

1 STATE OF NEW HAMPSHIRE
2 SITE EVALUATION COMMITTEE

3 June 10, 2009 - 10:13 a.m.
4 21 South Fruit Street DAY IV
5 Suite 10
6 Concord, 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.
15 (Deliberative Session)

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, Exec Dir. 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

25 * * *

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

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

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

2 CHAIRMAN GETZ: Okay. Good morning,

3 everyone. We'll open the public meeting in Docket Number

4 2008-04 regarding the Site Evaluation Committee

5 consideration of an Application for a Certificate of Site

6 and Facility by Granite Reliable Power. Pursuant to a

7 notice issued on May 12th, we are meeting -- excuse me,

8 wrong order. Okay. As I was saying, this public meeting

9 is being held pursuant to a notice issued on June 1, 2009,

10 and the purpose of the meeting is for deliberations

11 regarding the Application.

12 At our last series of deliberations, we

13 made some preliminary findings with respect to some of the

14 statutory requirements that we need to address pursuant to

15 RSA 162-H:16. At this time, we have gone through all of

16 the required findings in 162-H:16, IV. Earlier in

17 deliberations, Mr. Janelle had provided a summary of the
18 alternatives analysis, and I'd like to, after the summary
19 by Mr. Janelle, we concluded that we would defer further
20 discussion of available alternatives until we had worked
21 our way through a number of the other findings that we
22 needed to address as part of our statutory requirements.
23 And, Mr. Janelle walked us through the alternatives that
24 the Company considered in arriving at the proposal that's
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1 part of its Application. And, also briefly noted
2 alternatives that had been raised by others during the
3 process, among them whether some lesser number of turbines
4 would be preferable alternatives. And, I'd like to have a
5 discussion, I think there's kind of three moving parts
6 that we have to talk about. One is -- goes to the
7 language in the statute, and I'll read in Subsection IV,
8 that "the Site Evaluation Committee, after having
9 considered available alternatives, and fully reviewed the
10 environmental impact of the site or route and other
11 relevant factors bearing on whether the objectives of this
12 chapter would be best served by the issuance of the
13 certificate, must find that the site and facility", and
14 then it lists the subheadings (a) through (d) of the other
15 issues that we're required to look at.

16 And, in terms of alternatives, if we
17 look back to where we started at the beginning with the
18 Application, and you have the, essentially, four strings
19 of turbines, and 33 turbines in total, issues identified
20 early on related to, in large part, the impact on high
21 altitude wildlife populations, specifically on Dixville

22 Peak and Mount Kelsey. And, as the proceeding moved
23 along, ultimately, we had presented to us the High
24 Altitude Mitigation Settlement seeking to mitigate the
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1 effects on those high altitude wildlife populations by the
2 building that would occur on those, on Mount Kelsey and
3 Dixville.

4 Now, that brings us, you know, relates
5 and is intertwined with the findings that we must make
6 about whether there are unreasonable adverse effects on
7 the natural environment, and we discussed that issue at
8 length. So, I just want -- And, when Mr. Janelle had
9 raised this issue earlier, I proposed that we would have
10 to come back to this and have a discussion around what
11 alternatives are available, what's the impact on the
12 natural environment, does the mitigation settlement
13 adequately mitigate impacts, and, you know, that
14 ultimately is going to inform our decision on whether to
15 issue the certificate, what conditions to apply, and
16 whether we should approve something less than what is
17 proposed by the Applicant.

18 And, I think we need to consider, in
19 that whole context, what our -- you know, what the statute
20 requires of us. And, so, we're required to have
21 considered available alternatives, and we're also required
22 to make findings that the site and facility will not have
23 an unreasonable adverse effect on the natural environment.
24 So, I'm just trying to kind of set the table of the kind
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1 of interacting requirements that face us. And, we do have
2 the proposal that was raised during the proceedings about
3 to approve something less than what is proposed by the
4 Applicant.

5 So, I guess with that, you know, general
6 kind of background, I want to try to open the discussion
7 to see if there's any thoughts or issues that, you know,
8 members would like to discuss about the available
9 alternatives and which direction we should go with the
10 Application. Mr. Harrington.

