close, jobs will be lost,
17 some guides will be forced to move away to find work and
18 Maine will be that much closer to losing a traditional way
19 of life.

20 Maine has what business strategists call a sustainable
21 and defensible competitive advantage. Any state can put up
22 a water slide, build a hotel or erect wind turbines, but no
23 state can build a mature forest around a natural lake full
24 of salmon with loons calling and eagles soaring overhead.
25 Fortunately, Maine has such a place in the Downeast lakes.

1 Let's not pollute it with wind turbines.

2 MS. HILTON: Can I just jump in here? You're actually
3 over your time allotment here. Do you want to wrap things
4 up, summarize?

5 MR. CAMPBELL: Yes. One -- one last paragraph. If you
6 decide to approve this project, then I ask, what would it
7 take for a project to be denied? If ever a wind project
8 failed to meet the criteria for approval, it's this one.
9 It will have a serious impact on nine resources of
10 statewide significance. If ever a developer failed to
11 demonstrate by substantial evidence that the criteria for
12 approval are satisfied, it's this one. Please, let's draw
13 the line here. I urge the Commission to deny this permit.
14 Thank you.

15 MS. HILTON: Okay. Thanks. So you're over your time,
16 you've actually got a couple of -- a little extra time.

17 MR. GURALL: I guess learning from the expert this
18 morning, I'd just -- I'd like to do the same thing
19 Ms. Browne did this morning, I had originally intended to
20 cross-examine two of their witnesses and that wasn't
21 necessary because of the questions asked by the Commission.
22 I'd like to get those three or four minutes back now just
23 to read this conclusion.

24 MS. BROWNE: They've already gone over their time
25 allotment, it's probably more appropriate for closing

1 arguments.

2 MS. HILTON: And your response to that would be? Would
3 you prefer --?

4 MS. GURALL: I guess my response would be, I'd like the
5 same treatment Ms. Browne got this morning when she agreed
6 to not cross-examine Mr. Gordon Mott and use the time for
7 somebody else and I'm asking to do that same thing now.
8 We've given up time for cross-examining two of the people
9 we had identified as people we wanted to cross.

10 MS. HILTON: Okay. So three minutes?

11 MR. GURALL: That will be fine.

12 MS. HILTON: All right.

13 MR. GURALL: When viewing the map of the expedited wind
14 permitting law expedited zoning for this area of Maine,
15 it's clear the governor's task force that crafted the zones
16 made the conscious decision to leave the area around this
17 watershed nonexpedited. I spoke directly to R. Alec Giffen
18 who formally headed the Maine Forest Service and was
19 chairman of Governor Baldacci's expedited wind law task
20 force. Giffen said that while he couldn't remember all of
21 the specifics about the conversations concerning this area,
22 he said it was the task force's direct intent to protect
23 this important resource from development.

24 Further, the Natural Resources Council of Maine stated
25 the following regarding this matter during the proceedings

1 in which the applicant successfully petitioned to expand
2 the expedited territory into Kossuth as part of the
3 proposed project: As members of the governor's task force
4 during wind power development, we were intimately involved
5 with the drafting of the proposed expedited permitting area
6 boundaries. The proposed area lies at the very northern
7 edge of a large area around the Downeast lakes that were
8 intentionally excluded from the expedited area because it
9 represents a broadly treasured landscape with significant
10 conservation value where wind development was not
11 appropriate for any expedited review. It's clear what the
12 task force's intent was and that was to preserve this area
13 from industrial development that could alter its very
14 character.

15 I'd like to just read a couple of quotes from the
16 applicant's visual impact assessment. This region of Maine
17 has a very low population, vast woodlands and plentiful
18 lakes. It is not recognized as a tourism center and there
19 are primitive recreational opportunities. Second quote:
20 As compared with other recreational areas in Maine, these
21 lakes in general do not see a lot of use and the area is
22 not considered a tourism center.

23 I then refer to LURC's own Comprehensive Land Use Plan
24 that says: As exceptional as the jurisdiction's natural
25 resources are, it is the jurisdiction's distance from

1 population centers, its sense of remoteness and the
2 relative lack of development that sets it apart. There is
3 something special about hunting, snowmobiling, fishing,
4 hiking or camping surrounded by 10 million acres of largely
5 undeveloped forest. For many years these remote,
6 undeveloped quantities not only enhance -- excuse me, I
7 said for many years. For many users these remote,
8 undeveloped qualities not only enhance, but essentially
9 define the recreational experience, distinguish it from
10 excursions in more populous areas. As recreational lands
11 elsewhere are increasingly developed, opportunities for
12 back country experiences will become scarcer and the remote
13 values of this jurisdiction will become more highly prized.
14 Thank you very much.

15 MS. HILTON: So do commissioners have any questions?

16 MR. HAMMOND: I don't have a question, but just a
17 comment. I appreciate the thoughtfulness and time and the
18 preparation and realize you have limited resource and
19 appreciate it.

20 MR. GURALL: Thank you, sir.

21 MS. HILTON: Any other commissioners? I have a
22 question and I -- I'm going to try to word this clearly.
23 What percent -- and I'm not even sure who to ask this, so
24 whoever wants to -- thinks they have a good answer, jump
25 in, I guess.

1 With respect to guiding activity in the region, if you
2 will, what percentage of guiding activities take place in
3 those lakes that are within the 8-mile radius of the wind
4 power project versus percentage of all guiding activities
5 that are taking place within the Grand Lake Stream area
6 combined with the -- the Pleasant Lake, the Scraggly Lake,
7 the other lakes within the project area? Is that clear?
8 Do you understand what I'm asking? I'm trying to get an
9 idea of what percentage of your activity in guiding is
10 taking place within this 8-mile radius of the project.

11 MR. DRIZA: I'm going to offer an answer -- again,
12 Charles Driza, Leen's Lodge.

13 MS. HILTON: Yeah, can you just say your name and --
14 into the microphone and --.

15 MR. DRIZA: Yes, Charles Driza is my name and I'm the
16 owner of Leen's Lodge, which is outside of the 8-mile zone,
17 but on West Grand Lake. And as a function of what
18 percentage of the guides use that area, I would say 50
19 percent of our guiding is done on West Grand and on all the
20 lakes connected to it. And most of our fishing, actually,
21 is not done on West Grand, but done up in the Junior area,
22 which is some of the world's best smallmouth bass fishing.
23 The other 50 percent would be taking place on Big Lake.

24 So for myself who's on West Grand, 50 percent in the
25 affected area, 50 percent outside of that.

1 MS. HILTON: Anybody else want to comment on that?

2 MR. BUCKMAN: I can make one -- Andy Buckman again from
3 Darrow Camp. Although we outfit wilderness canoe trips
4 that go all over northeastern North America in Maine and
5 Canada, all of our trips originate with a training trip
6 that runs through the impacted area. They all go on a trip
7 of several days locally in order to prepare for their
8 larger ventures. So every child who comes through Darrow
9 Camp has an experience within the impacted area.

10 MS. HILTON: When you say a training trip, are you
11 talking about -- so you go from lake to lake within the --

12 MR. BUCKMAN: Yeah, an overnight two or three days long
13 usually. Yeah, we usually do what we call the north loop
14 up through Junior, Bottle, Dobsi and back. Yeah.

15 MS. HILTON: Okay. Anyone else want to comment on
16 that? Okay. Thank you.

17 MR. FARRAND: Can I ask a question.

18 MS. HILTON: Sure.

19 MS. FARRAND: And I guess there are three of you that
20 have sporting camps there? So just down the line, what
21 percentage of your clientele are repeat customers.

22 MR. DRIZA: I would say that my repeat clientele --
23 Charles Driza again, Leen's Lodge -- is approximately 65
24 percent.

25 MS. WHEATON: Lindsay Wheaton, Grand Lake Lodge. I

1 would say 65, 75 percent.

2 MR. NORRIS: Yeah, Steve Norris, The Pines. Probably
3 75 percent or better.

4 MR. FARRAND: Thank you.

5 MS HILTON: Staff? Fred?

6 MR. TODD: Yeah, I'm along those same lines trying to
7 give some parameters to the -- to the extent to which the
8 guides in the Grand Lake Stream area utilize the -- the
9 area in question here. There was a number of something
10 like 12 lodges in Grand Lake Stream; is that right? And
11 about -- the number of 30 guides. Now, is that 30 guides
12 that service the guests in all 12 lodges or is that 30
13 guides for one lodge?

14 MR. DRIZA: Charles Driza again from Leen's Lodge. I
15 mentioned the number 30 as guides that are hired -- for one
16 specific job I hire 30 local guides. I would say that
17 there's significantly more than 30 guides available in the
18 Grand Lake area, though. I was just wondering if anybody
19 else --. Yeah, my associates are saying there's probably
20 50 guides in the Grand Lake area.

21 MR. TODD: 50 guides. Thank you.

22 MS. HILTON: Okay. Anybody else? Okay. Go ahead.

23 MR. PALMER: Mike, so you're aware that the Wind Energy
24 Act has a specific set of criteria to evaluate which LURC
25 has to follow.

1 MR. LAWRENCE: Yes, those are the six steps.

2 MR. PALMER: And the fact that they're limited to
3 evaluating areas within 8 miles of a generation facility?

4 MR. LAWRENCE: Yes.

5 MR. PALMER: So why did you spend so much time looking
6 at stuff outside of that 8-mile radius and not make it
7 possible for us to tell when you were talking about
8 something outside and something inside?

9 MR. LAWRENCE: If you look at the visual impact
10 assessment that I prepared, the diagram, that shows the 8
11 miles. That's -- that's specifically the exhibit I
12 prepared.

13 MR. PALMER: But we couldn't tell -- for instance, you
14 have all these descriptions from different camps and stuff.
15 We have no way to tell when those descriptions are
16 pertinent and when they're not pertinent.

17 MR. LAWRENCE: Well, I think what's pertinent is what
18 you're hearing from the guides and, that is, that even
19 though they live outside the 8 miles, they -- they depend
20 on the wilderness or the -- certainly the experience of
21 wilderness that they find within the area that will be
22 impacted. So, no, I didn't draw a specific line and say,
23 you know, that they're outside of that, but I think it's --
24 it's clear. I mean, I think that's clear.

25 MR. PALMER: I think what it is is it's not clear. One

1 of the examples is the Baskahegan story, which we heard
2 again, which is an interesting story. How do you weigh
3 that against something like the Baskahegan study that
4 randomly sampled -- had a random sample of 48 people, none
5 of whom mentioned the wind turbines at all? How do we
6 weigh a probability sample where it doesn't even show up
7 versus one selected maybe very -- it could have been Ted
8 Williams, a very important person. How do we balance that?

9 MR. LAWRENCE: Well, I think the way that I'd do it is
10 -- and this came about at a hearing in Vermont that I was
11 part of -- and that is the lawyer that I was working with
12 said, you are the typical visitor, I am the typical
13 visitor. And I believe that what that infers is that as --
14 as a typical -- as someone who says, I am a typical
15 visitor, I happen to work with aesthetic criteria as I --
16 so that I can explain myself, but I believe that the
17 demonstration of being out on the lake was profound for me
18 and I wrote -- you know, kind of described that in this.

19 I tried to -- I tried to in my -- in my pre-filed, if
20 you will, tried to take you through a sequence of time for
21 me where I didn't know really anything about this area and
22 I came and I experienced it. And I tried to give you as
23 clear of a picture of what I experienced. And I hoped that
24 that would inform you. And I think that we are all the
25 typical viewer, if you will and that's a -- and we're all

1 trying to balance that.

2 I don't -- I'm not against all wind power, but I think
3 this is not the right place for a wind power project.

4 MR. PALMER: I hear that part, I'm just having trouble
5 figuring out how to -- how to balance that. I also have
6 trouble figuring out how you can be a scenic expert and
7 think of yourself as typical. If that's really true, then
8 any of the people in this room could be scenic experts. I
9 think you're special.

10 MR. GURALL: Jim, could I get a word in here?

11 MR. PALMER: Sure.

12 MR. GURALL: It's only the applicant that's required to
13 provide a VIA. We did this as an additional piece of
14 equipment that we hoped would provide you with some
15 additional information to help make a good decision. I
16 don't think that our VIA, so to speak, should be held to
17 the exact same standards as the VIA provided by the
18 applicant. I mean, this was for an informational piece.

19 You were critical of Mike's performance initially -- or
20 his VIA initially because it was a little -- I may be
21 sorry, it may be -- maybe it was David Raphael, but one of
22 the two of you made the comment that it was a little too
23 emotional, not enough hard facts. It wasn't for us to
24 provide the hard facts, we're just setting background to
25 the whole --

1 MR. PALMER: I mean, I was critical, but I was also in
2 awe. I think it's a great piece of work. But it is a
3 qualitative example and the question still stands -- I
4 don't think there's a good answer -- about how you balance
5 something that's sort of qualitative, broad -- well, I've
6 already stated it. I appreciate the problem and I think
7 I've also said that I agree you don't necessarily have to
8 be held to the same standards, but you do have to
9 understand that the Commission has to be held to those.

10 And so when they can't tell, they have to be
11 conservative and ignore. And it's just not -- it's not
12 helpful for them or for me in trying to point out and
13 advise them. It makes it very difficult for us. And
14 that's not to say the work isn't well done, it's just that
15 it makes it very difficult because we can't make up rules,
16 we don't make up rules.

17 MR. LAWRENCE: May I say something?

18 MR. PALMER: Sure.

19 MR. LAWRENCE: What I tried to do was to take the six
20 criteria and divide this books up into those six and go
21 through them one by one. The criticism that this was
22 emotional I tried to answer today with the facts. To me,
23 those seem like those seven facts are the essential facts
24 of this -- of this proposal and that anything and
25 everything should be held up to those -- to those facts.

