

1 STATE OF NEW HAMPSHIRE  
2 SITE EVALUATION COMMITTEE

3 March 19, 2009 - 3:00 p.m.  
4 N. H. Fish & Game Department  
5 629B Main Street  
6 Lancaster, New Hampshire

7 In re: SITE EVALUATION COMMITTEE:  
8 SEC DOCKET NO. 2008-04:  
9 Application of Granite Reliable  
10 Power, LLC, for a Certificate  
11 of Site and Facility for the  
12 Granite Reliable Power  
13 Windpark in Coos County, New  
14 Hampshire. (Hearing for the  
15 purpose of closing statements)

16 PRESENT: SITE EVALUATION COMMITTEE:  
17 Thomas B. Getz, Chrmn. Public Utilities Commission  
18 (Chairman of SEC Subcommittee - Presiding)  
19 Donald Kent Dept. of Resources & Econ. Dev.  
20 Glenn Normandeau Fish & Game Department  
21 Robert Scott, Director DES - Air Resources Division  
22 Christopher Northrop N. H. Office of Energy & Planning  
23 William Janelle Dept. of Transportation  
24 Michael Harrington Public Utilities Commission

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21 Counsel for the Committee: Michael J. Iacopino, Esq.

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23 COURT REPORTER: Steven E. Patnaude, LCR No. 52

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2 APPEARANCES:

3 Reptg. Granite Reliable Power, LLC,  
4 and Noble Environmental Power:  
Douglas L. Patch, Esq. (Orr & Reno)  
Susan S. Geiger, Esq. (Orr & Reno)  
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Reptg. Counsel for the Public:  
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New Hampshire Dept. of Justice

Reptg. N.H. Fish & Game Division:  
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New Hampshire Dept. of Justice

Reptg. Clean Power Development:  
William Gabler

Reptg. N.H. Wind Energy Association:  
Farrell Seiler

Reptg. the Appalachian Mountain Club:  
Kenneth Kimball

Reptg. Industrial Wind Action Group:  
Lisa Linowes

Kathlyn Keene, pro se

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1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Good afternoon,

3 everyone. I'm going to reopen the hearings in Site

4 Evaluation Committee Docket 2008-04, concerning the

5 Application of Granite Reliable Wind Power for a

6 Certificate of Site and Facility. The intention at this

7 time is to hear closing arguments, but I understand there

8 may be a procedural issue from the parties, Mr. Roth,

9 Mr. Patch?

10 MR. PATCH: Yes, Mr. Chairman. During

11 the break, we talked with the stenographer about the

12 availability of the transcript, and understand that the

13 entire transcript will probably not be available until

14 approximately the 30th of March, which was the date that I

15 think you had established for the submission of the post  
16 hearing briefs. And, we talked with the other parties,  
17 and we are all in agreement, if it's acceptable to you,  
18 that we would extend the deadline for submitting the  
19 briefs until one week after the transcript was finished.  
20 And, then, obviously, the Committee would have additional  
21 time beyond the submission of those briefs to be able to  
22 deliberate and reach its conclusion. That's our  
23 suggestion.

24 CHAIRMAN GETZ: So, the proposal is to  
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1 extend the briefing date to Monday, April 6th?

2 MR. PATCH: Yes. And, I guess that's  
3 assuming the transcripts are done on the 30th. But I  
4 think the indication is that they're likely to be done  
5 that day. And, everyone is in agreement with that  
6 proposal, is that correct? Is there any opposition?

7 MR. MULHOLLAND: No objection.

8 MR. KIMBALL: No objection.

9 CHAIRMAN GETZ: Okay. I guess the issue  
10 that we need to address is that the -- my recollection  
11 under the statute is we have 240 days from the acceptance  
12 of the Application to issue or deny a Certificate, which I  
13 believe brings us to April 6th is the 240th day. But the  
14 statute also says, if the Subcommittee, at any time during  
15 its deliberations, deems it to be in the public interest,  
16 it may temporarily suspend its deliberations and enlarge  
17 the time frame established under this section.

18 Is there a proposal for how long the  
19 extension should be? I mean, it would have to be some

20 sort of extension, presuming that the briefs aren't going  
21 to be filed until the final day of the 240-day period.

22 MR. PATCH: Right. I mean, I guess it  
23 was our thought that, we were trying to be accommodating  
24 to the Committee. And, so, I guess we could put a hard  
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1 and fast date on it. But it's our idea that we extend  
2 that statutory deadline long enough to allow for the time  
3 for the submission of briefs in time for the Committee to  
4 be able to conduct its deliberations. And, so, I guess  
5 we're amenable to whatever would be acceptable to the  
6 Committee on that. Although, obviously, we don't want it  
7 to be indefinite, but we'd like to have the time to be  
8 able to do a thorough job in our briefs. And, the only  
9 way to do that, really, is to have the transcript  
10 available to be able to cite to exactly what was said  
11 during the course of the proceeding.

12 CHAIRMAN GETZ: Is there anyone who  
13 would like to address the time frame or any other issues  
14 related to that proposal?

15 (No verbal response)

16 CHAIRMAN GETZ: Okay. Well, hearing  
17 nothing I think for the moment I'm going to take that  
18 under advisement, and we have one other pending motion  
19 with respect to the exhibits. I'd like to deal with that  
20 at the very end of the hearings today. So, at this time,  
21 if there's nothing else, then I would turn to closing  
22 arguments. And, I believe we're starting with  
23 Mr. Mulholland, from Fish & Game.

24 MR. MULHOLLAND: Mr. Chairman, members

1 of the Subcommittee, my name is Evan Mulholland. I'm an  
2 Assistant Attorney General. And, I appear on behalf of  
3 the Fish & Game Department. Before I begin, I'd like to  
4 note again for the record that, because of Mr. Normandeau,  
5 his position on the Subcommittee, neither I, nor anyone at  
6 Fish & Game have conferred with him about the Department's  
7 position.

8 Fish & Game has taken an active role in  
9 this proceeding from the start, and was granted intervenor  
10 status at the outset of the hearings. Fish & Game's role,  
11 as an intervenor, was to ensure that, if this Project were  
12 eventually permitted, state wildlife issues would be  
13 adequately addressed. Questions of financial capacity,  
14 aesthetics, transmission capacity, orderly development of  
15 the region, and so on, are outside of Fish & Game's role  
16 in the case.

17 Fish & Game's staff have visited the  
18 proposed Project site multiple times, and they're very  
19 familiar with the issues and wildlife at the Project site.  
20 They have reviewed the entire Application, all the reports  
21 submitted by GRP, relative to the wildlife impacts of the  
22 Project. Because of the Department's concerns regarding  
23 the size and location of the proposed windpark, Fish &  
24 Game first submitted the Direct Testimony of William  
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1 Staats and Jillian Kelly, regional wildlife biologists for  
2 the Department. Mr. Staats and Ms. Kelly informed the  
3 Subcommittee of the probable direct and indirect impacts

4 of the Project on the American marten, the Canada lynx,  
5 the American three-toed woodpecker, and the Bicknell's  
6 thrush.

7                   Additionally, they testified regarding  
8 the importance of the high-elevation lands on Mount Kelsey  
9 and Mount Dixville, and described the likely effects of  
10 the Project on the high-elevation spruce-fir habitat found  
11 there, an uncommon type of habitat in the state. At the  
12 time of this direct testimony, the Department's position  
13 was that the Mitigation Plan that had been proposed by GRP  
14 was inadequate, and the Application should be denied on  
15 that basis.

16                   Since then, however, the Department,  
17 along with the Appalachian Mountain Club, has entered into  
18 a High Elevation Habitat Mitigation Settlement Agreement  
19 with the Applicant, GRP. And, this has been marked for  
20 the record as "Petitioner's Exhibit 48". It is the  
21 Department's position that GRP's commitment, pursuant to  
22 the terms of this Agreement, are sufficient to mitigate  
23 both the direct and indirect impacts of this windpark on  
24 the high-elevation spruce-fir habitat, and the species of  
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1 concern that rely on that habitat.

2                   I'm just going to outline a few of the  
3 main terms of the Agreement for maybe some of the members  
4 of the public who haven't read it yet. But, under the  
5 terms of the Agreement, GRP will conserve 1,735 acres of  
6 high-elevation spruce-fir forestland on Mount Kelsey, on  
7 Long Mountain, Mui se Mountain, and Bald head Mountain,  
8 across the valley from the Project. The parcels on Long,

9 Mui se, and Baldhead are contiguous to lands already  
10 protected in the Nash Stream State Park. Their  
11 conservation will complete protection for these large  
12 blocks of high-elevation habitat.

13 Second, the Applicant will pay \$750,000  
14 for the acquisition of additional conservation land in the  
15 North Country. And, third, the Applicant will pay the  
16 Department an additional \$200,000 to fund studies to  
17 windpark's effects on rare species, including the American  
18 marten.

19 By conserving these lands through this  
20 Agreement, we're essentially (1) protecting the habitat in  
21 the short-term by maintaining uncut forests, and, probably  
22 more important, (2) providing long-term benefits through  
23 perpetual conservation ownership, which will maintain  
24 ongoing populations of native wildlife, will protect the  
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1 Land from future development, and will provide future  
2 refugia for a wide array of species seeking habitat in the  
3 face of a warming planet.

4 In order for the Subcommittee to find  
5 that the proposed windpark will not have an unreasonable  
6 adverse effect on the natural environment as required by  
7 the statute, it is necessary for these terms, and the  
8 other terms and conditions contained in the Agreement, to  
9 be included in any Site and Facility Permit issued to GRP.

10 During the past two weeks of hearings,  
11 the Subcommittee has read and listened to testimony  
12 regarding the probable impacts of the windpark on various  
13 resident species of conservation concern. From that

14 testimony, two things have become clear. First, the  
15 clearing of land and the installation of turbines and  
16 associated roads and infrastructure on Mount Kelsey and  
17 Mount Dixville will negatively affect the habitat for the  
18 wildlife along those project ridges. And, second, there  
19 will be indirect impacts to the spruce-fir forest habitat  
20 and to its wildlife beyond the Project footprint.

21 Biologists, Mr. Staats and Ms. Kelly,  
22 testified that these indirect impacts may affect the  
23 entire Project area on those ridges above 2,700 feet. It  
24 is not possible to predict or quantify the extent of those  
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1 indirect impacts and their effects on these species. This  
2 highlights the importance of the \$200,000 that will be  
3 paid to Fish & Game to do these research studies so they  
4 can understand these impacts.

5 After careful consideration, and in  
6 light of its assessment of the probable effects of the  
7 windpark, Fish & Game has determined that these likely  
8 direct and indirect impacts are sufficiently balanced by  
9 the benefits of this Agreement. With the inclusion of the  
10 mitigation provided for by the Agreement, Fish & Game  
11 believes that the proposed windpark will not have an  
12 unreasonable adverse effect on the natural environment.  
13 The Settlement Agreement is fair and is a positive outcome  
14 for the wildlife that Fish & Game is obligated by statute  
15 to protect and manage. If the Site and Facility Permit is  
16 granted to GRP, these lands that will be conserved will  
17 provide lasting ecological benefits. Thank you.

18 CHAIRMAN GETZ: Thank you. Mr. Kimball.  
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19 MR. KIMBALL: Mr. Chairman, members of  
20 the Committee, I'm Kenneth Kimball, Director of Research  
21 for the Appalachian Mountain Club. I'll be representing  
22 [presenting?] the Appalachian Mountain Club's closing  
23 statement as Dr. Publicover, who was AMC's expert witness,  
24 has a previously scheduled commitment today.

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1 In AMC's original prefiled testimony, we  
2 raised several issues regarding the proposed Granite  
3 Reliable Windpark. I'd like to take this opportunity to  
4 describe AMC's current position on these issues, based on  
5 the information obtained during the hearings, as well as  
6 settlement discussions between the Applicant and the New  
7 Hampshire Fish & Game Department and AMC. I'll divide  
8 these into three categories.

9 The first is high elevation ecosystem  
10 impacts. The first and most significant issue for AMC was  
11 the proposed turbines on Mount Kelsey and Dixville Peak.  
12 AMC did not and does not propose -- oppose the other two  
13 of the proposed turbine strings, that is Fishbrook and  
14 Owlhead, as we believe they may be appropriately sited  
15 relative to ecological and recreational concerns. We  
16 presented evidence that the high-elevation ridgelines on  
17 Dixville, and particularly on Kelsey, encompass natural  
18 resources of high ecological value. The testimony of  
19 multiple experts, in addition to AMC, supports this  
20 conclusion.

21 Specific concerns documented in the  
22 record included: The proposed -- The proposed development  
23 would eliminate primary old-growth forest that provides

24 high-quality habitat for several species of high  
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1 conservation concern, primarily American marten,  
2 Bicknell's thrush, and three-toed woodpecker. Second, the  
3 development would bisect and fragment the remaining  
4 old-growth habitat, creating increased edge effect and  
5 risk of competition to the interior forest species by  
6 invading generalist species. And, the turbines would  
7 represent a threat to bird species of concern that utilize  
8 nuptial aerial displays, such as the Bicknell's thrush.