11 MR. HARRINGTON: Yes. Just for the way
12 of clarity, I think there's two issues here when we talk
13 about alternatives. There's alternatives that the
14 Applicant presented as far as putting the wind turbines in
15 other locations in this region, and I think they have
16 addressed that fairly adequately. That they selected
17 these as being the best. There was originally going to be
18 some wind turbines in different locations and so forth.
19 So, at least from my position, that's been addressed. So,
20 that leaves us with the alternative of "is there an
21 alternative to what they actually proposed?" Meaning, I
22 would guess, the only thing we could probably look at
23 there is less than the 33 wind turbines as proposed.

24 So, just for clarity, is that where
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1 we're heading?

2 CHAIRMAN GETZ: Yes. I think that
3 captures the, you know, the choices before us. I mean,
4 the statute isn't -- you know, the statute, in talking
5 about alternatives, I think you can look at it in both

6 ways. I think, as you posed it, how did they -- what
7 alternatives did they look at to where they got? And,
8 then, now we look -- and, whether that was, you know, a
9 reasonable approach, and then us looking at what was
10 proposed. And, are there alternatives to it? Which, I
11 mean, practically amounts to subsets. Director
12 Normandeau.

13 DIR. NORMANDEAU: Mr. Chairman, I think,
14 you know, when I look at this, if you're going to have a
15 wind farm, it's either going to be in this area of the
16 country, coastal or high elevation, depending on your
17 general geographic location. So, it's going to be, where
18 this is going, a high elevation scenario, they looked at,
19 to kind of build on what Mr. Harrington said, they looked
20 at a situation of maybe many more smaller, more spread
21 out. That alternative was looked at. It was concentrated
22 into a situation of fewer larger turbines. You know, I
23 think that the alternatives, if you will, have been
24 reasonably addressed, not to say there's no impacts, but I
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1 think that what impacts there are have been addressed
2 myself by the Mitigation Plan. And, that I think, in my
3 own view, that we would -- or, that I would accept the 33
4 turbines. And, I mean, I don't -- I can believe them when
5 they say they feel they need those to be financially
6 viable. I mean, I don't think you can bring in the type
7 of equipment needed to do this kind of a project and, you
8 know, arbitrarily sit here and say "we're going to chop
9 out half of their turbine strings", and they're still
10 going to be able to do all that and make it a reasonably

11 viable project. So...

12 CHAIRMAN GETZ: Anyone else want to --

13 MR. JANELLE: I guess just to add to
14 that, the viability issue, there are certain fixed costs.
15 The Mitigation Plan was designed based on the impacts that
16 are shown by the 33 turbines. So, there's a cost there as
17 well. There's a cost with the roads, with the
18 interconnection. And, also, I mean, if we want to get the
19 most benefit from the clean power that will be generated,
20 it seems like there's a -- there's a scale here, a
21 relative scale of benefits you can get if you can maximize
22 that.

23 CHAIRMAN GETZ: Mr. Harrington.

24 MR. HARRINGTON: Yes, a follow-up on
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1 Director Normandeau's statement. That I believe it's in
2 the transcript that the Applicant said that, if the
3 turbines I think it was on Dixville Peak were eliminated,
4 that their Project would not be financially viable. And,
5 again, I don't know what the financings of this are, but
6 I'm sure that they do.

7 And, the other issue that we would have
8 to address, if we were to recommend eliminating some of
9 the turbines, is the fact that eliminating a substantial
10 number of the turbines could cause the interconnection
11 study to have to be re-performed. And, if that was done,
12 if that -- whatever that threshold is was met, then they
13 would go to the bottom of the queue in this area, and that
14 would change the whole dynamics of where they fit on
15 interconnection, given the fact that there's at least two

16 other projects in the area that may or may not be built,
17 but are at least being proposed. So, there's another
18 concern I'd have about saying to eliminate any of the
19 existing turbines. That may be the death nil of the
20 Project, I think, if we were to go that way.