1 And if there are more facts that are beyond what I put out,
2 I would -- I would be -- I'm very open to helping -- you
3 know, to try and understand what those are.

4 MS. HILTON: Okay. Go ahead, Fred.

5 MR. TODD: Just quickly. Again, I'm trying to
6 understand more of the nature of your boating or your canoe
7 trips from Grand Lake Stream up into the lakes in this
8 area. When you go up, is it normally you go up and back in
9 the same day, do you go up, do you camp on -- and utilize
10 the campsites on the lakes up there? What's the nature of
11 the trip?

12 MR. BUCKMAN: Are you addressing me, sir, for the canoe
13 trips?

14 MR. TODD: Anybody who wants to respond.

15 MR. BUCKMAN: Well, I'll speak for myself. Our base
16 camp is located in Junior Bay, which is just south of the
17 impacted area. So our trips initiate there and we make any
18 number of loops through the impacted area and come back to
19 our base camp. So they're great big loops. For others --
20 for lodge owners, they are beginning their daily activities
21 in the village of Grand Lake Stream and coming up the lake
22 into the impacted area.

23 MR. GURALL: He asked for the duration of the trips.

24 MR. BUCKMAN: I'm sorry. The duration of our trips
25 ranges -- we have some trips who spend up to a week and a

1 half traveling through Scraggly and Junior -- the little
2 children in particular will move a couple miles a day and
3 that's a big deal for them moving from one campsite to the
4 next, to the next and all within that -- that area, from
5 our base camp up into the area and back.

6 MR. CATALDO: Speaking for the Grand Lake Stream
7 guides, some of our best bass fishing water is up in the
8 northern reaches of that watershed. West Grand is
9 predominantly salmon water, cold water, but the bass are up
10 in that northern part. So we spend a lot of time up there
11 taking our clients.

12 MR. TODD: So you -- you go up and back and --?

13 MR. CATALDO: Yes, we go up and back in one day, sir.

14 MR. TODD: Okay. Question for Gary, I think. In your
15 testimony you mention -- you reference a number of public
16 boat launches and I think public campsites. I'm just
17 trying to get a handle on -- I think the word -- well, I
18 guess my question is how loosely we're using the word
19 public. Are these publicly owned or they publicly --
20 they're just simply available to the public.

21 MR. CAMPBELL: I guess I'd have to say they're
22 available to the public. Because the numbers I quoted and
23 the map that I included in my testimony were based on the
24 DeLorme Gazetteer map. They're all shown on that map.

25 MR. TODD: Okay. Thank you.

1 MS. HILTON: Are we all done with our questions? Okay.
2 I guess the applicant, Juliet.

3 MS. BROWNE: All right. Just another time check here.
4 I understand I have 30 minutes for cross. What I would
5 like to do is take some additional time for the number of
6 PPDLW witnesses and subtract that from the time that's been
7 allocated for David Corrigan and his witnesses.

8 MS. HILTON: Okay. Do you follow that?

9 MS. CARROLL: Yep. How much time do you want?

10 MS. HILTON: How much time do you want?

11 MS. BROWNE: 40 minutes.

12 MS. HILTON: 45 minutes, okay.

13 MS. BROWNE: Okay. I'm going to -- just bear with me
14 since I can't see everybody that well. I was going to
15 begin with you, Mr. Buckman.

16 EXAMINATION OF ANDREW BUCKMAN

17 BY MS. BROWNE:

18 Q And I have on a poster board here a map that's from the AMC
19 guide that you quote from in your testimony. Can you see
20 that okay?

21 A Yes, I can.

22 Q And it just has to do with providing some context for the
23 commission to understand the number of canoe trips in the
24 Downeast lakes region. And I think you had originally
25 testified that there were, you know, 25 trips and 23 of the

1 25 go through the study area. So I just wanted to make
2 sure you understood that at least in the 2005 guide of this
3 book, in fact, there are only two of the 25 canoe trips
4 that go within the study area. And this is the map that
5 shows the Downeast lakes region from the AMC guide and it's
6 only 43 and 42 that go through the -- the study area. Are
7 you aware of that now?

8 A I'm aware of that. I'm not sure that I said that 23 of the
9 -- I'm not sure that I used the -- the trips for the entire
10 Downeast lakes region. There are many trips within the
11 entire Downeast lakes region and to a certain extent the
12 number extends on how you intercombine them. But of the
13 trips within this particular area, the Downeast lakes, yes,
14 there are two significant routes that are --.

15 On the other hand, I would say that the publication of
16 a new addition of the AMC guide does not mean that there
17 has been a change in recreational use patterns or in the
18 scenic or recreational value of the impacted area.

19 Q But you would agree there are a number of high value
20 recreational canoe trips in the Downeast lakes region that
21 go nowhere within the study area?

22 A That is true, but these are not the ones that, to my
23 knowledge, are used the most extensively. The ones that
24 are used the most extensively are the ones that go through
25 the impacted area, yes.

1 Q But that's not necessarily what the AMC guide says, that's
2 just your personal view probably colored by the fact that
3 that just happens to be what you located and that's what
4 you see firsthand?

5 A That's my experience in speaking with people with whom I
6 have contact or use the region, yes.

7 Q And you also suggested both in your testimony and then also
8 -- your written testimony and then here today that this
9 project might jeopardize the continued viability of Darrow
10 Camps and sort of suggested it was open to question whether
11 it would remain in this location if the project went
12 forward, correct?

13 A Yes.

14 Q And then I was -- just for -- Darrow Camps is, what, 10 to
15 12 miles from the closest turbine?

16 A 11.75.

17 Q Pretty good. So outside the study area. And as I
18 understand your camp, it caters to a number of youths,
19 young children, right?

20 A That's correct.

21 Q And there is one category of sort of the more junior
22 campers that does the canoe trip that you've described that
23 goes through the lakes within the study area, right?

24 A Yes.

25 Q And then as they become more advanced, they go, as you

1 acknowledged, into Canada, into parts of Maine and
2 New Brunswick and Labrador, far away from the study area,
3 right?

4 A Yes.

5 Q And the majority of your campers, in fact, go to areas well
6 beyond the Downeast lakes region and the study area, right?

7 A That's correct.

8 Q Okay. And then there was a picture in Mr. Lawrence's
9 presentation of children standing on a dock. You,
10 obviously -- your principal clientele are children as well.
11 And we've heard a lot of comments from and testimony and
12 very eloquent testimony about concerns that traditional
13 fishermen, the -- you know, Ted Williams and Dwight
14 Eisenhower and Calvin Coolidge and people like that don't
15 want to see turbines in the viewshed.

16 You agree that the children ages 11 to 12 are a very
17 different demographic than the gentlemen fishermen that
18 we've heard discussed today?

19 A Certainly they're a different demographic.

20 Q And you're aware that children as a demographic are much
21 more accepting of renewable energy and in particular wind
22 turbines than probably the gentlemen fishermen that we've
23 heard about today?

24 A That may be. Nevertheless, our marketing focuses on the
25 undeveloped wilderness character of the region in which our

1 base camp is located. That's been the focus of our
2 marketing for over 50 years. And to me, it would be very,
3 very difficult when we're sitting around the campfire at
4 night and the red lights are throbbing to explain to
5 children why, if they thought they were coming to the
6 wilderness, they're seeing evidence of human intervention.

7 Q But as we've heard from other witnesses, there is already
8 evidence that they see a beacon, a red light on the top of
9 Almanac Mountain and other communications towers, correct?

10 A From some places -- some specific places, that's visible.
11 It's not visible from our base camp and it's not visible
12 from many of the campsites that we use in the area.

13 Q But you're certainly not suggesting that an 11-year-old
14 paddling through Scraggly is going to look at turbines and
15 say, I'm not coming back here because of those turbines in
16 the viewshed?

17 A I don't know. The children themselves are not the only
18 component of making a decision to send a child to camp,
19 it's largely the child's experience as they relate it to
20 their parents and they take home their pictures and they
21 talk about what they've seen. So it's -- I don't think
22 that we can look at just the children as the
23 decision-makers in the process of whether or not to attend
24 Darrow Camp.

25 Q But they're the user group that's using the resource,

1 right?

2 A They are the -- they are the user group, yes.

3 Q And you would agree they have a different expectation than
4 the gentlemen fishermen that we've talked about, correct?

5 A I -- I don't know. I'm not sure that I could say that.
6 Children come to us because they want to -- they believe
7 that they are coming to see the natural world in its
8 undeveloped state.

9 Q Okay. Are you aware of -- of sort of one of the principle
10 educational efforts that's going on with middle school
11 children right now in Maine and some of the topics they
12 study?

13 A No, I am not. I'm a teacher in Virginia, not in Maine,
14 but --.

15 MS. BROWNE: Okay. Thank you. I think I will turn
16 now, Mr. Gurall, to you. And forgive me if I jump around a
17 little bit. I will do my best to be logical.

18 EXAMINATION OF KEVIN GURALL

19 BY MS. BROWNE:

20 Q You had a picture up there that I think is on Exhibit 4,
21 Page 11 of your testimony that -- can you put that back up?
22 And I don't know if you all have testimony available to
23 you. I didn't make copies of everything on the assumption
24 that you could pull it up on your computer if you wanted to
25 and I think we'll put it up there on the screen.

1 But it identifies the sort of heart of the Downeast
2 lakes region that was not included in the expedited
3 permitting area. And as I understand your testimony, that
4 was a very intentional decision to exclude that area from
5 the expedited permitting area, correct?

6 A According to Mr. Giffen it was.

7 Q And according to NRCM and the letter that you quoted from
8 NRCM, that was also --

9 A Correct.

10 Q Okay. So your understanding is that the wind power task
11 force and the Legislature intentionally excluded a large
12 area from the expedited wind permitting area because they
13 felt it was inappropriate for wind power development,
14 correct?

15 A Yes.

16 Q Now, that same group intentionally included Carroll
17 Plantation within the expedited permitting area, correct?

18 A Probably, yes.

19 Q Okay. And then the Commission through rule making included
20 the area within Kossuth also within the expedited
21 permitting area, correct?

22 A They did, but on a lot of -- that decision -- and I would
23 ask the commissioners for -- that were around then for
24 maybe a little backup here -- that a lot of those decisions
25 made on Kossuth were made only because they expected all of

1 it to be handled at this --

2 Q I hear you. But you agree that the Commission by rule
3 added the portion in Kossuth to the expedited permitting
4 area?

5 A That is correct.

6 Q And I just want to -- are you aware of the language in the
7 Wind Power Act -- I'm reading from -- it's 35-A MRSA
8 Section 3402. And in it it states: The Legislature finds
9 that it is in the public interest to reduce the controversy
10 regarding siting of a grid scale wind energy development
11 by expediting development in places where it is most
12 compatible with patterns of development and resource values
13 when considered broadly at a landscape level. The
14 Legislature finds that certain aspects of the regulatory
15 process for determining the environmental acceptability of
16 wind energy development should be modified to encourage the
17 siting of wind energy department in these areas.

18 So are you aware that that was the purpose of the --
19 the identification of the expedited wind power permitting
20 area?

21 A I guess I would say that if you assume a limited set of
22 facts, that's true.

23 Q Okay. And I think in your testimony on Page 12 you state
24 that: First Wind is trying to take advantage of a mistake
25 that was made. Now, you would agree that's a little bit

1 misleading to say that First Wind is trying to take
2 advantage of a mistake, right?

3 A That's why I left it out of today's oral testimony, but I
4 was actually quoting -- I shouldn't say I was quoting, I
5 was paraphrasing from what -- the conversation I had with
6 R. Alec Giffen who said that, you know, they chose the
7 boundary of Carroll as -- they chose the Carroll property
8 town line as the boundary rather than Route 6. And he
9 said, you know, in retrospect that may not have been the
10 best decision, but that's where that came from.

11 Q Well, I move to strike that as being completely without
12 foundation. You're certainly not suggesting that Alec
13 Giffen said, oops, we drew the line in the wrong place, are
14 you?

15 A I am exactly saying that.

16 Q Okay. Well, there is no foundation for that and I move to
17 strike.

18 And certainly NRCM's letter that you quoted from didn't
19 say, oops, there was a mistake?

20 A No, they did not.

21 Q Okay. So your understanding then is -- and we've heard a
22 lot of discussion about this conserved area. But your
23 understanding is that the project is not located within any
24 of these conserved lands, correct?

25 A Yes, that's correct.

1 Q It's located outside of them in the expedited wind
2 permitting area, an area that is where wind power is an
3 allowed use, correct?

4 A That's correct.

5 Q Okay. You've also talked -- I think you also talked about
6 the quoted provisions from the Commission's Comprehensive
7 Land Use Plan.

8 A Correct.

9 Q And there are some provisions that were noticeably absent
10 from your testimony or your comments including, perhaps
11 most importantly, the requirement and a recognition that
12 the commission has to balance goals or policies that
13 sometimes conflict with one another so as to best achieve
14 its vision for the jurisdiction, correct?

15 A I would say it was not my responsibility to include any
16 arguments that would work against me. You know. That's
17 your responsibility.

18 Q But you would agree that -- you're not trying to be
19 misleading, it wouldn't be appropriate for you to try to be
20 misleading?

21 A I was not trying to be misleading, I was just using certain
22 portions of the CLUP that I thought applied to this
23 situation.

24 Q And you agree there are other portions of the CLUP that
25 specifically and expressly support this project?

1 A I don't think I can agree with that.

2 Q Okay. Well, you agree that other provisions of the CLUP
3 are specifically geared toward encouraging economic
4 development, correct?

5 A Correct.

6 Q And you agree that there are provisions in the CLUP on
7 energy resources that specifically support indigenous
8 renewable energy resources as part of the state's efforts
9 to promote energy independence, diversity and long-term
10 sustainability, correct?