9 In addition, these high elevation  
10 ecosystems also have important adaptive value in the face  
11 of future climate change. The scientific evidence shows  
12 that during previous warming periods since the last  
13 glacial period, the higher elevation climate was less  
14 impacted and their spruce and fir forests were stable  
15 refugia. These refugia likely had a role in re-colonizing  
16 the lower elevation spruce and fir forests as the climate  
17 cooled in the recent past. Today, the region's lower  
18 elevations are experiencing warming again, and these  
19 mountain tops may again be the refugia for this forest  
20 type.

21 AMC stated its strong professional  
22 opinion that the mitigation originally proposed by the  
23 Applicant was insufficient to compensate for the impacts  
24 to these high-elevation areas. Subsequent to the filing  
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1 of AMC's prefiled testimony, the New Hampshire Fish & Game

2 Department and the Appalachian Mountain Club reached a  
3 Settlement Agreement, that is Petition Exhibit 48, with  
4 the Applicant, to more appropriately mitigate for the very  
5 serious impacts of the proposed Project to high-elevation  
6 ecosystems. New Hampshire laws and regulations and Coos  
7 County Zoning Ordinances provide poor protection for the  
8 high-elevation forest from either development or timber  
9 harvesting. The mitigation package would protect over  
10 1,753 acres of high-elevation forest above 2,700 feet from  
11 both future development and logging, and some of the  
12 parcels identified for mitigation have direct nexus with  
13 like ecosystems in an adjacent State Forest to create  
14 larger ecological units. The Agreement also provides  
15 \$750,000 to protect additional lands with characteristics  
16 required by species of concern impacted by the Project,  
17 and provides \$200,000 to study impacts of the Project on  
18 species of concern.

19 The AMC concluded that the provisions of  
20 the Agreement provide sufficient mitigation to compensate  
21 for Project impacts to high-elevation ecosystems, habitats  
22 and species of concern, resolving our concerns regarding  
23 the issue of high-elevation mitigation. AMC believes  
24 that, in order for the SEC to conclude that there is "no  
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1 unreasonable adverse effect on the natural environment",  
2 as described by RSA 162-H, any certificate issued by the  
3 SEC should include the mitigation as negotiated in the  
4 Agreement by the New Hampshire Fish & Game Department and  
5 the AMC. Without such mitigation, it would be difficult  
6 to state that there are "no unreasonable adverse effects

7 on the natural environment", as understood by RSA 162-H  
8 relative to high-elevation ecosystems.

9 Further detail on our position on this  
10 issue may be found in the supplement to our testimony  
11 presented at the public hearing on March 13th, which I  
12 will not repeat here.

13 The second concern that AMC covered was  
14 high elevation road construction. This Project will  
15 require significant road construction under extremely  
16 difficult physical conditions, perhaps the most difficult  
17 found in New England, and of a scale and magnitude that's  
18 considerably greater than that found with road  
19 construction at ski areas. Steep slopes, problematic  
20 soils, a wet environment, and short growing seasons alone  
21 and together pose major road-building challenges. AMC has  
22 raised three concerns about the proposed roads. First,  
23 whether the culvert sizing calculations used by the  
24 Applicant adequately took into account the greater  
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1 precipitation that occurs at higher elevations. Based on  
2 ours and other cross-examinations of Stephen LaFrance, and  
3 modifications that have been made to the original  
4 Applicant [Application?], our concerns in this area have  
5 been adequately addressed.

6 The second concern we raised regarding  
7 road construction was whether the proposed techniques  
8 would adequately maintain natural hydrologic patterns in  
9 high-elevation wetlands and other areas with shallow  
10 subsurface flows. Artificially constructing and -- excuse  
11 me -- Artificially constricting and channeling broad

12 subsurface flows under the roads as originally proposed is  
13 inappropriate. We and others recommended the use of a  
14 rock sandwich technique, as has been required on the Kibby  
15 Mountain Project in Maine. It is AMC's understanding that  
16 the Applicant has since included this technique in its  
17 most recent site plans. AMC believes that the rock  
18 sandwich technique should be a required tool in the  
19 certificate.

20 Finally, even if the plans are adequate,  
21 we must note that there remains a high potential for  
22 erosion and other detrimental environmental impacts from  
23 construction of this magnitude in steep, fragile,  
24 high-elevation soils. Construction of the Project will  
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1 require an exceptional level of diligence on the part of  
2 the Applicant, its contractors, and the Department of  
3 Environmental Services. The role of the environmental  
4 monitor, as set forth in the draft DES Alteration of  
5 Terrain Bureau's proposed conditions of February 10th,  
6 2009, will be critical. The monitor will essentially be  
7 DES's "eyes on the ground". AMC believes it's important  
8 that the following conditions be included as part of the  
9 monitoring requirement in the certificate.

10 First, though paid for by the Applicant,  
11 the Monitor should directly report and be responsible to  
12 DES, not the Applicant. Second, the Monitor should be  
13 free of any conflict of interest arising from his or her  
14 employment or relationship to the Applicant or its  
15 contractors. And, third, the Monitor should have the  
16 authority to stop construction activity if permit

17 conditions are not being strictly adhered to.

18 The final concern that AMC brought up  
19 was on decommissioning. The final issue, first, AMC  
20 believes that the SEC, not the Coos County Commissioners,  
21 should make the final determination on permit conditions  
22 relative to decommissioning. We realize that, for the  
23 Lempster Project, the Decommissioning Plan was arranged  
24 through an agreement with the Town. That project was less  
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1 than 30 megawatts. However, under the SEC's authorizing  
2 statute, projects over 30 megawatts in size, such as this  
3 one, fall under state, not local jurisdiction. The issues  
4 related to this Project have statewide significance and it  
5 is inappropriate for the SEC to delegate its  
6 responsibility on decommissioning to a local governing  
7 body. At a minimum, the SEC should set the floor as to  
8 what is required for decommissioning in its certificate,  
9 and then permit local governing bodies to set more  
10 stringent decommissioning conditions, if they so choose.

11 Second, AMC believes that the  
12 establishment of the decommissioning fund should be  
13 advanced over the schedule currently proposed in the  
14 Application. The Applicant's proposed schedule would not  
15 begin establishment of the fund until year 11 of the  
16 Project, which is substantially slower than that provided  
17 for by several other major projects in the region,  
18 including Lempster, as we outlined during the public  
19 hearings. And, recent history has shown that the current  
20 wind power technology could be outdated before the first  
21 ten years of this Project are complete. We believe that a

22 periodic payment schedule is appropriate, but that fund  
23 payments should begin when the Project begins operation,  
24 and be fully established by or before year 10 of the  
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1 Project. We also believe that a secondary insurance  
2 should be provided, through insurance or other means, to  
3 ensure that decommissioning could take place in the  
4 unlikely event it is required prior to the decommissioning  
5 fund being fully established.

6 We understand that there are a range of  
7 possible financial mechanisms by which the fund could be  
8 established. It is important that the SEC require a  
9 mechanism which provides an iron-clad assurance that the  
10 funds will be available if and when they are needed. The  
11 funding mechanism should not rely in any way on the  
12 financial health of the Project owner or its parent  
13 company, but must assume a worst cast scenario in which  
14 the Project owner or its parent company has no financial  
15 resources.

16 To summarize, it's AMC's opinion that,  
17 with the inclusion of the enhanced mitigation in the  
18 Settlement Agreement, the proposed development does not  
19 constitute an unreasonable adverse impact on these high  
20 elevation ecosystems, and AMC would not oppose the  
21 Project. In addition, AMC believes that the SEC needs to  
22 appropriately address the issues of high elevation road  
23 construction and decommissioning in any certificate issued  
24 as just outlined. We appreciate the opportunity to  
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20

1 present this statement.

2 CHAIRMAN GETZ: Thank you. Mr. Gabler.

3 MR. GABLER: Good afternoon, Mr.

4 Chairman, members of the Subcommittee. Bill Gabler, for  
5 Clean Power Development. Clean Power Development's  
6 involvement in this process has been limited primarily to  
7 concerns over the transmission capacity and the ISO queue,  
8 as that process evolves. While some in these hearings  
9 have suggested that the Noble Wind Project could possibly  
10 knock Clean Power, and others like us, out of the queue or  
11 out of the loop. That is incorrect. Based upon our  
12 continued discussions with ISO-New England, and a review  
13 of the preliminary system impact study that's included as  
14 part of the Noble package, we're absolutely convinced that  
15 we can operate in tandem, in sharing the capacity of the  
16 ISO -- of the Coos Loop, and work through the ISO queue  
17 process. Clean Power being the next, if you will, in that  
18 queue. So, based upon that, we have absolutely no  
19 hesitancy in saying we can share the capacity and are  
20 happy to move forward in conjunction with the Noble Wind  
21 Project.

22 Our only other comment is that Clean  
23 Power supports renewable projects as an alternative to the  
24 continued burning of fossil fuels in the State of New  
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1 Hampshire and in the region. Given the ongoing fact that  
2 the global warming is due to greenhouse gases, I would  
3 suggest, though I'm no environmental expert, that it's  
4 possible the avoidance of generating greenhouse gases  
5 could actually help save some of the environment that

6 we're talking about on the high mountaintops. I don't  
7 understand the flora and the fauna nearly as well as the  
8 Fish & Game or the Appalachian Mountain Club. However,  
9 based upon and trusting their research, we feel that this  
10 will have a minimal impact, while at the same time  
11 reducing greenhouse gases. And, it's for that reason we  
12 support the Noble Wind Project and others like it in the  
13 region. Thank you.

14 CHAIRMAN GETZ: Thank you. Ms. Keene.

15 MS. KEENE: Mr. Chairman, may I have  
16 permission to sit and give me closing statement?

17 CHAIRMAN GETZ: Please.

18 MS. KEENE: Thank you. Hi. Kathlyn  
19 Keene, Intervenor. First, I would like to thank -- take  
20 this opportunity to thank the Committee, Mike Iacopino,  
21 and all of the parties involved in this Application  
22 process. I appreciate your patience. It isn't something  
23 that I've ever done or have been involved in before, and  
24 everybody's been very patient with me, and I appreciate  
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1 that. And, before I go on, I would also remind you that  
2 there are two bears looking in at you, and may have roamed  
3 in this area. So, please pay attention. They're  
4 listening.

5 I will begin by saying that I am opposed  
6 to this Project. After many months of digesting the  
7 Application documents, testimony, reports, and  
8 cross-examination statements, impacts to the environment  
9 stood front and center. My concern for the environment  
10 grew as information was presented by the experts,

11 including those on the federal level. It became  
12 increasingly apparent that the public notice, SEC  
13 Application, and other documents lacked essential  
14 information.

15 I do not oppose wind energy facilities,  
16 when they are appropriately sited. Testimony of Will  
17 Staats and Jill Kelly, regarding high-elevation habitat  
18 lands, have long been designated by the New Hampshire Fish  
19 & Game as a critical component of the landscape and  
20 provide unique habitat features for a variety of wildlife,  
21 which include state and federal listed species. Under  
22 this Project, significant portions of high-elevation  
23 habitat will be greatly impacted, blocks of spruce-fir  
24 that are remote and contiguous. The full impact of this  
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1 Project extends through all four high-elevation lands  
2 3,400 -- I'm sorry, 3,747 acres, as recorded by the  
3 Applicant. Bicknell's thrush have a restricted breeding  
4 range and limited extent on its specialized habitat, makes  
5 the Bicknell's thrush one of the most vulnerable bird  
6 species breeding on the Project area. Reduction and  
7 fragmentation of the limited habitat may have long-term  
8 negative impacts on local and regional populations of this  
9 species. In summation of their testimony as wildlife  
10 biologists, they report the Project will have an  
11 unreasonable adverse effect on the natural environment, in  
12 particular, the high-elevation ecosystem and the wildlife  
13 that rely on it.

14 We believe that this Project will  
15 fragment limited and sensitive high-elevation habitat,

16 which is a rare component of New Hampshire's forest  
17 ecosystem, and is critical habitat for American marten  
18 Canadian lynx, Bicknell's thrush, and the American  
19 three-toed woodpecker. And, we also feel, in their  
20 current condition, Mount Kelsey and Dixville Peak are  
21 blocks of relatively undisturbed habitat, which are  
22 important both locally and regionally. This Project has  
23 the potential to reduce the carrying capacity of these  
24 habitats for these species by eliminating habitat and  
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24

1 negatively influencing wildlife behavior and their use of  
2 these areas.

3                   Testimony of the AMC: The AMC supports  
4 terrestrial wind power development when it is  
5 approximately -- when it is appropriately sited to avoid  
6 impacting regional [ridgeline?] areas with ecological,  
7 scenic, and/or regional [recreational?] values of  
8 recognized state and regional or national significance.  
9 The ridgeline forests of Mount Kelsey possesses all the  
10 characteristics of old-growth forest. Given the extreme  
11 scarcity of primary old-growth forests in the state and  
12 region, the high-elevation of disturbances to surrounding  
13 forests from timber harvesting, Mount Kelsey is an  
14 inappropriate area for any type of development. And, this  
15 was in their testimony.