21 CHAIRMAN GETZ: Anyone else want to
22 discuss pieces of that?

23 (No verbal response)

24 CHAIRMAN GETZ: Well, I guess -- oh,
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1 Mr. Northrop.

2 (No verbal response)

3 MR. NORTHROP: I think, if we start
4 looking at individual turbines or strings or something,
5 and especially the high elevation ones on Kelsey/Dixville,
6 that the mitigation package was submitted in order to
7 address those impacts. And, I guess, if we eliminated
8 turbines or strings or something, and especially the high
9 elevation ones, then that would negate the need for the
10 mitigation package. And, again, I think the reason for
11 submitting that mitigation package and going through that
12 process, with the agreement with various parties, was to
13 address the impacts of those, of those turbines. So, I'm
14 not sure if I'd be able to just sort of pick and choose
15 which turbines to keep or take out and which turbines or
16 strings to keep or take out.

17 CHAIRMAN GETZ: Mr. Scott.

18 DIR. SCOTT: Yes. I guess, since
19 everybody else has commented. Again, I think, if we were
20 going to look at teasing apart the number of -- it

21 locations it was on the high elevation areas, Mount
22 Kelsey, etcetera, with the Mitigation Agreement to me
23 makes that unnecessary. So, again, but for that, that may
24 be a discussion I might want to have. But, with that
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1 Mitigation Agreement, I don't know, I don't feel it's
2 necessary. I think it properly addresses that concern.

3 CHAIRMAN GETZ: And, I think there's two
4 related issues, a legal issue and a substantive issue.
5 And, that's why, in the introductory comments, I was
6 trying to draw the connections between the proposal as
7 filed, what effects that had on the natural environment,
8 and then what, with respect to the Mitigation Settlement,
9 did that adequately mitigate the effects that were of our
10 concern? Without the Mitigation Settlement, I think that
11 we would be in a position where we would have to look very
12 closely at taking some action with respect to Dixville
13 Peak and Mount Kelsey. Because, from my personal opinion,
14 prior to the -- or, without the Mitigation Settlement, I
15 think there would be unreasonable adverse -- adverse
16 effects with this Project, where we would have to take
17 some kind of action.

18 But I agree, I think, which was the
19 general sentiment that I'm hearing, that the Mitigation
20 Settlement, it effectively mitigated the impacts on the
21 natural environment, and I think led us to and supports
22 our finding the last time, that there is no unreasonable
23 adverse effect on the natural environment. And, I think
24 the legal issue that undergirds a lot of this is "what's
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1 the extent of our authority?" Do we have the authority to
2 say "we would just prefer that something different would
3 be done"? Would we like to see fewer turbines, fewer
4 strings, etcetera? But I think we're compelled under the
5 statute to look at what has been proposed, and determine
6 whether the proposal would have an unreasonable adverse
7 effect. So, I think that's what we have to start from, is
8 what does the statute require of us, and not what we might
9 otherwise do, if we had, you know, some wide and
10 unfettered discretion with respect to our duties under the
11 Site Evaluation Committee statute.

12 So, I end up, it sounds like, where just
13 about everyone else is. That, looking at the available
14 alternatives, and the alternative that's proposed, is a
15 reasonable one, in light of the High Altitude Mitigation
16 Settlement. So, is there any other discussion about that
17 issue?

18 MR. IACOPI NO: Mr. Chairman, I would
19 just point out to you and to the Committee members that
20 the discussion that you just had is very similar to a
21 discussion that the full Committee has had in a number of
22 dockets over the last dozen years with respect to the
23 legal issue of what can you actually consider. And,
24 you've essentially handled it the same way that the
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1 Committee has handled it over a number of years now,
2 feeling that you can only go by what's in your record
3 here, and that, in doing so, you've essentially followed

4 the course that this Committee has followed for many, many
5 years now.

6 We've never been in a position where the
7 Committee has said "well, we don't like where you're
8 proposing to do this. We think you should go somewhere
9 else and build it." What you've done is considered, of
10 the alternatives that the Applicant has brought to you,
11 unlike a lot of federal statutes and regulations, this
12 Committee must consider available alternatives, but the
13 statute does not specify the manner in which you must do
14 that. You have just followed the manner that this
15 Committee has done for many, many years. In fact, the
16 discussion that you just had basically tracks that. And,
17 I would point to the AES case, the plant in Londonderry,
18 the Newington plant that was built around the same time,
19 in 1998, and that's been part of the way in which the
20 Committee has operated.