11 A Again, I would say that if you assume a limited set of
12 facts, that would be true.

13 Q Okay. And -- and you're aware that the CLUP has specific
14 provisions on wind power, and a provision in the CLUP on
15 Page 187 that says: Wind power increasingly is recognized
16 as the most significant renewable source of electricity
17 that is economically viable at the utility scale, correct?

18 A That's fine, that's a given.

19 Q Okay. There is also -- Joy, can we put up 1A, 1B and then
20 the outstanding significant --? A number of your witnesses
21 have talked about lakes that are classified as 1A, 1B and
22 there was discussion about this area having the greatest
23 concentration of 1A and 1B lakes within the state?

24 A That was my understanding, but upon further review it
25 appears that may have been an incorrect statement. It has

1 one of the highest concentration, but not necessarily the
2 highest.

3 Q Okay. And just as a visual, this was an exhibit attached
4 to the Stantec rebuttal testimony. And this exhibit shows
5 the Class 1A and 1B lakes. And for the benefit of the
6 Commission, the Class 1A means there are two or more
7 outstanding values, Class 1B means one, and it's only for
8 lakes within LURC jurisdiction.

9 So you agree there are other lakes within DEP
10 jurisdiction that share similar values, but they're not
11 reflected on this map, correct?

12 A I wouldn't know that, quite frankly.

13 Q Okay. And then -- and this may be a question for
14 Mr. Lawrence. You understand -- either one of you I think
15 could answer it -- that the Wind Energy Act directs the
16 Commission and the applicant to look at visibility on
17 resources of state or national significance. And the
18 determination of state or national significance is whether
19 they are ranked as outstanding or significant for scenic
20 quality, correct?

21 A Correct. That was the number 13, I believe, was the
22 correct number of lakes that were ranked that way.

23 Q So the Class 1A-1B doesn't have anything to do with that?

24 A It absolutely does because every one of these Class 1A and
25 1B lakes that we've referred to here have been rated as an

1 S or O when it comes to the scenic quality.

2 Q Okay. But --

3 A We were using the tougher standard, quite frankly. I mean,
4 under the wind law you only have to have the scenic
5 criteria -- the scenic portion meet the criteria; whereas,
6 under the 1A and 1B rules you have to have two outstanding,
7 I believe it is, or two S's. We felt like we were using a
8 -- a little bit stronger yardstick, quick frankly.

9 Q Well, I appreciate that, but just so there's no confusion,
10 you could have a 1A or 1B ranked as outstanding for
11 something other than scenic quality?

12 A Absolutely.

13 Q Okay. And then here this next poster board -- and this,
14 again, is an exhibit to the Stantec rebuttal testimony --
15 identifies all the out -- the lakes that are resources of
16 state or national significance and that are, therefore,
17 ranked as significant or outstanding from scenic quality.
18 The map shows the lakes within the DEP jurisdiction as well
19 as lakes within LURC jurisdiction.

20 A Hm-hmm.

21 Q And you would agree that there are many and, in fact,
22 probably the greatest concentration of such lakes occurs in
23 the -- what's sometimes referred to as the remote core of
24 LURC's jurisdiction in an area where wind power is not an
25 allowed use, correct?

1 A I guess I do not agree because what we said was that we had
2 one of the highest concentrations of Class 1A and 1B based
3 on the LURC rating, not on the Wind Expediting Law criteria
4 which is based on one criteria, just the scenic.

5 Unless I misunderstood your question, I don't agree.
6 If you'd like to pose it again, I would be more than happy
7 to revisit it.

8 Q Okay. You appreciate that what the commission needs to
9 look at are lakes that are ranked as outstanding for scenic
10 quality or significance for scenic quality, correct?

11 A That's one of the criteria.

12 Q And this is the exhibit -- this exhibit that was also an
13 exhibit to the Stantec rebuttal testimony shows all such
14 lakes in the state of Maine?

15 A Okay.

16 Q And you would agree that there is a significant
17 concentration of lakes in the remote core of the
18 jurisdiction in an area where wind power is not an allowed
19 use?

20 A I'm sorry, let's go through that again. You've lost me
21 somewhere.

22 Q That's all right. The exhibit speaks for itself.

23 A Okay. That's fine.

24 Q I just wanted to make sure since there had been a lot of
25 conclusions about 1A, 1B that we were all working on the

1 same --

2 A As long as you understand that we felt we were using the
3 strongest criteria, the most stringent criteria, that's why
4 we talked about only the LURC-rated Class 1 and 1B, which
5 require more than one criteria as S and O to reach that,
6 but all of the lakes we quoted did have the scenic as one
7 of the criteria that was S or O, so --.

8 Q I think I'm going to have to agree with Dr. Palmer that I'm
9 going to try to stick with the review criteria that the
10 Commission is looking at.

11 A That would be your privilege.

12 Q That remains to be seen.

13 EXAMINATION OF GARY CAMPBELL

14 BY MS. BROWNE:

15 Q Mr. Campbell, there you are. You in your testimony talked
16 about the tourism dollars spent in Maine, I think you
17 quoted 13 billion in goods and services, employing 140,000
18 people. That's for the entire state of Maine, correct?

19 A That's correct. That was from the Maine State Tourism
20 office.

21 Q And you weren't suggesting that that somehow is reflective
22 of the spending in this region, right?

23 A Certainly not.

24 Q Okay. You also -- do you have the Borden report? Do you
25 have a copy of the Borden study that you quoted from?

1 A No, I don't.

2 Q Okay. I'm going to give you a copy of it, if you don't
3 mind. I'm sorry, I don't have copies for everybody.

4 Okay. Now I've lost my copy.

5 A Do you want mine?

6 Q No, no. Actually, it's more important for you to have it.
7 Your testimony and the testimony of a number of other lodge
8 owners speaks quite eloquently to what I would refer to as
9 the traditional guiding industry. We've heard Ted
10 Williams' name invoked probably more times than in a
11 baseball hall of fame get-together. And --

12 A Can I correct you? I'm not a lodge owner.

13 Q You're not a what?

14 A I'm not a lodge owner.

15 Q No, no, I know. Okay. But you have talked about the
16 impact of this project that you -- that will have on lodge
17 owners and the guiding industry, correct?

18 A Yes.

19 Q Okay. And you agree that in the Borden report that you
20 rely on, that was a report that looked at economic
21 opportunities in connection with the Downeast lakes project
22 to conserve land in this area, correct?

23 A Correct, with the Forestry Partnership.

24 Q And they talk about this specific user group that just as a
25 shorthand I'm going to refer to as the gentlemen fishermen

1 or gentleman fishing industry. And they talk about the
2 repeat customers who we've heard some testimony about
3 today. And one of the things that report concludes is that
4 the repeat customers, those who come for traditionally
5 fishing and traditional guiding experience were dying off,
6 correct? It's a conclusion on Page 21?

7 A Does it actually say dying off?

8 Q I believe that's a quote.

9 A And I believe I've read this twice.

10 Q And if I could only find my copy, I could give you an exact
11 quote. Oh, I've got mine. I think a number of conclusions
12 are on Page 20 and 21 of that report.

13 A That might be a better question for a guide. I'm neither a
14 lodge owner nor a guide.

15 Q No, but you relied on that report, correct?

16 A I reported some of the statistics from the report, I did.

17 Q Okay. So you agree that the report -- that that's what the
18 report concluded? I'm not asking you to agree with the
19 conclusion, but just that that's what this report
20 concluded?

21 A Well, I don't see it at a glance here. Can you be more
22 specific? I mean, if you want me to say that fishermen do
23 die, I will admit that. But I'd also say there's a whole
24 generation of younger fishermen coming to fish the area as
25 well. I can't say which outweighs the other, if it's a net

1 increase, net decrease.

2 Q Okay. Well, let me make it easy for you. On Page 21 in
3 the middle of the page when they interviewed lodge owners,
4 quote, most lodge owners commented that business in the
5 summer of 2004 had been down. Many agreed that repeat
6 customers, those who often come for the traditional sport
7 fishing and guiding experience, were dying off. One
8 respondent claims she was planning on selling her business
9 because her neighbors were purchasing nearby lots and
10 developing them into lakeshore homes. This, she argued,
11 made it impossible for her to provide the type of outdoor
12 experience she had built up over her tenure there.

13 Similarly, local guides acknowledge that their traditional
14 customers are ageing and guiding days for the sport are
15 dropping.

16 Do you see that language in there in this report?

17 A I see that.

18 Q Okay. And then -- and the reason I -- the reason I'm
19 asking you about this is because you've talked about sort
20 of the economic impact of this user group. And this report
21 shows that this user -- that this sort of clientele and
22 this particular industry sector is one that is declining,
23 not increasing; would you agree?

24 A All the more reason not to put turbines there and destroy
25 it completely.

1 Q Okay. If that's your assumption about what would occur.
2 One of the other -- other things that this report also
3 says, if you turn to Page 22, is that the tourism based on
4 traditional sporting activities is subject to change as are
5 all markets. That's the first bullet point on Page 22.
6 Continue, like all business, it cannot continue to exist
7 unless it finds ways to adapt and innovate. Do you see
8 that language there?

9 A I do see that.

10 Q So that was also a conclusion of this report. And then if
11 you continue on on that same page: Guides who wish to
12 serve more markets than the traditional ones will need to
13 do some retooling, but a natural outcome of this should be
14 a more varied and rewarding job. Do you see that?

15 A I see that.

16 Q Okay. And you didn't do any other -- and I'm not
17 criticizing you for not doing it, but I just want to make
18 sure I understand what your testimony is based on. You
19 haven't done any other kind of economic analysis or
20 projections about the impact on this industry of building
21 this project, correct?

22 A I don't have to.

23 Q Okay. But you haven't done any, right?

24 A I've read reports from the State planning office and the
25 State Department of Tourism and I've interviewed people at

1 the Department of Tourism and I've read Pete Borden's
2 report. That, I believe, is the extent of the research I
3 did.

4 MS. BROWNE: Okay. I think now I'm going to turn to
5 Mr. Lawrence. I think -- the Borden report is referenced
6 in Mr. Campbell's testimony and I -- I don't have a clean
7 copy on me, but I would like to move that into the record
8 so that there's a full copy in the record and we'll provide
9 the full paper copy as follow up. But I assume there's no
10 objection to it coming into the record. None being heard?

11 MS. MILLS: Was that a no from The Partnership?

12 MR. CAMPBELL: No objection. Is that for me to object
13 to?

14 MS. BROWNE: The beauty of not having a lawyer, it can
15 be any of you.

16 MR. CAMPBELL: Mr. Borden may be here tonight to
17 testify.

18 EXAMINATION OF MICHAEL LAWRENCE:

19 BY MS. BROWNE:

20 Q Mr. Lawrence, I appreciate your -- your comments and your
21 pictures.

22 A Thank you.

23 Q You probably mentioned Pleasant Lake no less than three
24 times and the fact that Pleasant Lake is the closest lake
25 to the project, it is an outstanding lake for scenic

1 quality. Are you aware that the owner of Maine Wilderness
2 Camps, which is located on Pleasant Lake, testified that in
3 her view her clients would not be adversely impacted by the
4 presence of the project?

5 A I am aware that -- I heard her speak to that, yes.

6 Q Okay. And are you aware that Kathy Whitney, who pre-filed
7 testimony and who manages the campground that is at the
8 boat launch where we were on our site visit, testified
9 similarly?

10 A I didn't -- I didn't realize that -- I didn't put two and
11 two together with that.

12 MR. GURALL: Maybe you can clarify this for us. I
13 believe in her testimony she's no longer the manager of
14 that campground. You just called her the manager. I don't
15 believe she is any longer.

16 MS. BROWNE: She's managed it in the past and I guess
17 is supervising the management of it now. But I will let
18 her testimony speak for itself.

19 BY MS. BROWNE:

20 Q You also talked about that you're a typical user and,
21 therefore, your view and your expectations form what a
22 typical viewer's expectations would be, correct?

23 A Correct.

24 Q You would agree that if that's the case, that David
25 Raphael's expectations and his -- he would also be a

1 typical user?

2 A Of course.

3 Q Okay. So we would all be typical users?

4 A Yes, on some level. But I think the -- the point that I
5 was trying to make was as aesthetic experts, so called, we
6 are counted on by boards such as this to offer our opinion
7 and we could be called a typical user.

8 Q And I -- I appreciate Mr. Gurall's comment that the burden
9 was not on you to do a full-blown VIA. So to the extent
10 that I'm asking a question that appears to be critical,
11 please don't take it as overly critical. But I think it's
12 important for us to understand the basis for your
13 testimony.

14 You would agree that --

15 A I'm not sure I understood what you just said.

16 Q Okay. Well, it's -- I was just saying, please don't take
17 offense if I ask questions that appear critical.

18 A But you put it -- you said something about Mr. Gurall
19 before that and I didn't -- I didn't quite get the
20 connection.

21 Q He objected to a line of questioning by Dr. Palmer
22 suggesting --

23 A Oh, okay.

24 Q Okay. You would agree that it would be important for the
25 Commission to consider all types of users of these

1 resources when it evaluates whether there's an unreasonable
2 impact, correct?

3 A Correct.

4 Q And your efforts were directed really at one kind of user,
5 this -- the traditional gentlemen fishermen, the Ted
6 Williams, you know, George Carlin, Dwight Eisenhower,
7 Calvin Coolidges of the world who have historically come
8 and used guiding services, correct?

9 A Incorrect.

10 Q Okay. Well, you quote from the lodge owners and you talk
11 about Ted Williams and these other gentlemen fishermen, but
12 as far as I know, you've made no effort to get data on any
13 other kind of users of these resources, correct?