16                   Critical wildlife habitat for several of  
17 the state's rarest and most vulnerable wildlife species,  
18 as described in the New Hampshire Fish & Game progress  
19 report in the Applicant's studies, Mount Kelsey provides  
20 high-quality habitat for three wildlife species of high



1 Hampshire's Renewable Energy Portfolio. We consider  
2 appropriate siting to include avoidance of substantial  
3 impacts to sensitive habitats and species of conservation  
4 concern. The turbines on Dixville, Northern Owlhead  
5 Mountain, and especially Mount Kelsey, failed to meet  
6 these criteria. High-elevation spruce-fir forests occur  
7 from approximately 2,500 feet to approximately 3,500 feet  
8 elevation in New Hampshire's White Mountains and north  
9 company. Compared to forests at lower elevations, these  
10 sites are shallower, more nutrient-poor soils, higher  
11 levels of precipitation, stronger winds, colder  
12 temperatures, more frequent exposure to ice damage, and  
13 stronger growing season. These conditions result in low  
14 tree species diversity, very low growth rate and high  
15 mortality rates.

16 In addition to highly sensitive habitat,  
17 the high-elevation forests on Dixville Peak and Mount  
18 Kelsey support several species of conservation concern in  
19 the State and region, including American marten,  
20 Bicknell's thrush, and possibly American three-toed wood  
21 pecker you please. Turbine placement above 2,700 feet  
22 will result in direct habitat loss and additional habitat  
23 degradation for these species.

24 High-elevation spruce-fir forests of the  
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1 northeastern North America provide the only breeding  
2 habitat to the Bicknell's thrush. Which has the smallest  
3 breeding range of any North American bird. For this

4 reason, habitat loss has more significant implications for  
5 this bird than more widely distributed species. While  
6 this thrush spends most of its time foraging below the  
7 forest canopy, the males perform evening courtship  
8 flights, which would take them into the rotor swept zone  
9 and increase the risk of mortality. In view of this, the  
10 Society strongly urges the SEC to deny a license for  
11 proposed turbines located above 2,700 feet.

12 Comments of the Nature Conservancy:

13 Their mission is to preserve the plants, animals, and  
14 natural communities that represent the diversity of life  
15 on Earth by protecting the lands and waters they need to  
16 survive. The Nature Conservancy has specific interests in  
17 this Project that derive from (1) the wildlife  
18 biodiversity and significant habitat features documented  
19 to occur in the Project area, which has been extensively  
20 detailed by the Audubon Society, the Application Mountain  
21 Club, New Hampshire Fish & Game, and the Applicant. And  
22 (2), they own a large tract of land nearby, 10,700 acres,  
23 known as the "Vickie Bunnell Preserve".

24 Their greatest hope for the Project was  
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1 to see it move forward, get licensed and permits, and  
2 produce clean power energy, with adequate mitigation for  
3 adverse impacts, but without the eight turbines and  
4 associated infrastructure proposed for Mount Kelsey.

5 Absent evidence that the proposed towers  
6 on Mount Kelsey are absolutely essential for the Project  
7 to go forward, we believe that this part of the Project  
8 proposed would have an unreasonable adverse effect on the

9 natural environment under Chapter 162-H:16, IV.  
10 United States Environmental Protection  
11 Agency: Granite Reliable proposes to fill 14 acres of  
12 wetlands, including eight vernal pools, alter 200 acres of  
13 upland, and clear an additional 100 acres of wetland in  
14 upland to build a 100 megawatt wind energy facility in  
15 Coos County. The wetland impacts are primarily from  
16 expanding existing log roads, 19 miles, and building  
17 additional dirt roads, 12 miles, impacts would also result  
18 from the construction of 33 windmills that would stand  
19 400 feet tall, staging areas, substations, and  
20 transmission lines, 6 miles. The site resides on  
21 80,000 acres of land owned by three commercial logging  
22 companies. The largest impacts would be to wildlife  
23 habitat in high-elevation natural communities. The  
24 Project could also cause some adverse impacts to  
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1 recreation and water quality functions.  
2 The wind towers would be visible on one  
3 of New Hampshire's highest ridges, largest remaining open  
4 space areas, including the 100-mile Cohas Trail. We  
5 encourage the court to work with others more knowledgeable  
6 in visible impacts to judge the extent of this effect.  
7 Also, despite the effort made to replace culverts, the  
8 Project would add additional sediment to wetlands and  
9 streams, most from road construction. This would  
10 especially be true in high-elevation areas in early  
11 spring, when culverts may be frozen, blocked by ice, and  
12 run-off is rapid. As EPA Staff has said in previous  
13 discussions with the Corps, we believe the scale of the

14 Project, the extent of road building, and affected land  
15 area, the extensive impacts to wetlands and vernal pools,  
16 and the sensitivity of the high altitude are all factors  
17 that would support a Corps decision now to prepare an  
18 environmental impact statement under the National  
19 Environmental Policy Act.

20 United States Department of Interior,  
21 comments of the Fish & Wildlife Division: The report  
22 points out many in which the Application has fallen short.  
23 The site selection and on-site planning activities, up to  
24 and including layout of the roads, turbine strings, and  
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1 turbine pads were accomplished prior to wetland  
2 delineation work being initiated and completed. No  
3 wetlands water delineation work presented in the SEC  
4 Application to support the site selection process, which  
5 took place in 2006. The high-elevation wetland systems on  
6 these mountains, Dixville, Kelsey, Owlhead, and Fishbrook,  
7 warrant special protection and recognition due to their  
8 limited occurrence to the region. Their fragile nature,  
9 due to shallow cold soils and other harsh environmental  
10 conditions, and because they serve as critically important  
11 wildlife habitat, the habitat specialists, such as the  
12 three-toed woodpecker, Bicknell's thrush and pine marten.

13 The proposed turbine strings and access  
14 on Kelsey and Dixville ridgelines are overlain on the core  
15 of the available breeding habitat for Bicknell's thrush,  
16 creating a serious land use conflict. The breeding bird  
17 survey transects established by New Hampshire Audubon were  
18 laid out and conducted along the Kelsey and Dixville

19 ridgelines at about 2,900 feet elevation and above.  
20 Construction of roads and turbine pads through the core of  
21 the Bicknell's breeding habitat would eliminate about  
22 90 acres of high-elevation habitat along the ridgelines,  
23 and cause any remaining adjacent habitat to be less  
24 suitable or unsuitable, at least for an extended period of  
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1 time. Indirect effects caused by these long linear  
2 clearings could include change in microclimate that would  
3 affect the remaining adjacent spruce-fir and fir habitat  
4 by causing more wind throw, greater seedling mortality due  
5 to temperature and moisture extremes, and from  
6 freezing/frost action in these thin soils.

7                   Significantly adverse effects on the  
8 breeding life stage of Bicknell's thrush caused death  
9 and/or injury in the rotor swept zone and wind wake are  
10 during aerial displays in the breeding season and  
11 pre-migratory period may cause these mountaintop sites to  
12 shift from stable or recruitment sources to population  
13 sinks.

14                   Changes in the hydraulic regime to  
15 numerous wetlands and waters due to interception of  
16 surface and groundwater flow for extensive cuts-and-fills  
17 and blasting to construct access roads and turbine pads in  
18 this montane setting. The structure and function of  
19 aquatic ecosystems would be adversely effected by direct  
20 loss of habitat due to filling from access roads and  
21 turbine pads, adjacent aquatic systems would be adversely  
22 effected due to changes in microclimate, increased wind  
23 throw, extremes in temperature and moisture regime. And,

24 habitat fragmentation effects, such as an increase in edge  
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1 habitat in generalist species, and a concurrent decrease  
2 in the stability of remaining adjacent habitat for  
3 forest-interior bird and mammal species dependent on  
4 interior habitat.

5 By way of contrast, which I feel is  
6 really significant in all of this, the recent Deerfield  
7 Wind Project in Searsburg, Vermont was found to require an  
8 environmental impact statement, even though it is a much  
9 smaller project. It's 35 megawatts versus 100 megawatts.  
10 Deerfield would involve two ridges; GRP, four. Five miles  
11 of above-ground and underground transmission lines; GRP,  
12 30 plus. Eighty acres of land sharing -- clearing; GRP  
13 300 acres. Four miles of new roads and one mile of  
14 upgrade; GRP, 12 new roads, 19 upgrades. And, less than a  
15 tenth an acre impact to water and wetlands; GRP 14. In  
16 addition, Deerfield would not impact old-growth habitat of  
17 an imperiled species. In summary, they do not believe  
18 that this Application complies with the restrictions on  
19 discharge contained in the guidelines. The Project fails  
20 to comply with both the offset and on-site alternative  
21 analysis, and would cause or contribute to significant  
22 degradation and, moreover, the Project would likely have a  
23 significant effect on the environment, which triggers the  
24 need for an environmental impact statement. Accordingly,  
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1 we recommend an EIS to be prepared prior to any decision  
2 being made to issue or deny a permit for this Project.

3                   The excerpts from the experts' testimony  
4 have common threads throughout. The New Hampshire Fish &  
5 Game wildlife biologists, Will Staats and Jill Kelly,  
6 asserted their concerns on the habitat and wildlife on  
7 sensitive high-elevation areas. The mitigation settlement  
8 does not address their original concerns, and they stand  
9 by their original testimony. The experts have all come to  
10 the same conclusion, that Mount Kelsey has important  
11 significance to the environment and wildlife habitat. The  
12 AMC, TNC, and Audubon Society concur that no construction  
13 should happen on Mount Kelsey. Dixville, while not as  
14 significant, hold similar concerns. The Bicknell's  
15 thrush, a threatened species, is mentioned in most of the  
16 reports and testimonies, will put in -- will be put in  
17 grave danger by this project.

18                   The Mitigation Settlement does not  
19 address these issues sufficiently. Most importantly, the  
20 federal government organizations have stressed the  
21 importance of an environmental impact statement with good  
22 cause. The State of New Hampshire should not ignore Coos  
23 County's dedicated biologists, Will and Jill, that wrote  
24 an incredibly insightful testimony that brought our  
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1 attention to the significance of these high-elevation  
2 forests. They should be commended for their great work  
3 and should be supported by their superiors.

4                   It is not these biologists that have  
5 caved to green. And, I do not mean "renewable energy". I  
6 do not claim to be an expert, however, the testimony that  
7 was given by the experts in this process have been very

8 informative, thorough, and exact in their comments and  
9 findings. The Mitigation Settlement has not addressed  
10 Mount Kelsey. Eight turbines are still proposed, when all  
11 the experts say it should never be developed by any  
12 proposal.

13 This Application should not be permitted  
14 without an environmental impact statement, as recommended  
15 by the federal officials and many of the private  
16 organizations. I ask that the Committee members to not  
17 make the mistake of ignoring the very important data that  
18 the Department of Interior has provided you. The  
19 Department of Environmental Services' report agrees with  
20 the Department of Interior. This Application should not  
21 be permitted without an environmental impact statement.  
22 In fact, there is conclusive evidence and data supporting  
23 a denial of this Application under Chapter 162-H,  
24 Section 16(4) as it stands now. I ask that you deliberate  
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1 carefully and thoroughly. And, I ask that you visit the  
2 site. It speaks volumes. And, thank you for your time.

3 CHAIRMAN GETZ: Thank you. I notice  
4 Mr. Seiler has arrived. Would you like to make a closing  
5 statement?

6 MR. SEILER: No.

7 CHAIRMAN GETZ: And, also, before we  
8 call Ms. Linowes, there were a couple of other individuals  
9 who haven't participated in the proceedings, but who have  
10 been granted intervention. If they happen to be here,  
11 they have an opportunity to make a closing statement.  
12 And, so, I'd just note that for the record. And, seeing

13 that no one is taking up that offer, then I take it that  
14 other parties who were granted intervention are not here  
15 to make a closing statement, other than we'll turn to Ms.  
16 Linowes, then we'll go to Mr. Roth, and then we'll close  
17 with the Applicant. Thank you.

18 MS. LINOWES: Mr. Chairman, can --

19 CHAIRMAN GETZ: Either way, as long as  
20 everyone can hear and the court reporter can hear.

21 MS. LINOWES: Thank you, Mr. Chairman,  
22 members of the Committee, Attorney Iacopino, --

23 MR. MULHOLLAND: I'm sorry to interrupt,  
24 Mr. Chairman, but I just have to make an objection. I'd  
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1 I like to move to strike the portion of Ms. Keene's  
2 testimony that allege improper motives on behalf of Fish &  
3 Game. There is no basis in the testimony or the evidence  
4 or anything presented in the hearing to that, and we ask  
5 that be stricken from the record.

6 CHAIRMAN GETZ: Well, I'll take the  
7 motion under advisement. I guess there's a motion, you  
8 have an opportunity to respond, Ms. Keene. Let's just  
9 make sure that Mr. Patnaude can hear you, though, if you  
10 want to respond.

11 MS. KEENE: He can hear me. My voice is  
12 very loud, isn't it? I just -- I don't see the need for  
13 them to be objecting in something that I have, you know,  
14 gone over all the reports, and I don't believe that there  
15 is anything in my closing arguments that isn't true, and  
16 don't feel the need for them to be objecting to any part  
17 of my closing arguments.