21 CHAIRMAN GETZ: Okay. Thank you,
22 Mr. Iacopino. So, any other discussion about available
23 alternatives?

24 (No verbal response)

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1 CHAIRMAN GETZ: I think that the next in
2 a major issue we need to do or major task we have to
3 undertake is to work our way through the -- through all of
4 the proposed conditions. And, you should have a -- I had
5 asked, the last time we had a discussion, and Mr. Iacopino
6 was asked to come up, put together all of the proposed
7 conditions in one package. On the 20th, we had a very
8 general and lengthy discussion about conditions. But, at

9 this point, I think we need to have a much more specific
10 conversation and work our way through these conditions. I
11 had asked Mr. Iacopino, to the extent it was possible, if
12 there were duplicates, to try and put some consistency in
13 the document. But there's also, in a number of areas,
14 where I think there's, especially in decommissioning,
15 where we have, which I hope to discuss basically towards
16 the end of our discussion, where there's a number of
17 alternatives.

18 So, you should have a package of
19 materials and --

20 MR. IACOPI NO: Mr. Chairman, would you
21 like me to explain just how I put that together?

22 CHAIRMAN GETZ: Sure.

23 MR. IACOPI NO: What I essentially did
24 was went through all of the conditions that were suggested
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1 by State agencies, agreements, or by the parties. And,
2 they are all contained in this document, with the
3 exception of one, that is the High Elevation Mitigation
4 Agreement. I just forgot to put it in here, and I didn't
5 have it in an electronic format. I was going to try to
6 throw it in this morning when I printed this, but was
7 unable to. But what I have done is I've taken it -- I've
8 gone through it in the manner in which the statute
9 addresses it, in that order. Attached to the "Orderly
10 Development" are three attachments, one is the proposed
11 agreement with the Town of Dummer, the other is the
12 proposed agreement with Coos County, and the third is the
13 Property Value Protection Contract that is referenced in

14 Ms. Keene's proposed condition on "Orderly Development".

15 And, then, under "Water Quality", I have
16 included the Wetlands Permit, the Alteration of Terrain
17 Permit, and the Water Quality -- 401 Water Quality
18 Certificate that was issued by the Department of
19 Environmental Services. And, so, those are contained
20 within those sections of the document.

21 And, to the extent that I did address a
22 couple of concerns that Mr. Harrington had addressed to
23 me, they are in the "Public Health and Safety" section,
24 which is at the end of the package.

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1 As the Chairman said, I tried to
2 eliminate duplications if I could. And, in some areas, I
3 was able to do that, for instance, with revegetation. A
4 lot of the substance of what various parties suggested was
5 the same. However, there are other areas where there is
6 just different proposed agreements or they have sort of a
7 different gloss on them. Things such as putting fines for
8 dead animals, things like that. So, things like that, I
9 just left them in the manner in which they were provided
10 by the party who was requesting them and left them in the
11 document.

12 The only thing that's not in here, which
13 I would, and the Committee has done this over time in the
14 "financial, managerial, and technical capability" findings
15 that the Committee makes, there is normally a condition
16 that any change in ownership or change in the corporate
17 structure needs to be approved by the Committee before it
18 occurs. That's not contained in here. But that is one

19 that is normally put into your -- the orders that the
20 Committee has issued over the years. And, that's
21 consistent with -- there's a section in the statute that
22 that's consistent with as well.

23 CHAIRMAN GETZ: All right. Thank you.
24 And, let me just talk about how we proceed on this. I
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1 don't think it's useful to vote on every single condition.
2 I think what we need to do is have a discussion, get some
3 consensus, you know, of the sense of the members about
4 which conditions to impose, which conditions not to
5 impose, what, you know, where to make changes, where not
6 to make changes, and then ultimately to ask counsel to
7 memorialize our discussion in an order that then would be
8 subject to our signature. Because, practically, I'm not
9 sure there's any other way of getting through the, you
10 know, 66 pages, plus the High Elevation Mitigation
11 Settlement, in any reasonable way.

12 So, anybody have any other thoughts or
13 suggestions? Mr. Harrington.

14 MR. HARRINGTON: Just a procedural
15 question, Mr. Chairman. We have a number of documents,
16 the High Elevation Mitigation Agreement, the Coos
17 County/Applicant Agreement, the agreement with some of the
18 towns. Are we able to modify any of those or we must --
19 must the Committee basically accept them as is or not
20 accept them at all?