14 A No, I have actually a lot of data from other users. I had
15 a chat with Mr. Buckman, I took a pretty good look at his
16 website. And so I tried to -- I tried to present the
17 experience of a young person and the experience of the --
18 the sort of many years of the young people coming into this
19 area and the benefit for those people.

20 And I also quoted a series of websites that talk about
21 canoeing, kayaking on Scraggly Lake and in the Junior Lake
22 area. And I certainly communicated with Lindsay Wheaton
23 and that is -- I don't believe that's a gentlemen's camp, I
24 believe that's a much more -- you know, people that drive
25 up and some people fish -- some people fish, but I think a

1 lot of these people don't use the guide service. From what
2 I gathered from what she said, there were just really
3 average people that just came up and like to -- liked to
4 vacation here.

5 Q But you didn't try to -- you didn't do any quantitative
6 analysis of intercept surveys or analysis of intercept
7 surveys that have been done, correct?

8 A That is correct.

9 Q You didn't try to determine, you know, other users, ice
10 fishermen, snowmobile users, ATV users, those types of
11 recreational users; you didn't try to evaluate their
12 expectations as to scenic quality, correct?

13 A I did not.

14 Q Okay. And you agree they are another user group, correct?

15 A Yes.

16 Q Okay. Are you familiar with something that is colloquially
17 known as the SCORP --

18 A I am not.

19 Q -- the State Comprehensive Outdoor Recreation Plan, it's a
20 state publication?

21 A I'm sorry, I'm not familiar with it.

22 Q I'm going to just give you some pages from the SCORP. And
23 if you look at that -- this is Table 10 from the SCORP.
24 And you can see it looks at snowmobile and ATV registration
25 from the years 1993 to 2008. And as you can see, would you

1 agree that based on this publication at least, that
2 snowmobile use and ATV use is an increasing outdoor
3 recreational activity, at least based on the period of '93
4 to 2008?

5 A Yes. It looks like it goes up and down a little bit, but
6 yes, it's -- it's bigger in 2008 than it was in '93.

7 Q So for the ATV use 21,447 to 67,013, correct?

8 A Hm-hmm.

9 Q Snowmobile registration 64,985 to 102,449, correct?

10 A Peaking in -- it looks like it peaked in 2003 and then
11 dropped -- you know, and then dropped back down, but, yes.

12 Q Again, this is just an excerpt from the SCORP that I would
13 like to move into the record.

14 MS. MILLS: Any objection?

15 MR. GURALL: No objection.

16 BY MS. BROWNE:

17 Q One other thing that came up in your direct presentation
18 was, I think you said, that there was no cutting that could
19 occur within 250 feet of these lakes?

20 A That's my understanding, there's a 250-foot setback for
21 logging operations.

22 Q Okay. So you're not aware that, in fact, you can cut trees
23 within 250 feet as long as you do it in accordance with
24 LURC standards?

25 A That -- is that logging operations you're talking about?

1 Q Cutting of trees, yes.

2 MR. GURALL: Well, there's commercial and residential.

3 BY MS. BROWNE:

4 Q Yeah, but you were assuming there was a 250-foot
5 undisturbed buffer around these lakes, correct?

6 A I was -- again, I think I'm looking at the big picture that
7 there's a sense -- I thought there was a sense in the First
8 Wind's description of the project that there was evidence
9 of large scale logging operations. And it -- it seemed
10 important to me to put the fact on the table that there's a
11 250-foot area, I guess I would have to say, is generally
12 sacrosanct in the cutting of trees. I don't know what the
13 details are for getting in there and cutting trees. There
14 may be some -- some fine print that says you can do that
15 with some special considerations. Is that what -- is that
16 helpful?

17 Q Well, putting that aside, I think the Commission knows
18 what's allowed and what's not allowed. You would certainly
19 agree that there is evidence of commercial logging activity
20 as you are on these lakes, correct?

21 A The only place that I noticed any is when we were at
22 Pleasant Lake and someone pointed out the three or four
23 vertical strips. But other than that, I am not aware of
24 seeing any evidence of logging from -- from the perspective
25 of the -- the trip that the commissioners went on in Junior

1 or Scraggly, on those lakes.

2 Q So have you ever kayaked on any of these lakes?

3 A I've never kayaked on these lakes.

4 Q So you -- but you would agree that most -- that there is
5 commercial timber harvesting occurring in these areas,
6 correct?

7 A Well, the --

8 Q And if you don't know, that's okay, you can just say you
9 don't know.

10 A Well, no, I think I do know.

11 Q Okay.

12 A I think I can answer the question. When I came for the
13 initial site visit and I traveled on the lakes, it didn't
14 occur to me that there was commercial logging. And so when
15 I read some of First Wind's testimony that these areas are
16 used heavily, I was certainly aware of seeing the evidence
17 from -- from some of the roads. But I said to myself, I
18 don't recall seeing any commercial logging; when we go
19 back, I'm going to look very carefully.

20 And so on our trip yesterday, I looked very carefully
21 and I did not see any evidence of it. I am very aware that
22 there's logging operations in the hills. I'm just saying
23 from a visual impact analysis, I think they're remarkably
24 free of a sense of being scarred, if you will.

25 Q You would agree there would be auditory evidence of

1 commercial timber harvesting if it were occurring in the
2 area, correct?

3 A I would think so.

4 MS. BROWNE: Okay. I'm going to take one minute to
5 look at my notes. And I know it goes toward my time
6 allocation, but I think it would be more efficient. So
7 bear with me for a minute.

8 MR. LAWRENCE: Okay.

9 MS. BROWNE: Okay. Thank you for your patience.

10 EXAMINATION OF LOUIS CATALDO

11 BY MS. BROWNE:

12 Q Mr. Cataldo, I just had a quick question for you. You
13 mentioned that you are a first selectman for Grand Lake
14 Stream; is that right?

15 A Yes, ma'am.

16 Q But you're not testifying today in your capacity as first
17 selectman, are you?

18 A Yeah, I think I am.

19 Q So have the selectmen taken a position on the project and
20 asked you to testify on behalf the selectmen or are you
21 here in --

22 A No, not officially, but we all feel the same way.

23 Q Okay. But -- so I understood from your written testimony
24 that you were testifying in your own personal capacity?

25 A I don't think I -- I don't think I stated that.

1 Q Okay. But it's fair to say you're not testifying in a
2 formal official capacity here today, correct?

3 A Well, I am the first selectman of Grand Lake Stream.

4 Q But you understand, don't you --

5 A The second selectman is sitting right behind me here, too,
6 if you would like to ask him some questions.

7 Q But you understand the difference between testifying in
8 that capacity and testifying in your personal capacity?

9 A Yeah, I think I realize what the difference is. But, you
10 know, I'm -- I have a pretty free reign on what I do and
11 the -- and the town is behind me on this, believe me.
12 Thank you.

13 MS. BROWNE: Thank you.

14 EXAMINATION OF KEVIN GURALL

15 BY MS. BROWNE:

16 Q Mr. Gurall, your testimony also focuses on harm -- there's
17 obviously a consistent theme here, a concern on the harm to
18 sporting camps and hospitality businesses that you fear
19 will result from the project.

20 A Hm-hmm.

21 Q One of the businesses is Wild Fox Run Commercial Camp on
22 Junior Horseshoe Lake, right?

23 A Yes, it is.

24 Q And you opposed the permit issued by LURC for that
25 commercial camp, right?

1 A I don't remember that, no.

2 Q Okay. Well, sorry, it may have been Tracy Allen, the
3 vice-president of PPDLW, correct?

4 A Could be. I mean, she moved away a year ago, so I can't
5 speak for her.

6 Q Okay. But she's the vice-president of PPDLW, right?

7 A Yes, she is.

8 Q Okay. I'm going to show you a letter, an appeal filed with
9 LURC on that camp. And if you'll turn to the second page,
10 there's some highlighted language. Now, this was a
11 proposal for a commercial camp on Junior Horseshoe Lake.
12 And can you read the highlighted language?

13 A If this project is allowed to go forward, it will be the
14 turning point when the degradation of the wild and scenic
15 nature of Junior Lake began, the commercial campground
16 special permitting process will not have prevented the
17 elimination of another rare wild and scenic resource in
18 Maine. The precedence will be set this time for Junior
19 Lake.

20 Q In your view has that camp resulted in this turning point
21 for the degradation of the wild and scenic value of this
22 lake?

23 A Quite frankly, since this is not my testimony, I don't
24 believe I should respond to that.

25 Q I appreciate it's not your testimony. I'm asking what your

1 opinion is today as somebody who lives on this lake and is
2 testifying about the importance of these camps.

3 A Since the Wild Fox Resort was only open for approximately
4 nine or ten months, no, it didn't end up being the
5 degradation that we thought it might be.

6 Q So you agree that you thought it might be the degradation
7 of this lake, correct?

8 A Excuse me, I didn't say me, she. I'm reading her
9 testimony, I'm trying to respond for you.

10 Q Yeah. I'm actually interested in your opinion, though.

11 A Okay.

12 Q In your opinion has that camp resulted in degradation and
13 really represented the turning point in degradation of this
14 lake?

15 A No, I would say it has not, but I also would want on the
16 record that that lodge just never got off the ground. I
17 mean, it was never -- I don't believe they ever had a full
18 house, it went out of business within -- you know, I guess
19 I'm not an expert on that -- I would say within a year of
20 when it started.

21 Q And it's back in business now, correct?

22 A I'm a little unsure of that.

23 Q Okay.

24 A It was bought as a family -- it was bought as a family
25 compound, according to the owner -- the man who bought it,

1 but I do understand that his wife wants to run it as a
2 resort also. And I'm not -- I actually wrote to them, I
3 e-mailed them based on a website e-mail address, and got no
4 response at all. So I don't know if they're operating or
5 not.

6 Q Okay. But you would agree that at least the fear expressed
7 in this letter -- and I'm not saying it's your fear, but
8 the fear expressed in this letter has not come to pass,
9 correct?

10 A Correct, it has not.

11 Q Okay. And we've heard a lot of testimony about the lodges
12 and the guides. But do you remember when you first met
13 with Mr. Kiely on this project?

14 A I certainly do.

15 Q And do you remember when you met with him, you told him --
16 and I quote: I do not care about anything other than the
17 impact of the project on my personal property, closed
18 quote?

19 A No, I -- no, I did not.

20 MS. BROWNE: Okay. Nothing further.

21 A I do remember Mr. Kiely promising myself and the select
22 board of Lakeville that there would be a minimum of two, if
23 not three, informational public hearings held in Lakeville.
24 To this date none of those have been heard. I do remember
25 that.

1 BY MS. BROWNE:

2 Q And who was present at that meeting?

3 A Who was present at that meeting?

4 Q Jeff West was also present, wasn't he?

5 A Yes, he was. And Debra Jacobs and Kurt Turner and Kathy
6 Whitney was absent at that meeting, I believe.

7 Q And you understand that there -- First Wind has hosted a
8 number of public meetings on this project, correct?

9 A My response to you was that they committed to hold a
10 minimum of two, if not three, in the town of Lakeville and
11 to date not one of those has been held.

12 MS. BROWNE: I'll let Mr. Kiely respond to that if we
13 need to. Nothing further.

14 MS. HILTON: Conservation Law Foundation?

15 MR. MAHONEY: We don't have any questions. Thank you.

16 MS. HILTON: We're ready for a break.

17 MS. MILLS: Hold on just a second. Does The
18 Partnership want to use their five minutes for redirect?

19 MR. GURALL: No, we have no further questions at this
20 time.

21 MS. HILTON: So we'll take a five minute break -- how
22 about a ten-minute break.

23 (Whereupon a recess was held at 3:49 p.m., and the
24 hearing was resumed at 4:01 p.m. this date.)

25 MS. HILTON: Okay. I guess Dave Corrigan.

1 MR. CORRIGAN: Come on up guys. Are you ready to go?

2 MS. HILTON: Yeah, whenever you're ready.

3 MR. CORRIGAN: Commissioners, I am David Corrigan from
4 Fletcher Mountain Outfitters in Concord Township, a
5 full-time guide, I also run the RealWindInfoForMe.com
6 website. I would like to thank you for the opportunity to
7 address you today and to provide this testimony for the
8 record.

9 My testimony and that of my witnesses will concentrate
10 on three primary areas: The potential effects of this
11 project on wildlife, the potential effects of this project
12 on traditional uses in the local economy and the burden of
13 proof. These are all interrelated as I do not believe that
14 the applicant has met the burden of proof for either
15 effects on wildlife or effects on traditional uses of the
16 area and the resource as required under the applicable laws
17 and rules.

18 I was at the commission's March 2011 meeting when
19 Department of Conservation commissioner Bill Beardsley
20 spoke to you. He said, and I quote: And I think that the
21 classic example is the expedited wind process; there was a
22 subject, there was a stimuli, there's a crisis in the
23 middle east, there's all of those, you know, you need to
24 get off carbon. There are all of those factors crept in
25 there and if one goes through another six years to modify

1 the CLUP to accommodate wind and all of that kind of stuff,
2 it would take a long time. The important factor to me is
3 that your board, you all, can say no. There's nothing
4 about the expedited process that says it is easier to get a
5 yes. It's clearer, it's faster, you know where you will
6 have some legitimacy, but you still have got to meet the
7 LURC standard. And that's a direct quote taken from the
8 official recording of the March 2nd, 2011 meeting in
9 Bangor.

10 That really says it all, you can say no. You must say
11 no if all of the LURC standards are not met. In this case
12 I do not believe that they have been met. It's important
13 to remember that it's not up to me or to any intervenor to
14 prove that, it's up to the applicant to prove that all
15 standards have been met. If they can't do that, if there's
16 even one thing that isn't up to par, the Commission is
17 required to deny this permit, which I, of course, am
18 requesting that you do.