18 CHAIRMAN GETZ: Okay. Thank you. Well,  
19 I'll take the motion under advisement. Ms. Linowes.

20 MS. LINOWES: Thank you, Mr. Chairman.  
21 Mr. Chairman, members of the Committee, Attorney Iacopino  
22 and the other parties, I wish to extend my thanks to all  
23 of you for this opportunity to participate in these  
24 proceedings. It's been quite an interesting two weeks,  
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1 and more so. I recognize that, as you ponder a decision  
2 on whether to certify this Project, you'll be  
3 formulating your thoughts in accordance with RSA 162-H.  
4 And, I would expect final briefs that are presented to the  
5 Committee to be much more technical in nature. I'd like  
6 to take an opportunity to be a little less technical and a  
7 little more responsive to some of the things that we've  
8 heard during these two weeks. I missed the prefiled --  
9 the prehearing conference on March 5th, where the parties  
10 were identifying and numbering the exhibits. And, you've  
11 been very patient with me as I brought exhibits.

12 I'd like to tell you where I was, and  
13 because I think it has -- matters. I was in Chicago  
14 presenting at the Midwest Energy Conference, which was  
15 sponsored by the Midwest Energy Bar Association. And, it  
16 was a two-day conference. The attendees consisted of  
17 utilities, regulators, policy wonks, and a lot of lawyers.  
18 And, the keynote speaker was FERC Commissioner Mark  
19 Spitzer. He talked about the new National Grid system  
20 that was borne out of the Energy Act of 2005. And, that  
21 National Grid is reliant in part on concepts that have  
22 been brought forward by the Department of Energy that

23 calls for a massive wind energy development, basically  
24 turning the midsection of this country, from Nevada to  
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1 Ohio, from North Dakota to Texas, into a gigantic wind  
2 energy facility. It calls for crisscrossing the United  
3 States with 19,000 miles of 765 kV transmission lines.  
4 It's on an order that the average person walking the  
5 street has no idea what's being considered. And, the idea  
6 is to deliver wind energy to the eastern coast --  
7 east/west, east coast and west coast, where our large  
8 population centers are. Spitzer told the conference  
9 attendees, who were dominated by, again, utilities and  
10 regulators, said the States needed to get on board or the  
11 federal government would impose the siting decisions on  
12 them. It was one of the most sobering experiences for me.

13 When it was my turn to stand up and  
14 present, I opened with a statement that basically said "I  
15 represented the millions of Americans out there that, if  
16 they knew what was being discussed in that room, they  
17 would be shocked." The audience first thought I was  
18 kidding, until they realized I was dead serious. And,  
19 when I was done giving my pitch that there was certainly a  
20 better way than turning our country into a wind energy  
21 power facility, a gentleman approached me and looked me in  
22 the eye and said "Finally, someone has spoken the truth."

23 Now, I know what I said, how does that  
24 apply to this proposal here? I think it has everything to  
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1 do with this proposal. There are policies right now,  
2 rules, regulations that are being bandied around, and  
3 worse, implemented, that, if left unchallenged, will  
4 result in the massive industrialization of our rural and  
5 wilderness areas in the name of wind energy. That is the  
6 climate into which these hearings are proceeding.

7 There's no question that many, and  
8 perhaps most, in this country chartered with making energy  
9 policy decisions and siting decisions are caught up in a  
10 renewables fever. And, we find ourselves in a place where  
11 "renewables at any cost" is the driving factor. We're  
12 asked to "find a way to get the project approved, even if  
13 it means ignoring basic tenets of electric generation  
14 siting and environmental sensitivities."

15 I do not believe for a second that any  
16 one of you has entered into these proceedings predisposed  
17 to support this Project. But I do believe that Noble  
18 Environmental, by its Application and its words, believes  
19 there are entities in this State who may opt to look -- to  
20 not look too closely, or worse, look the other way on some  
21 of the questions that are still -- that were raised as  
22 part of this Application. I'd like to list a couple of  
23 those for you that came forward as part of these  
24 proceedings.

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1 We opened the hearings with the collapse  
2 of the Noble turbine in Altona, New York. We were told  
3 the turbines have an availability rate in the high  
4 90 percent, but no evidence in the record to substantiate  
5 the claim. How safe and reliable are the turbines? We

6 can't know, but for the Applicant's assertions. We  
7 learned that, should a fire occur at the Project site, as  
8 it did with the New York turbine collapse, the turbines on  
9 Kelsey and Dixville, which are now ten or more miles away  
10 from the entrance of the Project site on Dummer Pond Road,  
11 it's that -- that distance has to be traveled. In  
12 addition, first responders are miles away from the  
13 entrance of Dummer Pond Road. We don't know how much of  
14 the mountain will burn in a fire event before anyone  
15 trained and equipped for fire suppression can arrive.

16 There are two reports included in the  
17 Application as proof that wind facilities do not diminish  
18 property values. Yet, one of the reports, the Hoen  
19 report, on Madison County, New York, included a scathing  
20 critique of the other, concluding its results were  
21 extremely weak, if not entirely misleading. The author of  
22 the Hoen report cites in his paper that the conclusions of  
23 his work apply only to Madison County and communities  
24 similar, but nowhere in the Application does the  
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1 Applicant try to compare the Project site to the farming  
2 communities in Madison, and tell us how we should draw any  
3 conclusion from the reports he included.

4 The Applicant provided 33 hazard  
5 determination letters from FAA that showed a height that  
6 was nearly 30 feet shorter than the turbines proposed for  
7 the Project site. No explanation could be provided on why  
8 the discrepancy, and we're left wondering if the FAA  
9 determinations are even valid.

10 The Applicant's witnesses Pelletier and

11 Gravel stated under cross-examination that New Hampshire  
12 Fish & Game concurred with the Applicant regarding the  
13 scope of the pre-construction studies on birds and bats.  
14 But, in fact, the progress report submitted to the SEC  
15 asserted that "several uncertainties with methodologies  
16 and interpretation of results remain", and cited U.S. Fish  
17 & Wildlife Service recommendation that additional surveys  
18 be done. Mr. Staats stated under cross-examination that  
19 New Hampshire has a cross -- global responsibility to  
20 protect the Bicknell's thrush habitat. This was also  
21 reasserted by Mr. Lloyd-Evans today. Yet, we have no good  
22 understanding of how many Bicknell's thrush will be  
23 displaced from the Project site and what the short and  
24 long-term impacts from the Project will be on that  
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1 species.

2 The Applicant conducted its natural  
3 communities survey in March 2008 with 3.5 feet of snow on  
4 the ground. They returned in June 2008 to conduct a rare  
5 plant survey and admitted it was too early in the season  
6 for some species to be flowering. But that didn't stop  
7 the Applicant from concluding the project would pose no  
8 significant impacts.

9 The Mitigation Plan entered into between  
10 Fish & Game and AMC and the Applicant includes commitments  
11 to revegetate the roads back to 12 feet, yet we are left  
12 questioning whether the turbine warranty permits for this  
13 condition. We learned Fish & Game and AMC committed to  
14 mitigation lands to be set aside with no apparent effort  
15 on the part of Fish & Game and AMC to evaluate the

16 mitigation lands to see if the properties matched the  
17 habitat quality that will be lost. Further, Drs. Mariani  
18 and Sanford testified that no one bothered to inventory  
19 the wetlands that will be lost to ensure we can create  
20 comparable wetlands or at least those of equal value.

21 We learned that \$200,000 was offered as  
22 monies to cover the cost of post-construction studies to  
23 determine the impacts on marten and other special species.  
24 But there appears to be no validation as to whether the  
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1 money was enough or what scope of work would be covered.  
2 Absent comprehensive baseline studies, it's not clear how  
3 do you know what the true post-construction impact would  
4 be. And, as for buying mitigation lands elsewhere, the  
5 land Mr. Staats proffered on cross-examination were sites  
6 that were already cut; the very action we are told we need  
7 to avoid.

8 And, finally, we learned that, according  
9 to DES, the Applicant demonstrated "by plan and example  
10 that each factor listed in the rules was considered in the  
11 design of the Project", and, by inference, this  
12 alternative has the least adverse impact on the area and  
13 the environment. And, yet, we learned from Fish & Game  
14 that planning activities up to and including layout of the  
15 roads, turbine strings, and turbine pads were accomplished  
16 prior to wetland delineation. The list goes on and on.

17 The decision by this Committee may be  
18 tempered by the recent calls for an environmental impact  
19 study by EPA and Fish & Wildlife Service, but that doesn't  
20 relieve you of your decision-making responsibility. The

21 people of New Hampshire have an expectation that you are  
22 the experts, and that this Committee will be deliberate in  
23 its review of the evidence. That your decision will be  
24 grounded in the facts, and not on the politics. I believe  
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1 Noble expects you to look past the holes in their  
2 Application and decide on the politics. Without solid  
3 information to base your decision, don't find a way to  
4 make this work. Don't lower the State's standards to  
5 Noble's standards.

6 I ask that you deny this certificate.  
7 And, if Noble is serious about this Project, it should  
8 resubmit a more informative Application, with the  
9 understanding that the facts will decide the outcome and  
10 not the politics. Thank you.

11 CHAIRMAN GETZ: Thank you, Ms. Linowes.  
12 Mr. Roth.

13 MR. ROTH: I'm going to be careful what  
14 I say, I don't want Evan to jump all over me. I'm not  
15 going to run down to the Fish & Game Department, though.  
16 My role in this is defined by the statute. And, the  
17 statute says that my job is to work here to protect the  
18 quality of the environment, and in balancing that with  
19 seeking to assure an adequate supply of energy. And, when  
20 I look at that, I tell myself -- I think what I have to do  
21 is to make sure that the Applicants meet their burden, and  
22 that, in the end, I'm satisfied that, after all the  
23 evidence is in, all the evidence is heard, all the  
24 pleadings are filed, that the Project does strike an  
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1 appropriate balance between the need for energy and the  
2 impacts on the natural environment, and that those impacts  
3 on the natural environment, whatever the need for energy,  
4 are not unreasonable. I know that's a double negative,  
5 but that's the way it comes out.

6 Now, we heard 20 witnesses or read their  
7 testimony. We've seen thousands of pages of documents,  
8 charts, maps, pictures, hours and hours and hours of  
9 hearings. We toured the site on a rainy, cold day, when,  
10 actually, as we were emerging from Dixville Notch, it was  
11 snowing. That tour does not strike me as a really good  
12 opportunity for anybody to make an assessment on what the  
13 visual impact of this will be on the countryside up in the  
14 Coos County area. And, that's a point that really bugs  
15 me.

16 I retained Dr. Sanford, Dr. Mariani, Mr.  
17 Lloyd-Evans, and Mr. Sundstrom, experts in their fields,  
18 to provide assistance to the Committee and to myself to  
19 understand the complicated issues of their subject matter.  
20 We had a Wetlands Application, a Terrain Alteration, Water  
21 Quality Applications, that were, I don't know, I'm not  
22 that good at this, but conservatively 5 to 10,000 pages,  
23 three or four binders this thick (indicating). And, I  
24 wanted somebody else who knew the science to look at that.  
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1 So, that's why we brought in Dr. Sanford and Dr. Mariani.

2 The bird issues I believe were  
3 important, so we brought in Dr. Lloyd-Evans. And, when we  
4 had a very complicated financial structure, and what I

5 considered to be "vague" and unsupported statements that  
6 they would find the money somehow someday, we brought in  
7 Mr. Sundstrom to evaluate their financial capacity.

8 After looking at those, all that  
9 evidence, and evaluating it against the various issues,  
10 and the issues are this, and I think spelled out in  
11 162-H:16, IV. And, the first part is that the Committee  
12 is consider the available alternatives, and then makes  
13 findings about the managerial and technical capability of  
14 the Applicant, the financial capability of the Applicant,  
15 the environmental impacts of the Project, the consistency  
16 of the Project with energy policy of the State of New  
17 Hampshire, the consistency of the Project with the orderly  
18 development of the region, and whether the Project has an  
19 unreasonable adverse effect on aesthetics.

20 And, after looking at that, and this is  
21 sort of my opening summary, I cannot, after sitting  
22 through this, conclude that the Applicant has met its  
23 burden, on many of these, if not all, of these particular  
24 -- of these areas. First, let's look at the alternatives.

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1 There's been little or no attention and no evidence on  
2 alternative sites or alternative configurations of this  
3 facility. We've heard a little bit about the boogie man  
4 of logging in the area, and somehow the Project is going  
5 to save the area from being logged. And, I'll have more  
6 about that in a few minutes.

7 But one alternative that we did hear  
8 about, which involves doing essentially nothing, was  
9 evidence that, if this Project hadn't come along,

10 conservation groups probably would have put easements on  
11 this area, or certainly were working to it, and would have  
12 preserved the area from logging and other activities.  
13 Then, we heard testimony from Mr. Sundstrom who provided  
14 alternatives, models, showing that even a reduced project  
15 could be financially profitable and an attractive  
16 investment. While those models aren't perfect, that is  
17 evidence. On the other hand, we don't have any other --  
18 any evidence from the Applicant saying, you know, "our  
19 assertions that it doesn't work other than as we present  
20 it are true." They simply sat there and said "we don't  
21 think it works, you know, in any other configuration."  
22 That's not evidence, that's just a statement.