21 CHAIRMAN GETZ: We can do any of those
22 things.

23 MR. HARRINGTON: Okay.

24 CHAIRMAN GETZ: For ease of discussion,
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1 though, it had occurred to me that there may be things
2 that we could -- certain actions we could take. We could,
3 for instance, say, with the DES permits, we could
4 determine that we're going to impose all of those
5 conditions as a baseline at a minimum, and then decide if
6 we want to add in any particular area. That might be the
7 most efficient use of our time, rather than going through,
8 you know, every single item. And, we could do that. So,
9 I don't know if that addresses your issue or if you had
10 any particular issue in mind?

11 MR. HARRINGTON: Yes. I guess I was
12 looking at the, let's say, the Mitigation Agreement, where
13 that's been signed by the parties. If we turn around and
14 say "Well, except for, you know, Clause 22, where we're
15 going to add this in", does that then void that Mitigation
16 Agreement between the parties?

17 CHAIRMAN GETZ: Well, then, it becomes a
18 -- I think the more important part is, we have the
19 authority to impose those as conditions. So, if we were
20 to issue the certificate subject to conditions, and if,
21 for some reason, there is a condition that the Applicant
22 couldn't live with, then it either moves to rehear and/or
23 decides that it's a condition that's so onerous that it
24 can't proceed.

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1 MR. HARRINGTON: Okay. Thank you.

2 CHAIRMAN GETZ: Do you agree with that,
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3 Mr. Iacopino?

4 MR. IACOPI NO: I would. You can put any
5 condition that you like on the -- within your statutory
6 authority on the certificate, and that it's -- and there
7 will be a decision to be made by the parties who are
8 involved in that.

9 MR. HARRINGTON: Given that, Mr.
10 Chairman, I'd suggest then that we follow your lead then,
11 and start taking up some of the things, like the -- some
12 of those type of things, like the DES permits, the
13 Mitigation Agreement, and see if we can at least agree to
14 accept those as a minimum. And, then, we could -- it will
15 make moving forward, I think, easier.

16 CHAIRMAN GETZ: Okay. Well, if we turn
17 to the Air and the Water Quality -- the "Water Quality"
18 section.

19 MR. IACOPI NO: Yes. And, they're in the
20 order of the Alteration of Terrain Permit, the Wetlands
21 Permit, and then the 401 Water Quality Certificate Permit.

22 CHAIRMAN GETZ: Yes. Well, it's about
23 midway in the document. Well, it's actually like 26 pages
24 in. So, under "Water Quality", it notes the Items 1, 2,
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1 and 3, DES Wetland Permit Conditions, the Alteration of
2 Terrain Permit Conditions, and the Section 401 Water
3 Quality Certificate Conditions.

4 MR. IACOPI NO: Yes, your Honor. And,
5 for the record, the Wetlands Permit is in the record as
6 Petitioner's Exhibit 40, the Alteration of Terrain is
7 Petitioner's Exhibit 41, and the Water Quality Certificate

8 is Petitioner's Exhibit 39.

9 CHAIRMAN GETZ: So, is there any concern
10 about adopting all of the permit conditions as conditions
11 to the certificate, but, you know, laying open the
12 possibility, if there's any one particular issue that we
13 want to, and I don't know what they are, if any -- what
14 folks have in mind, but at least that we use this as a
15 baseline. And, if we want to add something more
16 stringent, then we discuss that when we come to it.
17 Mr. Northrop.

18 (No verbal response)

19 MR. NORTHROP: Even if we don't, for
20 some reason, adopt the three DES permits as conditions,
21 the Applicant still would be bound by them, wouldn't they,
22 because they're permits that are required by State
23 agencies? So, I wouldn't have a problem with adopting
24 these as conditions of the Certificate.

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1 CHAIRMAN GETZ: I'm sorry, you would or
2 --

3 MR. NORTHROP: No, I would not have a
4 problem with that. I think it's fine to do. But, you
5 know, even if we didn't, I think -- my understanding is
6 they would be bound by them anyway. But still, if we
7 adopt them as conditions, you know, I think that would be
8 fine.