19 I've got a lot of testimony that's been pre-filed and
20 we may get back to some of it in a bit, but since time is a
21 constraint, I'd like to turn it over to Dave Tobey right
22 now.

23 MR. TOBEY: Good afternoon, commissioners. Thank you
24 for this opportunity to come and visit with you today.
25 Originally I was recruited in -- as a witness for NRCM and

1 -- but at the last minute they changed their mind and --
2 and I at the right time was able to be included in Dave
3 Corrigan's. The other --

4 MS. HILTON: Your name and where you're from?

5 MR. TOBEY: David Tobey, Grand Lake Stream.

6 MS. HILTON: Okay. Thank you.

7 MR. TOBEY: The other thing, I've been here last night
8 and all of today. I find it very interesting with all of
9 the questions and all of the studies that come from away
10 from the project area and very little, until just a few
11 minutes ago here, did you hear some true stories and
12 testimony from the area itself. And so I guess I'd like to
13 start with that.

14 I do think that, you know, we have sustained the test
15 of time; the folks in the communities around the lake and
16 where I'm from, our trade and our traditions and cultures
17 have remained the same. I'm a resident of Grand Lake
18 Stream where virtually all of my adult life I have stitched
19 together a living from the area's rich natural resources.
20 As for many of my neighbors, that meant being a master
21 Maine guide, a professional trapper, a commercial fisherman
22 and a logger.

23 During this time I've served as assessor for the town
24 of Grand Lake Stream, president of the Maine Professional
25 Guides Association, president of Grand Lake Stream Guides

1 Association, member of the I F & W Guides Advisory Board
2 and founding board member of the Downeast Lakes Land Trust.
3 I've accumulated a vast knowledge of the region and its
4 natural resources in part by being involved in the
5 organizations I've mentioned, but primarily by being in the
6 local woods and on the local waters every day of the year.

7 There's more written and oral history of this place
8 among the lakes and woods of northern Washington County
9 than I or anyone could speak of in a short address, so I'll
10 try to provide a few snapshots in the time of events
11 important to us all. In the early times the chain of lakes
12 and view of the Bowers project were used for transportation
13 as native people made a living from the abundant and
14 diverse natural resources. The native people were the
15 first guides for visitors who came to the region for their
16 extraordinary fishing these lakes provided.

17 Over time very little has changed in certain respects.
18 Thanks to proper stewardship and conservation measures,
19 this region of Maine still boasts the highest concentration
20 of guide and sporting camps in our state. This is a clear
21 indication that the health of the resource remains intact.
22 This did not happen by accident, though. Our mentors,
23 including tribal guides, carefully taught us how to manage
24 and conserve our treasured woods and waters. This
25 stewardship has left the wilderness qualities and scenic

1 resources intact. This would not be the case if the Bowers
2 project were to move forward.

3 Bowers Mountain lies at the headwaters of the west
4 branch of the St. Croix watershed. The lakes in that
5 watershed are among the very few to hold the original
6 land-locked salmon. Downstream we find one of the first
7 land-locked salmon hatcheries in our state. Today this
8 hatchery provides about 80 percent of the purest strain of
9 land-locked salmon in all of Maine. The land and protected
10 shores around these lakes are all part of an unparalleled
11 Maine conservation effort, one that started in Grand Lake
12 Stream in a village whose existence depends on the chain of
13 lakes that reach north to the Bowers project.

14 Grand Lake Stream is a town that chose to design its
15 own destiny, recruiting partners to assist in its efforts
16 to protect the natural resources crucial to its present
17 existence and future dreams. The locally conserved land,
18 over 350,000 acres worth, is part of a contiguous 1.3
19 million acre block in our region. Right now friends and
20 neighbors are working to conserve yet another 22,000 acres
21 on the east shore of West Grand Lake, all in the watershed
22 of Bowers Mountain. This effort, because of its, number
23 one, economic, environmental and recreational values, has
24 been ranked by the U.S. Forest Service Forest Legacy
25 Program as the number one conservation project in the

1 entire nation.

2 Of special concern here, too, is another project in the
3 making, a landscape-sized, riparian-based contiguous
4 white-tail deer wintering area. Crucial to its
5 establishment are connecting wildlife corridors. The
6 northern end of this far reaching deer management area is
7 firmly rooted in the 8-mile zone around Bowers Mountain.
8 It encompasses land along both the St. Croix and Machias
9 watersheds and upon completion will probably be the largest
10 contiguous deer wintering area in all of Maine, which will
11 provide immense benefits to all wildlife and fish in the
12 area, another important segment of our resource-based
13 economy.

14 An important concern in any effort to restore
15 white-tail deer population is predation, particularly by
16 the coyote, universally acknowledged as the worst predator
17 to the state's herd. The Commission of I F & W is planning
18 action to reduce coyote numbers to help the deer. It is a
19 known fact that coyotes are most effective when they hunt
20 by line of sight, especially in areas that have been
21 deforested. The strong, straight transmission lines on
22 Bowers Mountain along with access roads and sites cleared
23 for turbines will only aid the predators and further
24 contribute to the decreasing Downeast deer herd. Newly
25 created open areas located so close to a huge cooperative

1 regional effort to create a contiguous corridor of habitat
2 would negatively impact the effectiveness of such work.

3 Grand Lake Stream, a small village at the south end of
4 the chain of lakes in the view of Bowers Mountain, has been
5 a destination for many generations, you've heard a lot here
6 lately. There are 12 lodges with approximately 30 working
7 guides on a daily basis. Just the fishing season alone
8 runs from ice out to mid-October. It is known worldwide
9 for its recreational fishing mostly in the chain of lakes
10 south of Bowers Mountain, lakes nationally and
11 internationally known not only for their fantastic fishing,
12 but for the beautiful undeveloped landscape within which
13 fishing takes place. The scenic character of the area
14 within 8 miles of the Bowers project has degraded the area
15 available for this high quality fishing and a beautiful
16 setting is decreased and the economic draw to the region
17 will suffer.

18 On a typical day many fishermen leave Grand Lake Stream
19 in a northerly direction, spending most of that day in
20 Junior Bay, Junior Lake, Norway Lake, Scraggly Lake within
21 the 8 miles affected by the Bowers project. The most
22 sought after and popular fish is the smallmouth bass. The
23 most productive spots for our bass fishing are the southern
24 shores of all these lakes and coves. Should the Bowers
25 Mountain wind project go through, guides will be completely

1 unable to keep the industrial windmills to the north out of
2 their clients' sights.

3 Needless to say, most of our clients and visitors come
4 to our area in order to get away from the industrial
5 commercial world they live in. They are looking for a
6 place where local culture, tradition and the natural
7 resources have remained unspoiled and unchanged. In short,
8 they are not just looking for a fish on the line, but
9 rather a total experience. As guides paddle them along the
10 shore, they gain a wealth of knowledge about the region,
11 its fish and wildlife and whatever else an intact and
12 healthy natural resource contains. They may look ahead to
13 see a mink working the shoreline or a moose or a deer
14 drinking or feeding at the edge of the lake, a pair of
15 loons guarding their nest, an eagle teaching her young to
16 fend for themselves or an osprey diving to get a fish.

17 The natural resources of the Bowers Mountain area are
18 currently positioned in a remote region free from
19 significant impacts. Such an industrial intrusion would
20 spoil the remote brand of the area upon which our economy
21 relies. Clients come to this area because of the
22 undeveloped character and scenery. Several have told me
23 stories about going to other places but have stopped
24 because of the intrusion of development and manmade
25 structures. Many clients expect and love the dark night

1 sky because of the size of the watershed, some leave in
2 predawn light or return after sunset. Flashing lights from
3 the wind project would totally destroy that experience.

4 All these precious values, and not merely the fish
5 rising to an insect hatch, are threatened by industrial
6 wind towers in the watershed. Many of our visitors first
7 beheld the wonders of this watershed when their ancestors
8 brought them here for the first time. They have created a
9 bond with the region's unique character, a relationship so
10 special that they feel part of the region's culture,
11 traditions and natural environment. Most have also, in one
12 way or another, been part of the nationally recognized
13 conservation effort to protect this part of Maine and its
14 way of life. It is their appreciation for the region as it
15 is now that continues to draw them here. They are the
16 folks who support Washington County's tourism trade which
17 is the most stable component to the overall Downeast
18 economy. Without their continued support, the future of
19 the economic foundation of the region would be in jeopardy.

20 It is no doubt hard to explain to those unfamiliar with
21 our wild surroundings what a difference a project of the
22 sort proposed for Bowers Mountain will make to visitors. A
23 difference profound enough, as in my opinion, to discourage
24 many from returning the way they have for years and in some
25 cases generations. To look at a pristine cove with a deep

1 green mountain behind it is sort of a thrill that is more
2 and more rare in our urbanized industrial world. To put so
3 much as a single cell tower or even a utility pole at the
4 height of land is to taint that experience significantly.

5 Even if there are a moose or a deer or a loon in the
6 frame, to position mammoth wind turbines in that scenery
7 simply will destroy the aesthetic and emotional responses I
8 have so often witnessed as a guide. The sense of
9 refreshment that has attracted our clients for decades will
10 be unavailable. In Downeast Maine we have already done our
11 share to support clean energy. To the north of 6 we have
12 sacrificed several mountaintops to the development of 55
13 wind turbines, largest effort in New England, along with
14 many miles of transmission lines.

15 We already lost resource-based jobs because of
16 permanent loss of habitat, notably as a result of the large
17 utility corridor to our south and central Washington
18 County. We see clearly the negative effects to wildlife
19 when large tracks of woodlands are fragmented by gas
20 transmission lines and electric lines. I personally have
21 lost valuable habitat in these two areas that I
22 traditionally use for trapping, hunting and guiding. For
23 every thousand acres of well-managed forest in Maine, it
24 represents 2.9 jobs in the forest products industry. For
25 every thousand acres we permanently take out of growth,

1 therefore, means taking jobs away from 2.9 people who work
2 in this significant industry.

3 The lakes around Grand Lake Stream are the focus of
4 successful conservation projects designed to support our
5 economy. The positive things that have lately happened in
6 Washington County far outweigh any assumed benefits from
7 improperly placed wind apparatus on Bowers Mountain.

8 I feel very lucky to be one of the -- of many in this
9 region to make a living being a responsible steward of
10 these lakes, streams and woods. I'm committed to leaving
11 it a better place, if anything, than it was when I began my
12 adult career as a guide, hunter, trapper and fisherman. My
13 efforts towards leaving so great a legacy as the one I
14 received may be the most important thing I can do as a
15 member of this scenic wilderness area, this state and even
16 this planet. So, commissioners, I strongly urge you to not
17 allow the improperly placed Bowers Mountain wind project.

18 The president of the Grand Lake Stream Guides
19 Association has asked me -- and this is in my name -- to
20 give you their statement on the Bowers Mountain project.
21 The Grand Lake Stream Guides Association originally started
22 as a conservation association and was registered with the
23 state that way. It was formed around 1968 to be involved
24 with local conservation particularly water quality and
25 habitat protection. That was back in 1968 before LURC was

1 even established.

2 We have gained much recognition by working
3 cooperatively with the Maine Department of Inland Fisheries
4 & Wildlife on many important issues to assure the health of
5 the resources that most folks in this region rely on to
6 earn a living. Along with everyday conservation measures
7 we've practiced, we have been instrumental in defeating
8 first the planned nuclear waste dump at the headwaters of
9 lakes in Lakeville. Some of you are old enough to remember
10 that. And then a few years later we helped defeat the
11 Township 30 MD ash dump. We are very proud of our work
12 supporting local conservation efforts, including the one
13 that has gained statewide and national recognition,
14 including as current number one national priority Forest
15 Conservation Project. It lies directly in the shadows of
16 Bowers Mountain project.

17 We are stewards of the land and we greet and guide the
18 many clients from around the world that have made our
19 conservation accomplishments possible through their support
20 over the past years and through many generations. They are
21 the fabric that has helped make our conservation efforts
22 reality. These people choose to return to Grand Lake
23 Stream because of the experience we can offer them and the
24 fact that our local culture, traditions and health of the
25 resource is the very economic engine that supports our

1 existence.

2 It is for these very reasons that we, the Maine Guides,
3 are adamantly opposed to the Bowers Mountain project. Very
4 hard work and financial commitment at the local, state and
5 national and, indeed, international level over decades have
6 resulted in the preservation of hundreds of thousands of
7 acres and miles upon miles of shoreline and waters upon
8 which our way of life depends. The Bowers Mountain project
9 is completely inconsistent with and destructive to all that
10 has been achieved and to similar goals that we continue to
11 pursue. Grand Lake Stream Guides Association.

12 MR. CORRIGAN: All right. And next we have Dale Tobey
13 with the MPGA statement.

14 MR. TOBEY: My name is Dale Tobey, I'm from Grand Lake
15 Stream. And I'm here as -- I'm vice-president of the Maine
16 Professional Guides Association and I'm here with a
17 statement from the Maine Professional Guides.

18 The Maine Professional Guides Association represents
19 800 working registered Maine guides. First formed in 1979,
20 the association is comprised of guides who strive to
21 enhance the standard of the guiding industry. These are
22 professional guides dedicated to promoting a quality,
23 ethical and legal outdoor experience for all.

24 The Grand Lakes region is especially significant to our
25 members as the location of a number of historical

1 significant lodges and one of the largest concentrations of
2 working guides in the state. A large number of significant
3 waters and fisheries makes this region one of the state's,
4 if not national, significance. This significance is
5 enhanced by the efforts to conserve as working forests a
6 large part of the land and the region in an effort to
7 ensure that the remote character of the region is
8 preserved. The impact of the wind power project on Bowers
9 Mountain will significantly impact the success of guides in
10 this region by simply being visible at almost every turn.
11 The project will be clearly visible from many of the lunch
12 spots and boat launches regularly used by guides. The
13 resulting loss of the feeling of remoteness will
14 significantly reduce the marketability of guides -- guided
15 trips in the region and impact our members significantly
16 and directly.