23                               With respect to the consistency with the  
24 energy policy, there's some evidence that the state needs  
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1 more energy, though I think it's clear that New Hampshire  
2 is an exporter of energy, of electrical energy. I think  
3 there's some evidence that renewable energy sources are  
4 desirable and necessary. And, you know, in the Lempster  
5 Project, I supported that project, partially on that  
6 basis. There's also -- But there's no evidence that wind  
7 is the preferred energy -- alternative energy alternative.  
8 You know, there are other plants that might be delayed,  
9 biomass facilities, with the queue. With the Applicant's  
10 position on the queue, they have potentially a blocking  
11 role. If they don't get this project built for two or  
12 three years, nobody else could move forward perhaps. Even  
13 other wind projects, that might be sited in other  
14 locations, larger wind projects that might be sited in

15 less environmentally sensitive areas might be delayed,  
16 might be held back because of this.

17 We had some evidence about grid  
18 stability. The system impact study that was presented,  
19 the evidence, in my view, on that issue shows more  
20 questions than answers. We heard that, you know, in the  
21 testimony back in July, that the study was being  
22 finalized, in July, and we're still seeing an incomplete  
23 and interim study that was done. Which is one of my other  
24 complaints. This is -- I understand that, to a certain  
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1 extent, and I believe the statute allows modest  
2 modifications to the Application while the process is  
3 ongoing. But this is a process -- a project that was  
4 being built while we're talking. And, as I understand the  
5 way this fast-track process is set up, and the way the  
6 Application is supposed to be done, it's supposed to be  
7 pretty much ready to hit the road when it makes the  
8 Application. That's not been the experience that I've  
9 seen here. There's been some evidence about production  
10 and capacity. But I look at that and I think "okay,  
11 perhaps we're going to get 25 to 30 megawatts out of it.  
12 There's a lot going on here to get that -- to get a fairly  
13 small power plant online. There's a lot of fairly  
14 significant and serious environmental impacts for a fairly  
15 modest amount of electricity. And, then, we heard about  
16 the REC market. You know, the REC market is down, and,  
17 apparently, at least some of the evidence is that it's  
18 saturated, and that New Hampshire doesn't really need any  
19 additional REC credits, and Massachusetts may be flooded

20 with wind credits from New York, perhaps even from  
21 facilities that the Applicant owns.

22 Moving to the orderly development of the  
23 region. The evidence concerning the energy infrastructure  
24 has to be constructed or improved. We look at \$8 million  
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1 being spent just to get this process -- just to get this  
2 Project online, just to get the loop ready for this  
3 Project. Is that really the best way to make an  
4 investment in the Coos Loop? We learned about, you know,  
5 perhaps a delay in biomass projects, although the  
6 gentleman this afternoon who didn't testify or allow  
7 himself to be cross-examined about his views on this,  
8 suggested that perhaps that's not true. And, I've also  
9 already mentioned, will other more viable wind projects be  
10 delayed because of this? I think it's worth noting that  
11 Coos County, I think it's pretty clear that a biomass  
12 project or several biomass projects are actually going to  
13 provide a number of real jobs. You know, we've heard  
14 about, you know, the economic impact here. The best that  
15 can be said is we're going to get six jobs out of this.  
16 But there's no compelling evidence beyond unsupported  
17 figures in the Application documents that we're going to  
18 have, you know, a bunch of short-term construction jobs  
19 that many of which will be held by people from  
20 out-of-state. Is that orderly develop of the region, to  
21 have sort of a gold rush of construction jobs and then  
22 nothing? Will that drive away the tourism that Coos  
23 County thrives on, that's Coos County's bread and butter,  
24 when the initial curiosity of people coming to look at the

1 wind farm wears off? Will the hunters and fishermen,  
2 boaters, snowmobilers, hikers and campers want to come  
3 back? They come here because, as was mentioned the other  
4 day, the 13 Mile Woods, there's nothing but woods for  
5 13 miles. That's important to see. And, when people come  
6 here for that, will they keep coming, when the 13 Mile  
7 Woods also has machines in it?

8 Real estate values: Ms. Linowes has  
9 made a compelling case about the impact, whether there is  
10 or is not an impact on real estate values, and I believe  
11 Ms. Keene also spoke about that. And, what we have is  
12 essentially the Applicant shrugging and saying "there's no  
13 evidence that it will hurt." Is that enough for them to  
14 meet their burden on this? I don't think so. It doesn't  
15 seem -- that doesn't seem like that's the standard we  
16 should be applying. With respect to its impact on  
17 aesthetics, you know, everybody's heard the old saying  
18 "Beauty is in the eye of the beholder." And,  
19 Ms. Vissering, during her testimony, admitted that she  
20 likes the way wind turbines look. And, you know, then we  
21 looked at the picture of Millsfield Pond, and the wind  
22 turbines that were placed in the photo simulation above  
23 Millsfield Pond. And, you look at that, and you say -- I  
24 have to say to myself, if that isn't a substantial and  
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1 unreasonable impact on a visual scene, what is? And, if  
2 she can't think that that's a substantial and unreasonable

3 impact, how can we believe her about any of the others?  
4 So, now we're going to have the wind turbines visible from  
5 the 13 Mile Woods, visible as people drive from Errol to  
6 Colebrook, through the Dixville Notch, visible from the  
7 hiking trails. We're going to see infrastructure, lines  
8 and poles along Dummer Pond, Phillips Pond. The visual  
9 impact of this are going to be huge. And, these are in  
10 some of New Hampshire's most treasured scenic features,  
11 the 13 Mile Woods, Dixville Notch, and Lake Umbagog.  
12 Northern reaches of Lake Umbagog, where people really  
13 seriously go to get away from it all. You can see from  
14 that picture, from that panorama, the photo illustration  
15 that they created. You can see those turbines from there.  
16 And, at night, you'll see the lights.

17 Sure, the wind turbines won't be visible  
18 actually in the Notch. But it's the scenic drive that  
19 matters. People don't stop in Dixville Notch and get out  
20 and look around, they drive through it. If you stopped  
21 there, you'd be nuts. You'd get run over by a logging  
22 truck. But people drive through it and they're impressed  
23 by that. You go over that crest and you think you've just  
24 driven into Colorado. And, you know, in my view, when I  
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1 drive down the 13 Mile Woods, that's the closest thing I  
2 can think of to Yellowstone National Park, without going  
3 to Yellowstone. And, that's going to be different. That's  
4 going to really change.

5 The managerial and technical aspects of  
6 the facility: You know, we've been able to meet some of  
7 the people who do this, and some of people involved in

8 this project. And, I guess I'd say they seem to be good  
9 people. They don't seem to be dishonest or sloppy or  
10 anything like that. But is this the team you really want  
11 for the first high ridge project in New Hampshire?  
12 They're inexperienced on this kind of work. They're  
13 stretched out. I think their company is in a state of  
14 retraction. They've put their developments on hold.  
15 They're laying people off. Their money is tight. We have  
16 the Altona situation. They have very little operating  
17 history in general for wind farms. You know, they have,  
18 what, 700 megawatts in operation, but only really for the  
19 last two years or so. And, they have not -- no operating  
20 experience for a project, operating or construction  
21 experience, in a project of this size. And, then, we have  
22 their construction engineer, Horizons. They have never  
23 done a wind farm project or they have never done a project  
24 this big. And, we had Mr. LaFrance say, when it was  
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1 suggested, "Hey, do you think it makes sense to perhaps  
2 build some retaining walls?" And, his response was "I  
3 wouldn't want to be the engineer to build that." That, to  
4 me, you know, this might be a good project, but it's not  
5 quite ready. It's not ready for the major league. And,  
6 then, we come to the financial stuff, before we get to the  
7 financials, the last point. Do we want this developer to  
8 learn on the job, in Coos County, working on Mount Kelsey,  
9 working with Dixville Notch in view?

10 Now, the financial aspects, you know, we  
11 had testimony, I think Mr. Lowe and Mr. Wood were very  
12 clear, they don't have the money in the bank to build

13 this. Their parent company doesn't have the money in the  
14 bank to built this. They don't have any loans committed,  
15 they don't have loans on term sheets. They don't have the  
16 money. They don't have the money in loans, they don't  
17 have it in cash. They don't have the equity contributions  
18 lined up that they need in order to do their financing  
19 structure. They don't have a purchase power agreement,  
20 they don't have an energy hedge. There's a lot of  
21 uncertainty about the Stimulus Package and how it will  
22 work. And, whether -- you know, you've all been following  
23 the news, with respect to AIG and the other companies,  
24 where they have gotten Stimulus money, and people look at  
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1 it and they go "Oh, my gosh, what is going on?" And, the  
2 Congress reacts and changes it. We could see very tight  
3 regulations that make this less than an easy thing to do.  
4 And, while, you know, Mr. Sundstrom testified in his  
5 direct testimony "no plan", on cross, he said "yes, it  
6 seems like they have a plan." I want to show you, their  
7 plan, the front page of their plan is this. This was  
8 produced in response to a request that we made at the  
9 technical session. It's dated March 2009. This Applicant  
10 has known about this Project since July, and had just  
11 produced a plan in response to a data request by my expert  
12 at the beginning of March. This is only the 19th of  
13 March. This plan should have been done, should have been  
14 fleshed out months ago. And, now they're creating this  
15 document in response to a discovery request. That, to me,  
16 does not suggest that they have the financial capability  
17 that this is ready for -- ready for construction or ready

18 for operation in Coos County, or anywhere in New  
19 Hampshire.

20 Then, we have their decommissioning  
21 plan. Their plan is weak. It's got holes in it,  
22 literally. You look at the document, there are spaces,  
23 empty spaces. And, I don't think, as configured, as  
24 present, it protects the community, the state, or the  
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1 natural environment. And, I agree with the position of  
2 AMC that that plan should be, if you write a certificate,  
3 that that plan should be part of your certificate, and not  
4 leave it to Coos County officials.

5 Now, the environmental aspect, and this  
6 is where it gets particularly difficult. And, there are  
7 several areas here. The wetlands: You know, they got  
8 their permit from New Hampshire DES, but the evidence  
9 suggests that the impacts need to be mitigated a lot more.  
10 The mitigation land that they got, that they offer is  
11 nice, but it still leaves a lot of unanswered questions.  
12 We've got 13 acres or so that are really unaccounted for.  
13 And, I think you'll notice in the EPA letter, the EPA  
14 letter, they essentially agree with the conclusions made  
15 by Dr. Mariani and Dr. Sanford. I don't think that this  
16 Committee can simply say its responsibility has ended with  
17 respect to protecting the environment by saying "Oh, well,  
18 DES permitted it. That's enough." You have a greater  
19 responsibility than that.

20 And, then, we heard the testimony of Mr.  
21 LaFrance and Mr. Lobdell. Their view was "well, we  
22 already designed it. We've changed the plans once

23 already. We shouldn't have to fool around with it any  
24 more." We've submitted testimony of Dr. Sanford and Dr.  
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1 Mariani, where we made very clear points about what could  
2 be done to make this better. We sat down with them in an  
3 informal technical session in my office, where we  
4 discussed the plans and we discussed other aspects to make  
5 it better. They didn't pay any attention to any of that.  
6 They didn't change the plans a bit, based on any of the  
7 testimony and the information provided by Dr. Mariani and  
8 Dr. Sanford. I just -- That was really surprising to me.

9 Then, we have the Storm Water  
10 Maintenance Plan that doesn't exist. We have, you know,  
11 hundreds of culverts, miles of road ditches, all kinds of  
12 infrastructure, that there appears to be no plan for  
13 maintaining and keeping operational as we go forward into  
14 the future.

15 The high-elevation habitat: Now, I  
16 think that the Mitigation Plan that is provided is worlds  
17 ahead of what was originally offered. But I still have  
18 some concerns about the way it's structured. I don't like  
19 the fact that they can, under that agreement, they don't  
20 have to do anything for the Fish & Game Department until  
21 the bulldozers get to the 2,700-foot mark. They don't  
22 have to pay the \$200,000. They don't have to pay this  
23 other \$750,000. They don't have to give any deeds to the  
24 Fish & Game Department until they have already made quite  
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1 a bit of construction damage to those mountains. They

2 don't have a plan that makes any sense for restoration of  
3 the cleared areas up on Mount Kelsey and Dixville, in  
4 terms of replanting or revegetating or bringing those  
5 roads back to the 12 foot center. And, as Ms. Linowes  
6 pointed out, it's not even clear that they would be  
7 allowed to do that under their turbine contracts. And, it  
8 was clear that there is going to be rare wildlife species  
9 that are going to be destroyed when this Project is built.

10 With respect to raptors: We heard some  
11 testimony this morning from Mr. Lloyd-Evans about the  
12 Altamont situation. And, the Altamont situation is  
13 interesting, because it taught people who build wind farms  
14 a great deal about how to do it and how not to do it.  
15 And, one of the things they learned about it is you have  
16 to study the raptor population at the site pretty  
17 carefully before you put up the farm. If you build it in  
18 an area where they're feeding, where they're nesting,  
19 where they're roosting, where they're passing through,  
20 they're going to get hit, they're going to crash into  
21 things, and they're going to die. Does this Project have  
22 that, have a program where they studied the impacts for  
23 the raptor population at the site? Not really. And, so,  
24 they could build this, and they could find a Bald Eagle  
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1 that used to fly along the Androscoggin River. Is that  
2 what we want to do? They could find northern harriers,  
3 other species of raptors killed by this project, because  
4 they didn't do their homework before they built it.