9 CHAIRMAN GETZ: Mr. Scott.

10 DIR. SCOTT: I agree with that
11 sentiment. But, having said that, I would like to move
12 that those three permits, the Wetlands Permit conditions,

13 the Alteration of Terrain Permit, and the Water Quality
14 Certificate Permit are incorporated into the Certificate,
15 and I'd like to make that motion. And, you're correct, I
16 believe, but also, by the Site Evaluation Committee
17 putting those in their Certificate, that adds another
18 layer for those who may be skeptical, for instance,
19 whether DES or EPA would enforce, that allows another
20 layer of surety, I would think, for the public, whether
21 it's force of law or just a recourse for the public. So,
22 I think it would be a good thing to have those things
23 incorporated.

24 CHAIRMAN GETZ: And, I don't know the
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1 origin of it, but I guess that historically has been the
2 practice, Mr. Iacopino, of the Committee is to make the
3 DES conditions conditions of the Certificate?

4 MR. IACOPI NO: Yes. Traditionally, they
5 have done that. And, there have been times when they have
6 imposed a stricter requirement on it, for instance, in the
7 Lempster Wind, with respect to the Alteration of Terrain,
8 there we actually required them to have larger culverts
9 than what was initially required in their permit. But
10 we've never said that "you don't have to abide by one of
11 these State permits."

12 The other thing that the Site Evaluation
13 Committee has traditionally done is also delegated the
14 authority for minor modifications and enforcement of those
15 particular certificates to the agency that issued the
16 certificate.

17 CHAIRMAN GETZ: All right. Thank you.
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18 Well, rather than -- I just want to address the formal --

19 MR. NORTHROP: Well, I think he made a
20 motion. If he did, I'll second it.

21 CHAIRMAN GETZ: Yes. But what I was
22 hoping to do is let's not get into the formalities of
23 motions and seconds and discussions of every item that
24 comes along. I would just, if you would -- I take it that
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1 it's your recommendation that we make these --

2 DIR. SCOTT: Yes. I will change my
3 motion to a recommendation.

4 MR. NORTHROP: I'll remove my second.

5 CHAIRMAN GETZ: It may help things go a
6 little quicker.

7 DIR. NORMANDEAU: And, you know, I
8 would, as well as those three DES permits with their
9 conditions, I would recommend that we also put the High
10 Elevation Agreement in also. And, then, all of the issues
11 that are related are done, so to speak.

12 CHAIRMAN GETZ: Anyone have any concerns
13 about adding the High Elevation Mitigation Plan as
14 conditions?

15 MR. HARRINGTON: Just want to say I
16 agree.

17 CHAIRMAN GETZ: Okay. All right. So,
18 that addresses those, those four documents. Why don't we
19 turn back then to the documents, the Town of Dummer, Coos
20 County that come under "Orderly Development", which is
21 about, you know, about six or eight pages in. And, the
22 first one is the Town of Dummer Agreement. And, it talks

23 about "outdoor lighting", "public access", "future
24 expansion", and "succession". Any discussion?

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1 (No verbal response)

2 CHAIRMAN GETZ: Any concerns, objections
3 about making that agreement an express condition of a
4 Certificate?

5 (No verbal response)

6 CHAIRMAN GETZ: Okay. I'll take that as

7 --

8 MR. NORTHROP: No concerns.

9 CHAIRMAN GETZ: -- assent.

10 DIR. SCOTT: No concerns.

11 CHAIRMAN GETZ: All right. Then, let's
12 turn onto the Agreement of the County of Coos and Granite
13 Reliable Power.

14 MR. IACOPI NO: Mr. Chairman, I might
15 suggest you might want to wait on considering that one,
16 until you've dealt with decommissioning. Only because a
17 large part of that agreement includes a decommissioning
18 plan. And, there are a number of different
19 decommissioning conditions that are suggested by the
20 parties.

21 CHAIRMAN GETZ: So, it's basically,
22 though, of the 12, there's 12 numbered subparts, and the
23 last one deals with decommissioning, correct?

24 MR. IACOPI NO: Yes.

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1 DIR. NORMANDEAU: Mr. Chairman, I would
2 have no trouble adopting the Agreement or making it a part
3 of, but, when we get to decommissioning just, which I
4 think we can fairly easily compare what is in
5 decommissioning section with the other suggestions, and
6 then, you know, add any others that we might want to.