17 The Maine Professional Guides Association urges the
18 state of Maine to recognize and address the adverse
19 economic impact that industrial scaled wind farms can cause
20 to Maine guides. The unspoiled lands, waters and natural
21 character of inland Maine's landscape are what attract
22 clientele to our association's doorsteps. Without these
23 elements, the livelihood of the Maine guide and the quality
24 of outdoor recreation in Maine will irreplaceably be lost.

25 Unfortunately, industrial scale wind power projects

1 have far reaching impacts well beyond the actual project
2 site. Their visual and audible impacts both day and night
3 can extend far and are in direct conflict with the very
4 characteristics that bring our clients to Maine. Our
5 current knowledge of the impacts that these wind farms may
6 have on wildlife large and small is insignificant to
7 provide comfort to those of us who depend upon that
8 resource for our economic survival.

9 The Maine Professional Guides Association is not
10 philosophically opposed to all wind energy. The rates that
11 our businesses pay for electricity are a heavy burden.
12 However, the current government-supported model is not
13 economically viable, improperly placed industrial scale
14 wind farms threaten the traditional sporting economy,
15 employment, incomes and small businesses that make up our
16 association.

17 We request that the state revisit its current goals for
18 wind power projects and put into place measures to both
19 recognize and protect the guiding profession in Maine.

20 MR. CORRIGAN: All right. I've got -- like I said,
21 I've got quite a lot of pre-filed, I'm not going to read it
22 all, but I do have a few more minutes, I would like to get
23 a little bit more of it read into the record.

24 As commissioners know, wildlife is one of my primary
25 concerns with this project. On June 2nd, 2011 I had a

1 telephone conversation with Mark McCollough at U.S. Fish &
2 Wildlife Service. Mr. McCollough had previously sent me
3 information about lynx in Washington County and we
4 discussed the issue at some length. On May 27 -- on May
5 27, 2011 Mr. McCollough had sent me an e-mail in which he
6 provided a document entitled: Bowers Initial Wind Project
7 Letter 2009 dated November 17, 2009. This document has
8 been included in the record. The document was addressed to
9 Sean Casto at Normandeau Associates as the applicant's
10 consultant. This May 27 e-mail with the attached document
11 was copied to several people including Fred Todd of LURC,
12 Sean Casto, Jennifer Vashon and Steve Timpano at the State
13 of Maine as well as Shawn B. Mahaney whom I believe was
14 Army Corps of Engineers and later on Fred Todd forwarded
15 all this information to all the parties.

16 Among other things, the document asked that the
17 applicant consult with Maine I F & W and/or conduct their
18 own surveys to determine if lynx were in the area and that
19 they report this information back to U.S. Fish & Wildlife.
20 I find nothing about lynx or even bobcat in either the
21 application or the I F & W agency comments, even though we
22 have ample evidence that lynx exist in the area.

23 As of my June 2nd phone conversation with
24 Mr. McCullough, he tells me that he has nothing in his
25 records indicating that the applicant or their consultants

1 ever provided the information to his office. It makes me
2 wonder why information on a federally listed threatened
3 species that's known to use the area is totally lacking
4 from both the applicant and Maine Department of Inland
5 Fisheries & Wildlife.

6 According to Mr. McCollough, who is the agency
7 specialist for lynx in the area, lack of funding and
8 manpower have kept his department from doing the field
9 research, but there's evidence to suggest that this project
10 area might possibly qualify as critical habitat if the
11 proper studies were conducted. I believe it's incumbent on
12 this Commission to ask why those studies, or at least
13 preliminary studies, were not completed by the applicant or
14 commented on by I F & W.

15 I've also spoken with many local people, Paul
16 Farrington, the local game warden. Warden Farrington
17 concurred with Mr. McCullough that at least one lynx was
18 accidentally caught by a trapper in WMD 19 last season.
19 There are also rumors that up to five lynx have been caught
20 in the surrounding area in the last year, but no one has
21 done the research to track them down. I've confirmed that
22 with the warden that he's heard similar rumors, but no one
23 has tracked them down.

24 I want to know why not. Isn't it important for this
25 Commission to know if there are likely to be adverse

1 impacts on a federally threatened species? The Maine
2 Department of Inland Fisheries & Wildlife was concerned
3 enough about these accidental catches that in December of
4 2010 they issued an emergency rule change to the trapping
5 regulations for this area in an attempt to limit the
6 accidental catches. They are obviously aware that this
7 area has a population of lynx living in it, yet the lynx is
8 not mentioned anywhere that I saw in this application or
9 the I F & W agency comments. Seems rather strange.

10 The burden of proof is on the applicant to show that
11 this project will not adversely effect the local wildlife
12 including the threatened Canada lynx. If they have made no
13 effort to do so, we must ask why not? And if they have
14 made an effort, we must ask, was it enough and what were
15 the results?

16 I'll move on a little bit here. We only have a few
17 minutes, I'll skip to the end. One other thing that I'd
18 like for you to keep in mind is that most of the resources
19 that we are encountering concern with in this particular
20 case are great ponds. Maine has a long history of
21 guaranteed public access to great ponds. This tradition
22 and law goes back to the first English settlements in what
23 is now Maine. Access to and enjoyment of great ponds has
24 been guaranteed by various government bodies going back to
25 the 1600s. It doesn't get much more traditional than that.

1 On the visual assessment, first and foremost is the
2 fact that adverse scenic impact has absolutely nothing to
3 do with how many people use a resource. Impacts to wild,
4 little used areas can be even more devastating than impacts
5 to heavily used tourist areas. The very charm of these
6 remote areas is, frankly, their remoteness. And it doesn't
7 take much intrusion before the impact becomes extreme to
8 those who do use the area. For me and my paying clients,
9 some of the most valuable scenic resources in Maine are the
10 ones that are hard to get to and don't receive heavy
11 traffic. For anyone to suggest that scenic impacts to
12 these places cannot be considered unreasonably adverse
13 simply because they see fewer users is to overlook the
14 entire reason why people come to Maine in the first place.

15 There are, in my view, many reasons to deny this
16 permit. And I believe that the many impacts to wildlife,
17 traditional uses, the local economy -- local economy, the
18 view, the fact that the applicant has provided no solid
19 data showing that the project is even viable are all
20 legitimate legal reasons for the commissioners to deny this
21 permit.

22 As Department of Conservation Commissioner Bill
23 Beardsley said to you on March 2nd of this year -- and I'm
24 quoting -- the important factor to me is that your board,
25 you all, can say no. There is nothing in the expedited

1 process that says it's easier to get to a yes. It's
2 clearer, it's faster, you know you will have some
3 legitimacy, but you've still got to meet LURC's standards,
4 end quote.

5 The burden of proof is on the applicant. I don't
6 believe they've met the burden of proof and unless it has
7 been met, fully and unconditionally, then there are no
8 grounds for issuing a permit for this project and I ask you
9 not to. Thank you.

10 MS. HILTON: Okay. Commissioners, any questions?
11 Fred.

12 MR. TODD: David, I'm -- I'm sure you're aware we rely
13 on Inland Fisheries & Wildlife for advice on wildlife
14 impacts. We also rely upon the Department of Environmental
15 Protection for their concerns about water quality impacts.
16 You've raised concerns about both of those. So I'm
17 interested in the basis for your concerns.

18 I mean, you've touched on it somewhat in your
19 testimony, but just to get to some of the specific points.
20 For example, I F & W is concerned about the about the
21 curtailment of start-up operations at different wind speeds
22 to avoid -- or to minimize bat fatalities. They're
23 suggesting that under certain -- at certain times of the
24 year or certain times of the day that they curtail start-up
25 from 3 meters per second at wind speeds up to 5. You said

1 in your statement that bats routinely fly at higher wind
2 speeds. So what -- how do you --

3 MR. CORRIGAN: I don't have a document in the record.
4 Although, I believe if you go back to Bull Hill, some of
5 the I F & W agency commenters referenced reports that said
6 that 5 meters per hour was the standard they were using
7 because it seemed to be a standard that was being used, but
8 there was evidence of bats flying and hunting at even 8
9 meters per hour -- or meters per second. So that is the
10 basis. We have them on record saying that we know bats fly
11 at higher speeds, but they have chosen 5 as a cutoff for
12 these curtailments.

13 So I'm not saying that's wrong, I'm just saying there
14 is evidence that bats do fly at higher speeds and maybe we
15 need more studies, which it appears I F & W is looking into
16 right now. I just think there may -- perhaps we should be
17 looking at some wider parameters.

18 MR. TODD: Okay. As to water quality, have you shared
19 your concerns with any of the DEP staff?

20 MR. CORRIGAN: I have not spoken with DEP. Like I
21 said, I have had no real concerns over the surface water
22 and surface runoff. I don't personally agree with the
23 standards that are being used, but I believe they fit the
24 legal criteria. I still believe they'll have an adverse
25 impact.

1 My questions on water quality were not about surface
2 water, as was contended in some rebuttal testimony, it was
3 about groundwater aquifers, bedrock aquifers on which we've
4 had no studies at all from anybody. And I'm just really
5 concerned that before we start blasting and drilling 40
6 plus feet down into bedrock at the headwaters of sensitive
7 cold water watersheds, we should have some studies of some
8 information in the record. That's -- that was my
9 contention on that.

10 MR. TODD: Okay. My other questions are to Dave Tobey,
11 similar to the questions that we asked The Partnership
12 witnesses regarding the extent to which guides in the Grand
13 Lake Stream area utilize this -- the 8-mile distance south
14 of Bowers Mountain. You say in your testimony that there
15 are roughly 12 sporting camps there. And I think you used
16 the number 30 -- 30 guides. They used -- just recently
17 used the number 50. So I'm assuming it's somewhere between
18 30 and 50?

19 MR. TOBEY: I used the number 30 as active guides that
20 may be utilizing that watershed or the area. There are 30
21 active guides that are out guiding every day. I find the
22 estimates that were given to you earlier to be quite
23 accurate for that area. Of course, for us traveling up
24 that way, we have vehicle boat launching ability at
25 Scraggly and Pleasant Lake by road in the 8-mile circle,

1 but most often we launch at Pocumcus Lake and travel that
2 distance by canoe, which really, to me, brings to question
3 the accumulative scenic impact, just like the people in the
4 double-end canoe or the kayak, our clients, are in the
5 canoe and getting different perspectives, you know, every
6 10 feet of the way as they make that long journey.

7 And, also, like I mentioned in my testimony, because of
8 the distance, often we leave before daylight and come home
9 after dark. So we're not restricted to daytime use only.
10 You know, that -- that needs to be included.

11 On water quality, I'd like to add to what David said.
12 Unlucky for us, in the Bowers Mountain project that falls
13 under Region F jurisdiction, but the bulk of that
14 watershed, West Grand Lake -- from Junior Stream south is
15 in Region C. And it is those folks that oversee the pure
16 strain of salmon in our hatchery. And they're having
17 difficulty now with water temperatures in August -- too
18 high water temperatures. So, you know, any fragmentation
19 of any of the aquifers or springs that feed these lakes
20 would directly result in a change in the bulk of the
21 watershed, which in Region C our biologists have told us
22 that they have not been questioned on this, obviously,
23 because the project area is outside of their jurisdiction.

24 And that's one of our concerns if these regions are
25 working together or if they've even been questioned yet on

1 the possible impacts.

2 MR. TODD: Okay. Back to the number of guides. How
3 many -- how large is the membership of the Grand Lake
4 Stream Guides Association?

5 MR. TOBEY: I would say they average around, right
6 around 50 paid members.

7 MR. TODD: 50 paid?

8 MR. TOBEY: Yeah.

9 MR. TODD: Can you put a number -- and I'm sure there's
10 going to be a range -- put a number on the number of
11 clients a guide from Grand Lake Stream might take up into
12 this 8-mile area we're talking about on an -- on an annual
13 basis?

14 MR. TOBEY: Well, if you use the original figures given
15 to you, probably the average guide guides 75 days and he
16 can -- you'd only take two clients per canoe. So if you
17 took -- that would be 150 clients. And then you use the
18 original figures given to you would give you the end
19 result.

20 MR. TODD: The original figures being the 50 guides,
21 roughly?

22 MR. TOBEY: No. Earlier Charles Driza and others,
23 Louie, gave you an answer to the day use in that area.

24 MR. TODD: Yeah. Okay. To what extent -- I asked this
25 question of The Partnership witnesses -- to what extent do

1 you use public access points that are in fact on private
2 land? The term public access and public campsites has
3 been, I think, fairly loosely used. I'm assuming most of
4 these are in fact on private land; is that correct?

5 MR. TOBEY: They all are. Yeah, we don't have any
6 state launches up in that region that we use. They are all
7 on ownership of Wagner within the easement area. But one
8 of the specific things when drawing up the easement we was
9 sure to include, undeniable access to all current access
10 points on all these lakes, so forever these access points
11 are open to the public.

12 And a lot of the campsites -- I'll take that question a
13 little further, I heard you ask it earlier. Many of the
14 campsites are on Wagner land also. They were created
15 originally by guides, inspected by the Maine Forest
16 Service, they're eligible for fire permits. And it was
17 quite a few years ago, but the landowner, Georgia Pacific
18 at that time, gave a fee-abated lease to the Grand Lake
19 Stream Guides Association for these sites to be used for us
20 and the public. So there is a fee-abated lease on those
21 within that ownership anyways.

22 MR. TODD: And in terms of the clients who use the area
23 under question, are most of them taken up into this area by
24 guide or are there some that are adventuresome and wander
25 off on their own up in there for a matter of days?