5 The bats and the nocturnal migrants:  
6 Clearly, they're not in compliance with the U.S. Fish &

7 Wildlife guidelines. And, according to the testimony of  
8 Mr. Pelletier and Mr. Gravel, they're not even in  
9 compliance with their own methodology. They say "Yes,  
10 well, we go into a location, we consult with the local  
11 officials, and we develop a plan with them. So, they came  
12 to New Hampshire, Fish & Game didn't talk to them, and the  
13 U.S. Fish & Wildlife Service said "do three years' worth  
14 of studies on the Project site." Did they do what Fish &  
15 Wildlife told them? No, they just made it up on their own  
16 and went out and did it. Is that consistent with their  
17 own methodology? Hard to know, because they said their  
18 methodology was to work with local officials and develop a  
19 plan in conjunction with them. They didn't do that. Did  
20 they work -- did they do it in conjunction or conformity  
21 with the U.S. Fish & Wildlife guidelines? Not even close.

22 So, at this point, we're looking at  
23 where we don't even -- our impacts are largely unknown.  
24 You know, Stantec looks at it as "well, other sites have,  
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1 you know, we've done similar studies on those sites, and,  
2 you know, their post-construction mortality seems to be  
3 low. Therefore, it must be the same here." You know, I  
4 took Logic in college, and I think there's a logical  
5 fallacy in there somewhere. But I think it's important to  
6 look at it and, from your perspective, and say "is it  
7 enough to be protective of the environment up here?" I  
8 don't think so. I just don't.

9 We still don't have a plan for a  
10 post-construction study, in any event. We don't even have  
11 a commitment from the Project to do a post-construction

12 study. When I asked before the hearings, one of the  
13 hearing days, "are you going to submit a condition for  
14 post-construction studies?" I was told "Well, let's see  
15 how the cross-examination goes." So, this Committee is  
16 going to have to impose a post-construction mortality  
17 study requirement and perhaps a technical advisory  
18 committee on this project, because they haven't offered to  
19 do it. But, since they haven't offered to do it, that's  
20 part of what tips in the balance of how this project is  
21 going to affect the natural environment. It's not there.  
22 So, how can they look at it and say "Oh, yes, this is  
23 okay, because they're going to do a post-construction  
24 mortality study. And, they're going to find out whether  
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1 it has any real impact. And, if it doesn't have an  
2 impact, good. But, if it does, we'll fix it." But they  
3 don't -- that's not there. So, we can't look at that as a  
4 source of mitigation for the potential harms. And, we  
5 look at the pre-construction studies and their flawed.  
6 They don't have all the information. We heard -- We heard  
7 Mr. Lloyd-Evans this morning say "there's just not enough  
8 information." They haven't done the studies completely  
9 enough.

10 Same with the breeding birds. You know,  
11 we looked at the -- you know, apparently, the Audubon  
12 Society did some studies, and I don't question those  
13 methodology or the result of those studies on  
14 high-elevation areas. But what about the miles of access  
15 roads, what about the roads along Dummer Pond, what about  
16 the power lines. I don't remember seeing in the breeding

17 bird study that they paid much attention to that. And,  
18 yet, and I think as Dr. -- as Mr. Lloyd-Evans said, the  
19 populations at the site are still largely unknown. Those  
20 were sort of -- those are studies to kind of get an idea  
21 of what's out there. But, as far as populations are  
22 concerned, we don't have an idea. So, if they, in fact,  
23 do a post-construction mortality study, we have nothing to  
24 measure it against.

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1 Mammals: There's no evidence presented  
2 that other known populations of animals will not be  
3 harmed. I think it's pretty clear that there are bears,  
4 moose, deer, other creatures that live in this area.  
5 Again, the Project's view is "well, we don't have any  
6 evidence that they will be harmed. We don't have to do  
7 anything about it." Does that meet their burden to show  
8 that that's -- that they can just say "Well, we don't know  
9 of any reason why they would be harmed." Shouldn't they  
10 have some scientific data for that? Shouldn't they have  
11 some scientific information to back that up?

12 Looking at the logging versus wind power  
13 plant. That's seems to be one of the principal  
14 arguments about this: "Well, if we don't build this  
15 power plant, then the place will be logged and we'll  
16 have all this environmental harm anyway. And, if you  
17 think about that, and there are a couple of responses.  
18 Once is, we don't necessarily have the ability to  
19 control what people do when they log their property.  
20 But we do have the ability, through this process, to  
21 control what they do when they build a power plant

22       there. And, so, it's your role not to simply say  
23       "well, it's going to be logged anyway, it doesn't  
24       matter how much harm they do." It's your role here to  
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1       make sure that, if they're going to do it, it's done  
2       right and it's done in the right place. And, so, we  
3       can control that outcome with this process to a certain  
4       extent.

5                       And, then, I listened to Ms. Keene.  
6       And, Ms. Keene is an interesting person. She comes  
7       from this area, and she's very well spoken, and she's a  
8       very strongly spoken person. And, you know, there was,  
9       when she -- you know, there was some discussion at one  
10      of the technical sessions about her definition of  
11      "pristine". And, you know, you can sort of snicker a  
12      little bit about what she thinks about "pristine".  
13      But, when she you listen to what she has to say in here  
14      testimony and her statement here today, she's right.  
15      That there is a difference between building a permanent  
16      structure, with roads and bridges and culverts and  
17      concrete foundations, that's different than building a  
18      logging road, logging it, and then waiting another 80  
19      years to do it again. Logging and forestry really  
20      won't make this that much less of a wild place. It's  
21      temporary. The environment recovers from it. It's a  
22      relatively short-term burden. The wind turbines are  
23      permanent. Massive road building project, for  
24      basically a one-time use, to bring a million ton crane  
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1 -- a million pound crane to walk up the ridge for four  
2 to six months and stand up these turbines and towers.  
3 Big wide curves, with deep blasted cuts-and-fills, and  
4 you saw Ms. Linowes' pictures of these things from  
5 Kibby. That's what we can expect here. That's a  
6 one-time use. You know, it's kind of funny how  
7 everybody is bringing their own grocery bags to the  
8 store now, because the plastic bags are a one-time use.  
9 So, you know, here we got a road, a massive road, to  
10 build a turbine once. And, we've got, you know,  
11 destruction of native vegetation and trees. All of  
12 that, you know, recovery of any of it, we have no idea.  
13 It's going to be gravel and blasting. It's going to  
14 take decades to replace that, if it ever happens.

15 So, Ms. Keene is actually -- is quite  
16 right, that this will be a vastly changed place. The  
17 wild character of that area is going to be gone. And,  
18 in its place a really nice road, with lots of steel and  
19 culverts and poles and wires.

20 For those reasons, and based on what  
21 I've seen of the evidence, I don't think that the  
22 Applicant has met its burden to show that this Project  
23 doesn't create an unreasonably adverse impact on the  
24 environment, on aesthetics, that it's consistent with  
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1 the energy policy, that it's the only alternative that  
2 this Committee should consider. And, from my purposes,  
3 as trying to strike a balance between the need for  
4 power and the protection of the environment, I think, I

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5 honestly believe, that this Project creates more impact  
6 than the power that it will do is worth. Thank you.

7 CHAIRMAN GETZ: Thank you. Mr. Patch.

8 MR. PATCH: Thank you, Mr. Chairman,  
9 members of the Committee. Doug Patch and Susan Geiger,  
10 for Granite Reliable Power. We plan to split the allotted  
11 time that we have this afternoon between the two of us.  
12 So, I'm going to spend about the first 15 minutes trying  
13 to take you through certain aspects of the findings and  
14 the law, and then she will do the latter half of that. We  
15 appreciate the opportunity to make the presentation this  
16 afternoon.

17 GRP respectfully requests that you issue  
18 a Certificate of Site and Facility for this 99 megawatt  
19 windpark and the interconnecting facilities proposed in  
20 this proceeding, to be built, as you know, in the  
21 unincorporated areas of Millsfield, Ervings Location,  
22 Dixville, and Odell, and in the Town of Dummer. We  
23 believe that GRP has met the standard under the law and  
24 the rules. Moreover, we believe that this is really a  
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1 great opportunity for New Hampshire. To diversify its  
2 energy sources, consistent with the change in State policy  
3 that was embodied in the 2007 RPS law. We also believe  
4 that this Project is in a unique position to take  
5 advantage of the federal Stimulus Package, because it can  
6 begin construction within the time frames that are  
7 provided in that federal law.

8 We plan to take you through each of the  
9 findings the Committee must make under the statute, and

10 provide you with examples of evidence in the record that  
11 show that the Applicant has met its burden, and shown by a  
12 preponderance of the evidence that this Project should be  
13 certified. We will have a more thorough description of  
14 the evidence in our memo of law. Rather than site you to  
15 each section of the Application, or the supplement to the  
16 Application, we would like to note that we complied with  
17 the requirement in your rules that the Application provide  
18 documentation on each of the findings required by the  
19 statute. And, we strongly believe that there is more than  
20 ample evidence in the record, through the Application and  
21 supplement, the appendices, the testimony, and the  
22 exhibits to support these findings.

23 The first finding I would like to  
24 address is that the operation of the site and facility is  
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1 consistent with the state energy policy established in RSA  
2 378:37. In addition to the information in the  
3 Application, we point to the testimony of Mr. Decker and  
4 Mr. Lyons. The state energy policy talks about  
5 "diversity" and "reliability of energy sources". Clearly,  
6 adding a 99-megawatt windpark to New Hampshire's resource  
7 mix will contribute toward diversity of energy sources.  
8 Currently, in New Hampshire, we have nuclear, we have  
9 hydro, we have gas-fired, we have biomass, we have coal,  
10 we only have 24 megawatts of wind. This will add to that  
11 diversity, and also to the reliability. That statute  
12 talks about protection of the health of citizens and  
13 protecting the physical environment. There are no  
14 emissions from a windpark. Thus, it protects health and

15 the physical environment by producing electricity in a  
16 that protects both. That statute talks about protecting  
17 the future supplies of non-renewable resources. Since a  
18 windpark provides electricity, without using non-renewable  
19 resources, it will protect these future supplies.

20 The energy policy also talks about  
21 "lowest reasonable cost". And, since, as the testimony  
22 indicated, a windpark is a price taker, and does not set  
23 the regional price of electricity. This facility will not  
24 result in the increase in the cost of power.

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1 Now, as Mr. Roth noted, and I think  
2 others, the Committee must consider available  
3 alternatives. Well, in fact, there is support in the  
4 record for the consideration of alternatives that have  
5 been done by the Applicant. If you look at Mr. Decker and  
6 Mr. Lyons' testimony and you look in the Application,  
7 Noble considered alternatives to this Project. They  
8 considered a smaller project. They considered a Project  
9 with similar output, but twice as many smaller turbines on  
10 more western ridges, that had more environmental impact,  
11 was closer to Phillips Brook Track and the Nash Stream  
12 Forest. Those other alternatives were rejected. They  
13 would have had a greater impact on the environment. More  
14 turbines for the same amount of power. Other alternatives  
15 were evaluated and rejected. As evidenced by the  
16 alternatives analysis that has been submitted to the U.S.  
17 Army Corps, and the Committee has reserved Exhibit 46 for  
18 this analysis.

19 The next standard is that the Applicant

20 has adequate technical capability to assure construction  
21 and operation of the facility, and continuing compliance  
22 with the terms and conditions of the Certificate. And, I  
23 look here to the testimony of Daniel Mandli. Noble has an  
24 Operations Center in Plattsburgh, New York, from which it  
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1 monitors 726 megawatts of wind power, 484 wind turbines,  
2 in seven windparks. And, that's done on a 24/7 basis. It  
3 has increased the size of its staff handling these  
4 operations, so that it now is an operation team of 60  
5 professional s.

6 Adequate managerial capability: Again,  
7 I looked to the testimony of Mr. Mandli, and I looked to  
8 the testimony of Mr. Lowe and Mr. Wood. All three of them  
9 are members of that management team. Although changes in  
10 the financial market and the economy have led to decreases  
11 in the size of some of Noble's Staff, and particularly in  
12 the development area, and a cut-back on some of their  
13 development projects, this, in fact, was the responsible  
14 and prudent approach to take from a financial and  
15 managerial perspective. Despite this, however, Noble has  
16 maintained a managerial team that is leaner, but fully  
17 capable of managing this project and its other projects.

18 Adequate financial capability: I look  
19 there to the testimony of Christopher Lowe and Jeffrey  
20 Wood, as well as to the responses to data requests from  
21 the Committee and others that are in the record. Noble  
22 has done project financings before, and is fully capable  
23 of doing one for this project. It has handled  
24 construction loans of 485 million, 632 million, 100

1 million. Typically, those construction loans are flowed  
2 through into the term loans, and that is the plan here, as  
3 you've heard.