7 CHAIRMAN GETZ: Or, maybe kind of a
8 little bit of a refinement to that, does anybody have any
9 concerns with any of the first 11 items that are in the
10 Coos County Agreement? Mr. Northrop.

11 MR. NORTHRUP: Just a question. Item 8
12 is titled "Emergency Response", and the second sentence in
13 there "GRP will develop and coordinate implementation of
14 an emergency response plan for the Project." Would we
15 need to see that emergency response plan or, if we include
16 this agreement between the Applicant and the County, then
17 that would just be leaving it up to the Applicant and the
18 County to create the Emergency Response Plan. And, so,
19 we, as a Committee, as a Subcommittee, wouldn't
20 necessarily or do we want to see that kind of detail or do
21 we need to or are we just, with the adoption of this
22 agreement as a condition, are we kind of essentially
23 delegating that to the parties, to the Applicant and the
24 County?

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1 CHAIRMAN GETZ: Yes, I think this issue
2 --

3 MR. NORTHRUP: And, I think that may
4 come up in some other things, too. But...

5 CHAIRMAN GETZ: Yes. I think this was

6 on the April 20th, I think, are the -- when we discussed
7 conditions the first time, there was a number of
8 structural issues we have to detail with. And, I think we
9 have the, you know, discretion of how we do it, and it
10 depends on the issue. But do we want to have a condition
11 that directs the Applicant or the Applicant and others to
12 take some action, come back to us, and then we have to
13 actively approve it? Or, do we -- an alternative is a
14 condition like this, says "you shall do something" or "you
15 and -- shall do something with Coos County", and basically
16 not require our approval of that action, but make it clear
17 that, if the -- you know, we're a recourse, if the action
18 isn't taken appropriately or if an agreement isn't reached
19 or if the Coos County, you know, was concerned that they
20 couldn't get an agreement. So, it's whether we're going
21 to take an active step and review something or we're going
22 to be just a backstop, if something -- if a condition
23 isn't fulfilled. Director Normandeau.

24 DIR. NORMANDEAU: It would seem to me
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1 that we would be the latter. I mean, unless we want to
2 have the people who would actually be doing the responding
3 and the on-site medical issues or whatever may arise out
4 there here to testify about why they think, you know, that
5 they're -- that what they're proposing is the way to go.
6 It would seem to me that that's really between those
7 people that will be called upon in an emergency and the
8 Applicant to be hammering out those issues. And that, you
9 know, unless they can't hammer out those issues, it seems
10 to me like that's kind of getting down into the weeds a

11 little bit for us.

12 CHAIRMAN GETZ: Mr. Harrington.

13 MR. HARRINGTON: Yes, I tend to agree
14 with Director Normandeau on this. I think the County -- I
15 think we have to put these into two categories. There's
16 certainly areas where the County, or whatever agreement is
17 reached, may have the expertise, and there may some that
18 they do not. Clearly, I think, in emergency response,
19 they do. They're doing emergency response right now.
20 They have fire departments, they have medical response
21 teams, they have police response teams. They should be
22 easily able to handle this by -- without any technical
23 expertise or input from the Committee. So, I would say,
24 on this issue, that clearly we just say "something has to
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1 be worked out", and leave it to the County to take care of
2 it, because they have the expertise to do it. There may
3 be some other issues where we determine that's not the
4 case. But, in this one, I think, clearly, they do.

5 MR. IACOPI NO: Mr. Chairman, I would
6 just point out that, on the last page of the document,
7 under "Public Health and Safety", there are some other
8 conditions that deal with the same concern that
9 Mr. Northrop has raised. Specifically, Condition Number
10 2, under "Public Health and Safety", is a condition
11 suggested by Public Counsel that a detailed emergency
12 response plan be filed with this Committee before
13 commencement of construction. Also, on "Public Health and
14 Safety", Condition Number 4, they require a detailed
15 safety and access plan. And, Number 5, requiring the

16 Applicant to buy forest [fire?] fighting apparatus. Those
17 are all conditions that are -- the Committee may want to
18 consider in terms of your discussion of Paragraph 8 of the
19 County Agreement.