1 MR. TOBEY: There is a -- there are a lot of clients
2 that go on their own also. I was, for quite a few years,
3 manager of the campsite at Pleasant Lake under Georgia
4 Pacific, I also managed, at the same time, the campsite at
5 Elsemore Landing on Pocumcus Lake. And those campsites --
6 I have all the old records -- were kept full all during the
7 summer. The Elsemore site had 24 camper spots, 24 campers,
8 and Pleasant Lake had, I would say, 20 at that time, which
9 was allowable for the toilets that were there. And they
10 got heavy use and it was by individuals without guides.

11 MR. TODD: Okay. That's all I have. Thank you.

12 MR. PALMER: Hi, David. I have a couple questions for
13 you, obviously, about scenic. I agree with you that it
14 came up in the Bull Hill hearing -- which I guess you were
15 at, I think I remember you.

16 MR. CORRIGAN: Yeah, I was there.

17 MR. PALMER: I had been one of the people pushing for
18 weighing heavy use as a -- a higher indication within the
19 criteria. And it was brought up that there are sites that
20 are purposefully managed for remoteness and low use and it
21 handicaps those sites. So I understand that and accept
22 that critique. You are aware of LURC's lake management
23 classification system?

24 MR. CORRIGAN: I am aware of. I haven't studied it
25 extensively, but I'm aware of it.

1 MR. PALMER: So they have two classes for protected
2 remote lakes and none of these lakes are Classes 1 or 6,
3 which are the two classes. So there is a management system
4 in place, which you may disagree with. But there is a
5 management system in place for managing remote lakes.

6 MR. CORRIGAN: My answer would be that I believe you're
7 correct, but perhaps just because it doesn't qualify as
8 remote doesn't mean that a low level of use on it should be
9 used as criteria to say the visual doesn't matter. The low
10 level of use may still be a draw even though it's not
11 officially classified as a remote lake.

12 MR. PALMER: We're not saying that, we're just -- the
13 criteria that are to be considered according to the Wind
14 Act have to do with things like the extent and nature of
15 use, which at one level doesn't have anything to do with
16 scenic at all. And so you'd sort of divide the lakes up.
17 There's some lakes that are supposed to be, by
18 classification, remote and treated special because there
19 aren't people there and then other lakes are different than
20 that.

21 And so it seems reasonable to weigh the ones that have
22 the heaviest use as being most important because there's
23 more users there to be exposed.

24 MR. CORRIGAN: I know a lot of people who make their
25 living on those lakes and that use those lakes

1 recreationally without making a living on it that would
2 severely disagree with that. And I'd also say that it goes
3 to more total resources of value, not necessarily just
4 lakes. There are mountaintops, there are trails with low
5 use that can still have a high visible --.

6 MR. PALMER: Yeah, but LURC can't consider those on a
7 wind project.

8 MR. CORRIGAN: They can if they are -- if they are
9 already so classified of state or national significance,
10 the amount of use is not necessarily the criteria.

11 MR. PALMER: Right. But in this case there aren't
12 these kinds of things. So the argument that we're talking
13 about may be made for the Appalachian Trail, for instance,
14 but we don't have that in this case. All we have is these
15 lakes and none of these lakes are classified for remote
16 management.

17 MR. CORRIGAN: But they are classified as scenic or --

18 MR. PALMER: Yeah, they are scenic, that's right.

19 MR. CORRIGAN: Scenic or outstanding. So simply -- so
20 they're already scenic or outstanding, that classifies them
21 as of state or national significance under the Wind Act or
22 subject to this.

23 My -- my problem with the way you apply that is that
24 you might say, well, if it gets 100 users a week, that
25 doesn't -- the visual doesn't matter, but if it gets a

1 thousand visitors a week, the visual does matter. That
2 kind of designation seems to be what you're splitting hairs
3 over and it seems contrary to the uses we see in the area.

4 MR. PALMER: Then how do you interpret the criteria
5 that has to do with the extent of use, what does that --
6 what does that mean? I mean, obviously, if there's a
7 thousand users and it's at the beach, say, at -- 45,000
8 users, it's the beach at Mount Blue State Park, I'm
9 assuming that you're going to agree if you saw a whole
10 bunch of turbines from that beach that might be a
11 significant thing. It's a state park --

12 MR. CORRIGAN: DEP is still having a hard time with
13 that one in that specific case. But that --

14 MR. PALMER: You would --

15 MR. CORRIGAN: -- would be a significant scenic impact.

16 MR. PALMER: -- agree with that?

17 MR. CORRIGAN: But could it not be a significant scenic
18 impact to those hundred users as opposed to a thousand
19 users if you're looking at the average user and their
20 expectations when they come to Maine?

21 MR. PALMER: That's what I'm saying, but you're -- but
22 you're saying that it's a severe use if it's a hundred or
23 three or four or a thousand or -- any amount of use is
24 severe.

25 MR. CORRIGAN: I'm saying that the undue adverse scenic

1 impact should not be based on simply how many people in a
2 given time period see that impact.

3 MR. PALMER: But it has to be because extent and
4 duration are a criteria, they must be considered.

5 MS. HILTON: Jim, do you have a specific -- it's
6 becoming a debate.

7 MR. PALMER: Yeah. Sorry.

8 MS. HILTON: Anybody -- any other questions on our end
9 here?

10 MR. CORRIGAN: Before we move on to cross-examination,
11 I would just like to ask one point. I noticed Ms. Browne
12 had about 50 minutes spread between me and PPDW for
13 cross-examination and you allowed her to go 45 on PPDW.
14 By my watch it was more like 47, so I'm thinking we've got
15 about three minutes worth of cross-examination time here.
16 You specifically allowed her to take time off my
17 cross-examination to add to PPDW. And by my watch, she
18 went to 47 minutes out of the allotted 50 total for the two
19 of us. Just a point of order.

20 MS. HILTON: Does that make sense to you? I'm not --

21 MS. CARROLL: You totally lost me, David.

22 MR. CORRIGAN: She had 30 minutes allowed for The
23 Partnership, she asked to have 45 and to take it off of my
24 cross-examination time. Is that -- I've heard you agree to
25 that. Does everybody agree that happened?

1 MS. CARROLL: Hm-hmm.

2 MR. CORRIGAN: Okay. By my watch she went to 47
3 minutes with them. But even if it's 45, I just want to say
4 -- just so -- I mean, I ran my testimony to the minute and
5 didn't go over. I would just like to say we don't want to
6 go forever with this.

7 MS. HILTON: What are you asking for?

8 MR. CORRIGAN: That you limit her cross to three to
9 five minutes as you had said earlier.

10 MS. CARROLL: Yes.

11 MR. CORRIGAN: I just want to make sure that that's
12 going to happen, we're not going to get into something
13 long. But otherwise, no objection.

14 MR. MOTT: Madam Chair, let me just say that if it
15 facilitates things, I'm perfectly content to put off my
16 time until the July 16th hearing.

17 MS. HILTON: We'll take that into consideration. So --
18 and thank you. So you're going to do your cross?

19 MS. BROWNE: Yes.

20 MS. HILTON: Yes. Go for it.

21 EXAMINATION OF DAVID TOBEY

22 BY MS. BROWNE:

23 Q Thank you. Mr. Tobey -- Dave Tobey, I appreciate your
24 testimony here today. And I have a few contextual things
25 I'm just trying to clarify. You talked about the salmon

1 hatchery.

2 A Yes.

3 Q And that's -- as I understand it, that's about 17 miles
4 from the project area, right?

5 A Yes, it is.

6 Q Okay. And then you also referenced 2.9 jobs per thousand
7 acres of timber managed area, right?

8 A Yes.

9 Q And you're not suggesting that this project, if it were
10 approved, would adversely impact the logging industry in
11 that business, are you?

12 A I am.

13 Q Okay. Are you --

14 A Every time you take an acre out of forest production,
15 you're reducing existing jobs in the forest products
16 industry.

17 Q And do you realize the project would take out 66 acres and
18 that's it?

19 A Yes.

20 Q Okay. And you're aware that commercial timber landowners
21 have a different view of whether the project would harm or
22 benefit their industry, right? Were you here for
23 Mr. Milliken's testimony?

24 A I was here for Mr. Milliken's testimony.

25 Q Okay. Thank you. And you also talked about the West Grand

1 Lake Community Forest project, which, as we've heard is,
2 you know, the number one forest legacy project. And you
3 understand that that's more than 10 miles away from the
4 project -- from the Bowers project site, right?

5 A I do.

6 Q Okay. And at the -- at the risk of creating some confusion
7 with numbers, bear with me because I -- in response to
8 Mr. Todd's questions you said you thought that the average
9 number of days of guiding was 75 dates a year?

10 A Yes.

11 Q And what's the general -- what time period does that cover,
12 what months of the year?

13 A That goes any time from ice out, now it goes until the end
14 of fishing in Grand Lake, which is the 15th of October and
15 in the upper lakes, too.

16 Q So April to --

17 A Mid October.

18 Q Okay.

19 A First of May.

20 Q And then you said there were 30 active guides. And then
21 are -- is it your belief that 50 percent of all the guiding
22 activity out of West Grand Lakes goes into the lakes within
23 the study area?

24 A During the course of the day, yes.

25 Q Okay.

1 A Depending on wind conditions, we have to move around to be
2 safe and to make our way home. So even though our
3 intentions may be Scraggly Lake, we may end up only in
4 Junior Lake that day or Junior Stream.

5 Q So wouldn't that result in thousands of visits to Junior
6 Lake, for example, over the course of the season?

7 A It would.

8 Q And we heard from somebody on the site visit yesterday that
9 lives on the lake that says he sees on average maybe five
10 guided people a year during the entire season coming onto
11 Junior Lake?

12 A That's a good example of the remoteness of the watershed.
13 I'm able to take my people some days and not even see
14 another boat because some of the best fishing is in the
15 remote coves, which are very large, they even get their own
16 names in this watershed. And so as a guide, you're able to
17 take folks outside of the main corridor of boat traffic and
18 use and fish in these little coves and big coves and
19 isolated areas out of their sight.

20 Q So you're saying there are like 6,000 -- I haven't done my
21 math, but -- boat trips from the guiding industry from West
22 Grand Lakes into Junior Lake each season?

23 A I would say.

24 MS. BROWNE: Okay. That's all I have. Thank you.

25 A I want to use an example. Our own game warden spent Sunday

1 of Memorial weekend on West Grand Lake and associated
2 waters. He came back and told us that he only came across
3 six boats that day. I knew personally of that many guides
4 up there, right, and he didn't even mention seeing a guide.
5 So that's how remote and big this watershed is and how easy
6 it is to not see the user group. They're dispersed that
7 much, you know, behind islands and in coves and --. But
8 when you're a State's game warden that can only find six
9 out of a possible 20 users, you know, that's a good
10 explanation for the remoteness.

11 BY MS. BROWNE:

12 Q Well -- and the largest lake is West Grand Lake, right?

13 A That's the largest one.

14 MS. BROWNE: Yeah. Okay.

15 MS. HILTON: So do you want to do redirect?

16 MR. CORRIGAN: I think we're set.

17 MS. HILTON: They've already -- okay. And so I guess
18 -- where did he go? There you are. Why don't we go ahead
19 and -- with you, Gordon. Will you have many questions for
20 Gordon?

21 MS. BROWNE: Not likely. And I just want to reserve
22 maybe two minutes.

23 MS. HILTON: Okay.

24 (A discussion was held off the record.)

25 MR. GORDON: This is simply what I'm presenting here.

1 And please share the moment with the other intervenors, if
2 you would. And I am on the mic? Chairman Hilton, Land
3 Use --

4 MS. CARROLL: Hold on.

5 MS. MILLS: Any objections? No CLF does not have any
6 objections.

7 MR. GORDON: If that's a problem, I'll take it back.

8 MS. MILLS: Does The Partnership have any objection to
9 Mr. Mott's exhibit?

10 MR. GURALL: No.

11 MS. MILLS: So no party has an objection to this
12 exhibit?

13 MR. GORDON: We just intended it to be helpful.
14 Chairman Hilton, members of the Land Use Regulation
15 Commission, my name is Gordon Mott.

16 MS. HILTON: For some reason we're not hearing you very
17 well.

18 MR. MOTT: Okay.

19 MS. HILTON: Is your mic on?

20 MR. GORDON: Are we in the picture -- are we in the
21 room? All right. Okay. Technology, you know, it gets
22 ahead of me.

23 My name is Gordon Mott, I live in Lakeville, I'm a
24 forester and have an active private practice in Maine. My
25 career has involved modest forest biological and

1 silviculture science research, forest protection, forest
2 conservation, natural resources policy and management in
3 New England and eastern Canada since 1950. I've been in
4 Maine for 35 years. My residence and work for 22 years has
5 been in this region, including properties in Topsfield,
6 Kossuth, Carroll Plantation, Lakeville, Springfield, Lee,
7 Township 3, Range 1, MBPP and the Passamquoddy tribal
8 lands. I participated in management planning for the
9 public lands in the eastern interior region including the
10 three Lakeville public lots.

11 As a local citizen I have concerns and interests in the
12 economic cultural resources, natural resources and
13 conservation futures of this distinguished part of Maine.
14 Together with my wife Virginia we personally have ownership
15 in seven different properties in Lakeville, five of these
16 properties are located on the highest topography including
17 1,047 foot Almanac Mountain from which Bowers Mountain is
18 presented at a distance of about 4 miles.

19 You've heard interest and observations concerning
20 Almanac Mountain and the tower thereon. Just to begin
21 with, this is Almanac. We have the privilege of owning
22 most of it, but not the top. I would just mention that
23 that blinking light on the top of Almanac Mountain is
24 signaling that Maine Public Broadcasting television is
25 being sent up to the county. That's what it was for. It

1 was there since 1963.