4                   The federal Stimulus Package will help  
5 to stimulate investment, consistent with the goal in New  
6 Hampshire's RPS policy of stimulating investment in  
7 renewable energy projects. This project is in a position  
8 to take advantage of that Stimulus Package. Construction  
9 can again before the end of 2010. And, I think that's an  
10 important point. It's farther along than any other New  
11 Hampshire project in this respect. Public Counsel's own  
12 financial witness said twice on the record that "Noble has  
13 the capability to finance this project." It is not  
14 whether there is financing in place now, that has never  
15 been this Committee's practice or standard. It is about  
16 capability. And, Noble clearly has that.

17                   While the markets are not the best now,  
18 as we all know, the Stimulus Package is likely to provide  
19 relief, and the Applicant has shown that it is capable of  
20 financing similar projects elsewhere. As Mr. Wood  
21 testified, investors like diversity in investment  
22 portfolios. And, for that reason, a project in New  
23 Hampshire, with good wind resources, which, again, Public  
24 Counsel's witness admitted, a project that will use a wind  
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1 turbine that has been installed and used around the world,  
2 and is, in fact, designed to make the best use of these  
3 resources, and a project that is positioned to take

4 advantage of the Stimulus Package benefits, and may very  
5 well have a purchase power agreement in place, is likely  
6 to be attractive to investors.

7 Finally, in terms of financial issues,  
8 the Committee can include a condition that "no  
9 construction on the Project begins until financing is in  
10 place", and the Applicant has testified to that, and would  
11 accept that condition.

12 The next standard that you're required  
13 to review, that "the site and facility will not unduly  
14 interfere with the orderly development of the region, with  
15 due consideration having been given to the views of the  
16 municipal and regional planning commissions and municipal  
17 governing bodies, I look there to the testimony of Jean  
18 Viссерing and Pip Decker and Mark Lyons, and a number of  
19 places in the record that support this. This project is  
20 consistent with the 2006 Master Plan for unincorporated  
21 places in Coos County. That plan encourages development  
22 of wind power projects. County officials support this  
23 Project. There are letters in the record that indicate  
24 support from the County Planning Board, which has

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1 jurisdiction in unincorporated areas, from the County  
2 Commissioners, and from the County Delegation. The Town  
3 of Dummer has indicate its support, once the Applicant  
4 agreed to three conditions that are included in the  
5 record. And, so, there is a letter in the record from the  
6 Town in support.

7 This project will bring significant  
8 economic benefits to the region. The Gittell report

9 indicates over \$122 million in direct, indirect, and  
10 induced benefits to the local economy over a 20 year  
11 period. And, as he noted, this Project represents an  
12 economic bright spot in an area of New Hampshire that has  
13 been struggling. And, then, finally, on this standard,  
14 the project area has been used for commercial logging  
15 purposes, I believe the testimony is, for over 100 years.  
16 So, this should not interfere with the orderly development  
17 of the region. In fact, revenues from this Project  
18 provide a benefit to landowners that is likely to assist  
19 in keeping this land available for similar purposes for  
20 some time.

21 The last finding I want to address is  
22 that you have fully reviewed the environmental impact of  
23 the site and other relevant factors bearing on whether the  
24 objectives of the chapter would be best served by the  
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1 issuance of the Certificate. As the testimony shows,  
2 various impacts to the environment that this Project will  
3 bring have been thoroughly reviewed, and those impacts  
4 will be more than mitigated. The plans for mitigation of  
5 high-elevation areas and wetlands impact are significant.  
6 There is a net environmental benefit for this area. The  
7 testimony of Steven Pelletier that "the area is better off  
8 than if no project is built, because of the Mitigation  
9 Plans."

10 And, finally, this Project advances the  
11 objective of 162-H, of balancing the environment, and the  
12 need for new energy facilities. The Project, as proposed  
13 to the Committee, balances environmental impacts, and yet

14 also provides a new renewable energy source of electricity  
15 that will help to meet the needs of power going forward,  
16 without contributing to global warming.

17 MS. GEIGER: Mr. Chairman, members of  
18 the Committee, thank you for the opportunity to tag team  
19 it with Attorney Patch and provide the last half of our  
20 closing statement. In order for this Committee to  
21 certify this Project, the subcommittee must make the  
22 following findings under RSA 162-H:16, IV (c), relative to  
23 the site and facility. The Committee must find that it  
24 will not have an unreasonable adverse effect on  
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1 aesthetics, historic sites, air quality, water quality,  
2 the natural environment, and public health and safety.  
3 The record in this case demonstrates that Granite Reliable  
4 Power has met its burden of proving each of these factors  
5 by a preponderance of the evidence. I'd like to just  
6 provide you with a couple of examples on each factor to  
7 demonstrate that the Applicant has, in fact, met its  
8 burden of proof.

9 First, with respect to the issue of the  
10 Project's effects on aesthetics. The Applicant offered  
11 the testimony of Ms. Jean Viссерing, along with visual  
12 assessments and visual simulations prepared by her for  
13 this Project. In addition to the viewpoints selected by  
14 Ms. Viссерing, Public Counsel asked her during the  
15 discovery phase of this Project or proceeding to evaluate  
16 the Project's visual impact from a few more locations, and  
17 she did that. Two of those locations were the Panorama  
18 Golf Course at the Balsams Hotel, at a point approximately

19 2.6 miles from the Dixville Peak turbines, and from  
20 Umbagog Lake, at a point approximately 13.4 miles from the  
21 Project.

22 Ms. Vissering's testimony indicates that  
23 the Project appears to be well sited, and would not be  
24 visible from two of the most significant resources in the  
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1 area; Dixville Notch and the Androscoggin River. And,  
2 this is on Page 5 of her prefiled testimony. In response  
3 to questions during the discovery phase of this  
4 proceeding, GRP prepared a plan to mitigate views of the  
5 interconnection line from Dummer Pond. As Ms. Vissering  
6 notes in her prefiled testimony, the most significant  
7 visual impact of the Project would be to camp owners on  
8 Millsfield Pond, but that pond is privately owned, it's on  
9 private timberland, and is not identified as a highly  
10 valued recreational resource, or one for which a natural  
11 landscape is critical to the experience of the user.

12 At the hearing, Ms. Vissering testified  
13 that scenic qualities can, in fact, be systematically and  
14 objectively assessed, and that she has spent most of her  
15 professional life doing just that. She also testified, in  
16 response to questions from the Subcommittee, that in the  
17 past she has found some proposed sites for wind facilities  
18 unacceptable from an aesthetic viewpoint, and she  
19 discussed her reasons for those findings. However, in the  
20 instant case, Ms. Vissering's testimony is that this  
21 particular Project is appropriately sited from a visual,  
22 aesthetic, impact perspective. She also points to her  
23 reports and visual simulations that she's provided to you

24 to support the conclusion that the Project will not have  
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1 an unreasonable adverse effect on aesthetics.

2 Now, with respect to the issue of  
3 historic sites, the prefiled, supplemental prefiled, and  
4 oral testimony of Ms. Hope Luhman, along with the  
5 documents submitted with this issue, clearly establishes  
6 that the Project will have no unreasonable adverse impact  
7 on historic sites. And, as Ms. Luhman testified, the  
8 Project has concluded its activities with the Division of  
9 Historic Resources, and that State agency has concurred  
10 with her that no further work is warranted on the issue of  
11 historic resources.

12 Now, as for the Project's impact on air  
13 quality, it's clear that this Project will not create any  
14 unreasonable adverse effect on air quality. This Project  
15 will be generating electricity without combusting fuels,  
16 and therefore will have no air emissions. Thus, to the  
17 extent that the facility has the potential to displace  
18 generating units that do emit air pollutants, the Project  
19 will contribute to improving air quality in the region,  
20 rather than adversely affecting it.

21 Fourth, the Project will not have an  
22 unreasonable adverse effect on public health and safety.  
23 This is primarily due to the fact that the turbines are  
24 sited in remote locations, away from residences, and  
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1 public roads. Mr. Hessler's testimony indicates that

2 there will be no unreasonable adverse impact as a result  
3 of noise, because the nearest noise receptors are miles  
4 away from the turbines. His prefiled testimony indicates  
5 that he did a two-week field survey of existing sound  
6 levels in the vicinity of the Project site, in order to  
7 determine what levels of natural background sounds are  
8 likely to exist at the nearest potentially sensitive  
9 receptors.

10 Mr. Hessler's testimony indicates that a  
11 background sound level of about 36 dB(a) is likely to  
12 exist site-wide during a time when the turbines make the  
13 maximum amount of noise. And, that at the nearest  
14 off-site residences, the sound emissions from the Project  
15 are likely to be substantially lower than that.  
16 Mr. Hessler's testimony, along with all of the other  
17 record evidence on the noise issue, establishes that the  
18 Applicant has met its burden of demonstrating that there  
19 will be no unreasonable adverse effect on the public as  
20 the result of noise from the Project. Mr. Borkowski  
21 provided the results of his shadow flicker analysis, if  
22 you'll recall that. And, he indicated that, due to the  
23 remoteness of the site, no unreasonable adverse effect on  
24 the public's health and safety as a result of shadow  
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1 flicker is anticipated.

2 Mr. Mandli also provided testimony that  
3 the Project will not have an unreasonable adverse effect  
4 on public health and safety, insofar as ice throw,  
5 hazardous materials, lightning, or turbine failure are  
6 concerned. Again, the remoteness of the turbines from

7 residences and other public places assist with ensuring  
8 that there are no unreasonable adverse effects on the  
9 public health and safety.

10 At the hearings, Mr. Mandli answered  
11 several questions about a recent incident involving a  
12 turbine collapse at Noble's Altona, New York facility. He  
13 indicated that there were no injuries as the result of that  
14 incident, and that Noble and GE, who was the manufacturer  
15 of the turbines in Altona, are investigating the incident.  
16 Mr. Mandli explained that all of Noble's turbines are  
17 continuously monitored 24 hours a day/seven days a week,  
18 and the technicians are on-call and available within 15  
19 minutes to be on-site to address any problems.

20 Also, to address the issue of public  
21 health and safety, Granite Reliable Power intends to enter  
22 into an agreement with local authorities regarding fire  
23 and emergency response. It will also gate newly proposed  
24 Project roads, and will post signs to provide warning to  
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1 the public regarding the turbines.

2 Fifth, on the issue of the Project's  
3 impact on water quality, we would note that the State  
4 agency responsible for protecting the State's water  
5 resources, the Department of Environmental Services, has  
6 reviewed the Project's applications for a Section 401  
7 Water Quality Certificate; a Wetlands Permit, and an  
8 Alteration of Terrain Permit. The Project has worked with  
9 DES and has revised its initial engineering plans to  
10 address DES's concerns. As the Committee is aware, DES  
11 has issued written findings, recommendations, and detailed

12 conditions for the Water Quality Certificate, the Wetlands  
13 Permit, and the Alteration of Terrain Permit. Among other  
14 things, DES has found that the Project has demonstrated,  
15 by plan and example, that each factor listed in the  
16 requirements for Wetlands Permits evaluation has been  
17 considered in the design of the Project. DES has also  
18 found that the Project's proposed wetlands mitigation  
19 package, which includes the creation of vernal pools, and  
20 permanently conserving a 620 acre parcel, containing  
21 approximately 100 acres of wetlands, meets the ratios  
22 outlined in the Department's mitigation rules. And, in  
23 fact, if you will recall Mr. Ray Lobdell's testimony, the  
24 wetlands mitigation package greatly exceeds those ratios.

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1 Although Public Counsel's witnesses are  
2 recommending more stringent conditions than those proposed  
3 by DES, those witnesses admitted on cross-examination that  
4 their recommendations are not based on any standards  
5 adopted by the New Hampshire Department of Environmental  
6 Services. Accordingly, this Subcommittee is not required  
7 to accept those recommendations. It should, instead,  
8 defer to the State experts at the New Hampshire Department  
9 of Environmental Services and impose their proposed permit  
10 conditions. As was revealed at the hearing, even if  
11 Granite Reliable were to incur the time and expense of  
12 making the 12 changes listed in Dr. Sanford's prefiled  
13 testimony, it would only avoid an additional 3/100ths of  
14 an acre of wetland impact. Moreover, Mr. LaFrance and  
15 Mr. Lobdell's supplemental prefiled testimony explain why  
16 the suggestions offered by Public Counsel's witnesses

17 would be inappropriate on this matter.

18 We believe that, notwithstanding the  
19 testimony of Public Counsel's witnesses, the weight of the  
20 evidence supports a finding that the Applicant has met its  
21 burden of demonstrating by a preponderance of the evidence  
22 that the Project will not have an unreasonable adverse  
23 effect on water quality, especially in light of DES's  
24 recommendations regarding the permits over which it has  
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1 jurisdiction.

2 Lastly, the Project will not have an  
3 unreasonable impact on the natural environment. While the  
4 Project admits that there is the potential to create  
5 adverse impacts to certain wildlife and avian species and  
6 their habitat, it does not believe those impacts are  
7 unreasonably adverse. Expert testimony submitted by  
8 Stantec consultants, Mr. Gravel and Mr. Pelletier, support  
9 this position. However, to the extent that the Project  
10 has the potential for creating adverse impacts to the  
11 natural environment, GRP believes that it has secured  
12 suitable mitigation for those effects. By working with  
13 the Appalachian Mountain Club and the New Hampshire Fish &  
14 Game Department in a voluntary, collaborative process to  
15 reach the so-called "High-Elevation Mitigation Settlement  
16 Agreement". This Agreement provides significant land  
17 conservation and financial benefits for the State of New  
18 Hampshire.