2 And I would also mention that you can't see our
3 residence. Forest harvesting will never be visible. For
4 those of you who enjoy the lakes and see Almanac as an icon
5 in your view space, it's going to stay just exactly as you
6 see it now. We have the front face of it under
7 preservation. And our viewpoint is the reverse of what all
8 -- everybody has been talking about, the lake here with the
9 wings on it in the near foreground is Keg Lake. Behind
10 that is Junior, which originally in 1844, by surveyor John
11 Gardner, was designated on his map in his plan when he laid
12 out the lots in Lakeville as Grand Lake Junior. That's how
13 it got it's name. You see lower Sysladobsis off here on
14 this side. You're looking at Grand Lake Stream that way.

15 I have no obligation to present visually correct
16 material. And so what you're seeing here is relief,
17 three-fold exaggerated at sunrise, Bowers Mountain and
18 Katahdin in the far background. I speak in support of the
19 natural resources conservation benefits proposal in the
20 Bowers wind project.

21 As has -- many others have said and we have the records
22 in our town records, since the early 1800s landowners have
23 purchased private property here for year-round and seasonal
24 residences because of the unique natural character and
25 resources of the region. And while these natural vistas

1 are not explicitly owned by the public as are the great
2 ponds and public waterways and instead appear to belong to
3 the ridge landowners, they, nevertheless, lie in a domain
4 where a public visual interest is generally acknowledged in
5 many rules and statutes.

6 There are standards for shielding terrestrial night
7 lighting, to restrict illumination no further than the
8 boundaries of private property, for example. Shoreland
9 vegetation management standards and setbacks serve to
10 maintain natural shoreland character as well as water
11 protection in both LURC and DEP jurisdiction. LURC
12 Chapter 10 25-E specifically limits those of us who own
13 ridge property, quote, if a site includes a ridge elevated
14 above surrounding areas, the design of the development
15 shall preserve the natural character of the ridge line.

16 Given these inequities, it's only fair and just that if
17 wind power development will stand permanently on these
18 natural ridges that in some fashion there should be
19 compensation or mitigation to the affected public for the
20 loss in visual values. The only action that can offer
21 anything in any way for the loss of these treasured natural
22 values by the affected communities, by those of us on the
23 terrestrial residences. We've been speaking about views
24 from lakes, but for the rest of us who are there year-round
25 and see these things more than anybody else, the only way

1 that we can have any kind of compensation or balance for
2 the loss of those visual values becomes conservation of
3 natural resources that would not otherwise be conserved.

4 It's important to say that it's understood that you as
5 a commission are limited when it comes to wind developments
6 and you're prohibited by the actions of the Legislature
7 from applying the same standards to the development that
8 you will apply to those of us on land who will view the
9 development. We trust it will be clear to the concerned
10 public that you're bound and restricted in performing this
11 difficult work. It's also fitting to say now that many of
12 us are deeply grateful for what you contribute at your own
13 personal cost to our communities and to the north woods of
14 Maine.

15 The mechanism provided by statutes to compensate for
16 the loss of public visual values is a provision in MRSA
17 Title 35-A, Chapter 141 for tangible community benefits to
18 be paid at a rate no less than 4,000 per turbine per year
19 averaged over 20 years. Tangible community benefits are to
20 be utilized for public purposes including, but not limited
21 to, for property tax reductions, economic development
22 projects, land and natural resources conservation, tourism
23 promotion or reduction of energy costs.

24 It's particularly just that there is provision for
25 natural resources values to be conserved in compensation

1 for loss of the natural character of our resources. The
2 provisions in statute focus payment of benefits to the host
3 communities, which in this case consists of Carroll
4 Plantation and Washington County. Champlain Wind, LLC has
5 constructed and negotiated tangible benefit agreements
6 which over a 20-year period will benefit Carroll Plantation
7 to the extent of a 1,840,000 for all purposes, Washington
8 County 200,000, Kossuth 305,000 for energy cost reduction,
9 and Carroll Plantation, Lakeville and Kossuth 500,000 in a
10 Bowers Mountain conservation fund for natural resources
11 conservation. In total, the tangible benefit agreements
12 aggregate to an average of \$5,269 per turbine per year
13 exceeding \$4,000 per turbine per year.

14 I am not about to say that that's sufficient
15 compensation for loss of those values, but I will say very
16 clearly that the applicant has exceeded the minimum
17 standards by the Legislature for these provisions. There
18 is a pie chart of what I just said. You can see that the
19 Carroll Plantation agreement is the largest portion of the
20 pie, but the second largest portion is, in fact, going to
21 go for conservation benefits.

22 The positive aspects of the proposed natural resources
23 conservation benefits are as follows. Firstly, the natural
24 resources conservation benefits will come to the affected
25 local region. By the terms in Title 35-A there's no

1 requirement that natural resources be conserved. Tangible
2 benefits of other kinds could well have been chosen. It
3 would also have been perfectly valid to contribute to
4 conservation elsewhere in the state and still satisfy the
5 requirements of statute if such an agreement had been
6 reached with host communities.

7 To focus benefits in the local affected region in
8 recognition that balances to be sought for impacts that
9 will be made to local natural values is an excellent and
10 appropriate principle. Precedences are being set in this
11 particular case. I believe this is the first case of
12 tangible benefits -- or an early one in any case -- and
13 this particular precedent is really one of great merit, in
14 our opinion. We're losing it locally, let us benefit
15 locally.

16 Secondly, conservation benefits, they're only required
17 by statute to be paid to the host communities. In this
18 proposal conservation benefits are generously extended to
19 include the town of Lakeville as an affected community in
20 recognition of the magnitude of the interests to the
21 elevated and lake properties here.

22 Thirdly, local governance is coupled with the Forest
23 Society of Maine, a conservation organization of recognized
24 standing, to identify opportunities, solicit proposals and
25 pursue local conservation activities on an ongoing basis.

1 An initial funding at 120,000 will permit an early
2 productive start and the applicant is bearing the costs of
3 establishing the entity.

4 There's a provision in the proposal to conduct an
5 initial comprehensive natural resources conservation
6 planning process so that local conservation opportunities
7 can be prioritized. And in a sense, at least one part of
8 the kind of municipal and regional comprehensive planning,
9 in my mind, that should precede massive industrial
10 development at this scale in any community. There has been
11 no comprehensive planning by any entity for this massive
12 industrial expansion in Carroll Plantation, but at least
13 there's the opportunity here after the fact for the natural
14 resources conservation planning to be conducted. That's a
15 positive thing in my judgment.

16 Thirdly, the proposal provides a mechanism whereby
17 local land trusts and conservation organizations will be
18 able to benefit, augment and participate in bringing
19 natural resources conservation to the region. The initial
20 inquiries that I made -- I was extended the privilege of
21 giving input in the process of developing the proposal over
22 the past year. And early on I took pains to reach out to
23 the local land trusts. And the -- those inquiries
24 concerning their ability and willingness to participate in
25 governance of the local tangible conservation benefits

1 entity indicated that because of the divisions in their
2 membership concerning wind development, none could
3 participate directly at the outset.

4 It was also clear that it will be desirable for the
5 local trust to be eligible to participate in future
6 conservation activities if the development is permitted and
7 that they'd be in a conflict of interest position if they
8 participated in any way in governance. The proposed local
9 entity will provide a desirable arm's length third-party
10 relationship that will permit positive future
11 participation.

12 Finally, while it's fair to conclude that the level of
13 natural resources conservation that will become possible
14 under this proposal will not compensate for the value of
15 the losses in the natural character of the landscape, it's
16 important to recognize that although there are active
17 successful land trusts in this general region, there are
18 virtually no natural resources conservation activities in
19 these three municipalities.

20 It is likely that little conservation would take place
21 here now on our watch if these funds were not available.

22 MS. HILTON: Gordon, you're getting close on time. Can
23 you -- and it looks like you've got a few more here. Is it
24 possible to speed up things a little bit or --? I realize
25 this is important information you're presenting here.

1 MR. GORDON: I'd back off from my unpoetic articulation
2 and speak instead to three candidates that I would just
3 mention that exemplify the opportunities for natural
4 resources conservation in the communities.

5 This first one, I was able to obtain a map of the
6 farmland soils of statewide significance for Carroll
7 Plantation, the principally impacted municipality. The
8 blue areas are farmland soils of statewide significance,
9 the yellow areas are prime farmland soils. There's an
10 opportunity under this proposal to go forward and purchase
11 development easements on these kinds of natural resources.
12 That's an example. You went by those prime farmland soils
13 on your tour yesterday, the field of buttercups is one such
14 place.

15 There's an opportunity to purchase easements on the
16 known deer yards in the region. Matt Dunlap spoke to you
17 yesterday about the importance, he has also mentioned
18 recently the other -- the importance of restoring the local
19 deer herd, and the opportunity to maintain softwood cover,
20 purchase easements to maintain that, the opportunity to
21 support development of feed plots and, in general, work on
22 behalf of the local economy that's dependent upon wildlife
23 productivity that is present as well.

24 I would also mention the opportunity -- I happen --
25 just to give complete disclosure here, I happen to know the

1 details of this property because I have gathered
2 information about it on behalf of the owner for the past
3 few years. And I know it's available, should it be
4 something that is desired. It is a multiple-use parcel
5 that offers the opportunity for water access at the
6 beginning of the Baskahegan River trip, that's mapped on
7 DeLorme, at Lindsey Brook access to dead water, there's
8 timber revenue that's possible, there's campsites that
9 could be developed and there is one of the most delightful
10 distinguished peat bogs in the region that would support
11 all kinds of tourists-visiting kinds of economy, calliope
12 and flowers up there, picture plant in bloom, Rodela in
13 bloom down here, all taken this year.

14 And finally I'd say that the future natural character
15 of our communities will be formed in important ways, but
16 what we do now with our natural resources in the time we're
17 given here, these conservation funds are important to the
18 vision of the future of this place. Every eight days and
19 20 hours there are as many people added to the world
20 population as there are people in the state of Maine.
21 That's the rate at which changes are ahead of us.

22 What we do now on our watch with resources such as this
23 are going to determine what we're going to have in our
24 future. This particular matter is a very important matter.

25 I close with a question. I did notice that Mr. Todd

1 indicated early on that he felt you needed to reach a
2 determination that these -- that this proposal was
3 significant. What level of offering would be significant?

4 MR. TODD: That's a decision the Commission will have
5 to make.

6 MR. GORDON: Well, I have to keep trying, you
7 understand that.

8 MS. HILTON: So do we want to make -- sort of move into
9 questions by commissioners or staff? I don't know whether
10 --.

11 MR. TODD: I can't let you off. On Page 1 of your --
12 your -- the pre-filed testimony under No. 1 you talk about
13 the imposition of this project on landowners including
14 night lighting. And in the middle of the paragraph you
15 state that there are -- for other types of projects there
16 are standards for, quote, shielding and restricting
17 terrestrial night lighting to illuminate no further than
18 the boundaries of private property ownership.

19 Are you suggesting that be a standard for this project?

20 MR. MOTT: No, it's recognition that -- it would be
21 desirable, of course. But it's recognition of the fact
22 that you are -- you hold us to two different standards. In
23 this particular case you can't hold the developer to the
24 standards that the rest of us who own ridge lines, that
25 ridge line that we own won't be developed, but should we

1 want to, we would be held to a standard such that the
2 residences up there could not be seen or the lights.

3 MR. TODD: Okay. Thank you.

4 MR. GORDON: Let me also respond to an earlier concern,
5 Fred. My calculations about how long it takes to generate
6 these benefits are naive. I couldn't help myself but try
7 and see what kind of calculation I could make. It's very
8 clear from the presentation that we heard earlier from
9 Conservation Law Foundation that calculation of the
10 economies in this particular case is much more
11 sophisticated than the approach that I had made.

12 Nevertheless, I think the point is a valid point in
13 judging how significant the conservation proposal is.
14 These would be standing up there all day, all night every
15 day. Just exactly what is the -- the cost in relative
16 terms for providing these conservation benefits relative to
17 all the other economy in the situation? I think it's a
18 very valid question.

19 MS. HILTON: Okay. Well, I think we're done for now.
20 I have just a few things -- I'm sorry.

21 MS. BROWNE: Oh, I'm not going to stand in the way.

22 MS. HILTON: I'm sorry. No. Really?

23 MS. BROWNE: No.

24 MS. HILTON: Okay. Thank you. I just -- there were
25 several issues that arose today that may require follow-up

1 by the Commission. And we will work with staff to address
2 these issues as needed probably through procedural orders.
3 The hearing on July 6th will be devoted, as planned, to
4 agency and consultant cross-examination.

5 And this is my formal closing statement. I wish to
6 remind everyone that the record of this hearing will remain
7 open until Monday, July 18th to receive written statements
8 from the interested public and for an additional seven days
9 until Monday, July 25th for the purpose of receiving
10 rebuttal comments.

11 No additional evidence or testimony will be allowed
12 into the record after the closing of the record. I wish to
13 remind the parties and the -- that the third procedural
14 order establishes the process for parties to request
15 permission to submit additional comments into the record
16 following the close of today's technical session.

17 There will now be a recess of the hearing for dinner
18 and the second session to hear testimony from the public
19 will begin at 6:00 p.m. tonight. Thank you.

20 (Concluded this hearing at 5:23 p.m. this date.)
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CERTIFICATE

I, Angella D. Clukey, a Notary Public in and for the State of Maine, hereby certify that on June 28, 2011, a hearing was held regarding Bowers Mountain, Development Permit DP 4889; and that this hearing was stenographically reported by me to the best of my ability 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 witnesses.

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 22nd day of July 2011.

ANGELLA D. CLUKEY, NOTARY PUBLIC
Court Reporter

My commission expires: March 17, 2017

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