19 Those benefits include the following:  
20 GRP will secure the permanent conservation of 1,735 acres  
21 of land above 2,700 feet through transfer of fee title to

22 the New Hampshire Department of Fish & Game or other State  
23 agency approved by Fish & Game. These lands will be  
24 protected from future development and timber harvesting.  
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1 Motorized recreational activities will be prohibited on  
2 the protected land, and no additional roads or structures  
3 will be allowed. GRP will make a one-time payment of  
4 \$200,000 to Fish & Game, to be used to conduct studies of  
5 the impacts of the Project on use of the area by the  
6 American marten, Bicknell's thrush, and other wildlife  
7 species of concern. GRP will make another payment to Fish  
8 & Game of \$750,000, so that Fish & Game can acquire  
9 additional lands, if it so wishes, of comparable habitat  
10 outside the Project area, with a focus on high-elevation  
11 spruce-fir habitat in Coos County. Also, GRP will not  
12 construct any wind turbines or associated infrastructure  
13 on Whittcomb Mountain or permit any other party to utilize  
14 its electric collection lines for wind energy facilities  
15 on Whittcomb.

16 Now, as Petitioner's Exhibit 38 reveals,  
17 that was the permit that was granted by the Coos County  
18 Planning Board for cutting on Mount Kelsey, 223 acres of  
19 high-elevation habitat on Mount Kelsey has been approved  
20 for commercial logging in 2009. Additional areas on Mount  
21 Kelsey could be permitted for logging in the near future.  
22 The Settlement Agreement assures that that will not occur.  
23 It also ensures that over 2,300 acres of land surrounding  
24 or in the vicinity of the Project will be permanently  
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1 conserved and that additional conservation land will be  
2 obtained by Fish & Game. We believe that the  
3 high-elevation habitat in the Project vicinity will be  
4 better conserved with the Project and the Settlement  
5 Agreement than without them. Thus, we believe that, when  
6 the Settlement Agreement is factored into the proposed  
7 Project, the Applicant has clearly met its burden of  
8 demonstrating by a preponderance of the evidence that the  
9 Project will have no unreasonable adverse effect on the  
10 natural environment.

11 It should be noted for the Committee  
12 that the parties to the Settlement Agreement have entered  
13 into it based upon the Project as currently proposed. The  
14 parties to the Agreement understand that there may be some  
15 changes to the Project as a result of the regulatory  
16 process. However, the Settlement Agreement provides that  
17 Granite Reliable will comply with the Agreement, so long  
18 as the Project receives final, non-appealable permits,  
19 consistent with the Agreement and the windpark as  
20 currently proposed.

21 Granite Reliable respectfully requests  
22 that the Subcommittee approve the Settlement Agreement and  
23 the Application for Site and Facility as proposed by the  
24 Applicant. On behalf of Attorney Patch, Granite Reliable  
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1 Power, and Noble Environmental Power, I'd like to thank  
2 the Subcommittee members for their attention in this  
3 proceeding and the hard work in attending all of the  
4 hearings, and listening attentively to the witnesses, and  
5 for their thoughtful comments and questions during the

6 process. We'd also like to thank Attorney Iacopino for  
7 his professionalism, his courtesy, and his assistance  
8 throughout these proceedings. Thank you very much.

9 CHAIRMAN GETZ: Thank you. Okay.

10 Before we close the hearing, let me make sure that I've  
11 addressed the outstanding issues. We've covered a lot of  
12 ground in the last couple of weeks. And, first, I want to  
13 turn to the issue of the exhibits. I think there's one  
14 outstanding motion with respect to the exhibits, and it's  
15 Mr. Roth's motion with respect to the Application. And, I  
16 would -- I'm going to deny the motion and allow the  
17 Application to be part of the record. But I also note, in  
18 the nature of jury instructions, because the Committee is  
19 the fact-finder in this case, and we have already noted a  
20 distinction between testimony that is filed, that is sworn  
21 to and is cross-examined, is to be given greater weight  
22 than testimony that is -- or, to evidence or to exhibits  
23 that have not been sworn and have not been subject to  
24 cross-examination. With respect to the Application,  
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1 there's even a middle category of evidence and exhibits.  
2 It's required to be filed by statute and by rule, it's  
3 required that it be sworn, but it's not subject to -- has  
4 not been subjected to cross-examination. So, it should be  
5 given less weight than the prefiled testimony. So, based  
6 on that understanding, we will admit the Application as  
7 evidence in this proceeding.

8 Please correct me if I'm wrong, but,  
9 other than that, I don't think there's any outstanding  
10 objections to any of the items that have been marked for

11 identification as exhibits in this proceeding.

12 (No verbal response)

13 CHAIRMAN GETZ: And, I hear no  
14 correction. I've heard -- Is there any other objections  
15 to any evidence in this proceeding that has been marked as  
16 an exhibit?

17 (No verbal response)

18 CHAIRMAN GETZ: Hearing no objection,  
19 then I'm going to strike the identifications and admit  
20 into evidence all of the exhibits that have been numbered  
21 and have been updated throughout the proceeding in an  
22 exhibit list by counsel.

23 Okay. Now, we have to -- I think we  
24 need to address the -- well, there's one other item from  
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1 this morning. I suspect there's not been any real  
2 progress on that. But, just in case, let me get it on the  
3 record. The issue, Mr. Roth, you raised about the  
4 newspaper article about some electrical contractors'  
5 mechanics liens in New York on a Noble project. Is there  
6 anything new to say about that this afternoon?

7 MR. ROTH: No, sir.

8 CHAIRMAN GETZ: Other than that the  
9 parties are going to discuss that and make some kind of  
10 either joint or opposing recommendations on how we  
11 proceed?

12 MR. ROTH: I guess that would summarize  
13 it accurately.

14 CHAIRMAN GETZ: Okay. Well, that's the  
15 only piece of outstanding potential evidence that we would

16 need to address in this proceeding. I guess the other  
17 issues that are remaining then are briefs. And, there is  
18 a public statement hearing at the Lancaster Town Hall  
19 Monday evening.

20 And, with respect to the motion to  
21 extend the time for briefs, which brings us out to the  
22 240-day time line that's set forth in the statute that  
23 governs this proceeding, the statute also says that "the  
24 Subcommittee at any time during its deliberations deems it  
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1 in the public interest, it may temporarily suspend  
2 deliberations and enlarge the time frame." From the  
3 discussion earlier, I took it that all of the parties are  
4 amenable to the extra time for briefs and to effectively  
5 extending the 240-day time frame. The statute talks about  
6 "at any time during deliberations", it doesn't really  
7 define what "deliberations" means in that context. But,  
8 in light of the fact that we have substantially completed  
9 the hearings, and there may be one, one item of evidence  
10 that may come in, that arguably I could close the hearing  
11 today, and then address a motion to reopen on this  
12 particular piece of evidence, which there's no definitive  
13 understanding of at this point, and then address the  
14 arguments. I guess, at this point, I would -- arguably,  
15 as presiding officer, I could address this issue. But I  
16 think it's better that the Subcommittee address the issue  
17 of whether we should extend the time frame to accommodate  
18 the briefs and the parties' recommendation on briefs.  
19 And, I guess I would propose, under the circumstances,  
20 that we extend the time frame of this proceeding by 30

21 days. And that, I think, accomplishes a few things. One,  
22 it gives the parties adequate time to review the  
23 transcripts, which I know Mr. Patnaude has been working  
24 day and night to try and get those transcripts done, and  
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1 that they can put their briefs together, and then that we  
2 can then review the briefs and have time to adequately  
3 address all of the evidence in this case, plus the briefs.  
4 And, I understand it -- well, let's get this on the  
5 record. Mr. Patch, does the Applicant have any objection  
6 to extending the time frame 30 days to consider all of the  
7 testimony and the briefs and to pursue our deliberations?

8 MR. PATCH: No objection, Mr. Chairman.  
9 Thank you.

10 CHAIRMAN GETZ: Is there any objection  
11 by any party with respect to that proposal?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. I hear no other  
14 objections. So, I'll put a motion on the floor. Can I  
15 get a second, and then do some discussion?

16 (Non-verbal indication by Dir. Scott.)

17 MR. HARRINGTON: Second.

18 CHAIRMAN GETZ: Well, a second from  
19 Mr. Scott. Any discussion about extending the time frame  
20 30 days to complete our obligations under the statute?  
21 Dr. Kent.

22 DR. KENT: Yes. I believe it would be  
23 in the public interest to extend the time frame, Chairman.

24 CHAIRMAN GETZ: Thank you.

{SEC 2008-04} [RE: Closing statements] {03-19-09}

1 MR. HARRINGTON: I would agree. I think  
2 we'd need the transcripts to do our job properly.

3 CHAIRMAN GETZ: And, then, I would note  
4 as well that, effectively, the time frame for any proposal  
5 that is not a renewable proposal is nine months. The  
6 statutes for -- as it was most recently changed, set  
7 basically an eight month period for review of a renewable  
8 energy facility. If we extend for one month, then we'll  
9 still be within the time frame for any other facility  
10 under the statute.

11 Okay. Any other discussion?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. Hearing nothing,  
14 all those in favor, please signify by saying "aye"?

15 (Multiple Subcommittee members  
16 indicating "aye".)

17 CHAIRMAN GETZ: Any opposed?

18 (No verbal response)

19 CHAIRMAN GETZ: Hearing no opposed, then  
20 the motion is unanimous, and we will extend the time frame  
21 for consideration of the Application by 30 days, which I  
22 believe takes us out to Wednesday, May 6th?

23 MR. IACOPI NO: Yes.

24 CHAIRMAN GETZ: All right. Thank you.

{SEC 2008-04} [RE: Closing statements] {03-19-09}

1 Are there any other issues we need to address before we  
2 close the hearings?

3 DIR. SCOTT: Mr. Chairman.

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4 MR. PATCH: Mr. Chairman.

5 CHAIRMAN GETZ: Mr. Scott.

6 DIR. SCOTT: I may have missed it, but I  
7 think Mr. Mulholland had a issue, a motion regarding  
8 Ms. Keene's closing?

9 CHAIRMAN GETZ: He did. And, I'm taking  
10 that under advisement. I'd like to actually have a chance  
11 to look at the transcript to make a ruling on that. So,  
12 that is one outstanding issue.

13 MR. PATCH: Mr. Chairman, just so it's  
14 clear to all the parties, as I understand it, our briefs  
15 are due on April 6th, at 7:00 p.m., is that correct?

16 CHAIRMAN GETZ: That is correct. And, I  
17 understand as well that there is some underlying  
18 assumption on the Herculean effort that Mr. Patnaude needs  
19 to undertake here. And, I know I saw him Saturday and  
20 Sunday working on briefs, while I was working on other  
21 things. So, assuming he gets these in on time to allow  
22 the briefs, we're looking at April 6th, unless I get some  
23 kind of motion in the interim that suggests that we need  
24 to pursue another course.

{SEC 2008-04} [RE: Closing statements] {03-19-09}

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1 MS. LINOWES: Mr. Chairman.

2 CHAIRMAN GETZ: Ms. Linowes.

3 MS. LINOWES: When would be the deadline  
4 for public input?

5 CHAIRMAN GETZ: Public input under the  
6 statute, well, there will be the public statement hearing,  
7 of course, Monday evening. And, I'll have to resort back  
8 to the statute, which is always a good place to start. I

9 think the statute talks about "before, during, and  
10 subsequent to public hearings".

11 MR. IACOPI NO: That's correct.

12 CHAIRMAN GETZ: So, I think any written  
13 comment, that could be submitted right up until the  
14 deadline of May 6th. But what we intend to do now is have  
15 the public statement hearing on Monday evening. And,  
16 anything that gets filed in writing will, of course, won't  
17 be -- has to come in before we issue a decision in this  
18 case. And, let me just point out as well, the deadline,  
19 we've extended the time frame until May 6th. I mean, that  
20 doesn't mean that we have to wait until May 6 to issue a  
21 decision.

22 MS. LINOWES: Is May 6th the day for the  
23 briefs to be -- oh, no. I'm may be confused. When is the  
24 briefs due then? It's still April 6th?

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1 CHAIRMAN GETZ: April 6th. And, we've  
2 extended the time frame for our deliberations and  
3 consideration by a month.

4 MS. LINOWES: Thank you.

5 MR. ROTH: Mr. Chairman, does the  
6 Committee -- or, I should say the Subcommittee intend to  
7 have public deliberation sessions?

8 CHAIRMAN GETZ: We will proceed in the  
9 same fashion we did in the Lempster case.

10 MR. ROTH: Which included public  
11 deliberation sessions.

12 CHAIRMAN GETZ: That's correct.  
13 Anything else that we need to address before we close the

14           hearings?                           GRP-CLOS.txt  
15    (No verbal response)  
16                           CHAIRMAN GETZ:   Okay.   Hearing nothing,  
17 then, thank you all very much.  
18                           (Whereupon the Closing Statements  
19                           Hearing ended at 5:06 p.m.)  
20  
21  
22  
23  
24

{SEC 2008-04} [RE: Closing statements] {03-19-09}