20 CHAIRMAN GETZ: And, then, I guess also,
21 perhaps, Mr. Northrop, to address in part some of your
22 concerns, under RSA 162-H:12, we have continuing
23 enforcement authority over all of the conditions. So, to
24 the extent that there are conditions that aren't being
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1 satisfied, we have enforcement authority, and, ultimately,
2 you can go so far as to revoking the certificate. So, it
3 kind of comes down to the importance of the issue, whether
4 you want to have -- or, is it necessary to have another
5 review by us before we approve something or to pose the
6 conditions in ways that it requires action, but that we'd
7 only have to take steps if it is in the nature of
8 enforcement because the actions haven't been taken.

9 MR. NORTHROP: Just to echo what
10 Director Normandeau and Mr. Harrington said, I think that
11 there are people out there that can handle these kinds of
12 things, and probably are more expert than we are on the
13 Committee. So, at least for this issue, I'd be -- feel
14 comfortable with the County and the Applicant developing a
15 plan. I don't feel the need necessarily to have this kind
16 of plan come back to the Committee for us to kind of
17 dissect and look at.

18 CHAIRMAN GETZ: Okay. Thank you.
19 Director Scott.

20 DIR. SCOTT: I haven't found it yet, but

21 I was quickly scrolling through the Lempster Agreement,
22 which perhaps is our template that we've already done.
23 And, in that case, we did not have emergency response
24 protocols and that type of thing coming back to us. I
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1 believe there's an agreement between the Town of Lempster
2 and that Applicant, if I remember correctly. So that
3 would be -- my point is, that would be, that type of --
4 that discussion would be consistent with what we've done,
5 I believe, for Lempster also.

6 CHAIRMAN GETZ: Thank you. Well, is it
7 fair to say then that there's support for the -- including
8 the first 11 conditions, and that we defer for the moment
9 a discussion of decommissioning, until we kind of look at
10 that in comparison to all the other pieces we have on
11 decommissioning? Mr. Harrington.

12 MR. HARRINGTON: I had two minor
13 concerns with some of the earlier conditions. Under
14 Section 1, "Warnings", it talks about "a clearly visible
15 warning sign concerning safety risks related to winter or
16 storm conditions shall be placed no less than 300 feet
17 from each wind turbine tower base." And, I believe we've
18 had testimony that the manufacturer recommended I believe
19 it was a 1,300 foot exclusion zone. So, getting the sign
20 at 300 feet would put you well into that exclusion zone.
21 And, I think that -- we can accept this, with I guess the
22 caveat that we'd adjust that, put an additional condition
23 on it. And, then, the section on "Project Security",
24 assuming that 6(a), which says it "shall not be climbable
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1 up to fifteen feet above ground surface", is to prevent
2 adventurous people from trying to see the view from the
3 top of a wind turbine, I don't think fifteen feet is
4 sufficient. You could easily have six or seven feet of
5 snow up there, you put a snowmobile there, you stand on
6 the snowmobile, and you could reach a 15-foot ladder
7 without too much -- or a 15-foot start of a ladder without
8 too much problem. So, I would recommend moving that to
9 20 feet.

10 So, those are two things we could take
11 outside of this. You know, accept this, and say there
12 would be additional conditions. But I just thought those
13 are two areas I think need to be addressed.

14 CHAIRMAN GETZ: Any --

15 MR. NORTHROP: Sounds reasonable.

16 CHAIRMAN GETZ: All right. Then,
17 hearing no objection on those two amendments, let's move
18 onto the next item, I think, is it under "Orderly
19 Development", and this is Ms. Keene's proposal for a "Real
20 Property Value Protection Plan".

21 MR. HARRINGTON: Excuse me, Mr.
22 Chairman. Is that the document after the Coos County
23 Agreement?

24 CHAIRMAN GETZ: Yes. It's right after
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1 the Coos County Agreement.

2 MR. IACOPI NO: That document was
3 included in Ms. Keene's brief. And, she asked, as a
4 condition, that the Committee require the Applicant to

5 execute contracts like this with the real property owners.
6 I don't know which ones she wanted them to do that with.

7 CHAIRMAN GETZ: Well, Mr. Iacopino, you
8 mean particular landowners? But I think it was --

9 MR. IACOPI NO: Well, that's what I
10 understood her request to be. But the document she
11 provides talks about "land within the footprint", it's an
12 Illinois document, and it talks about "land within the
13 footprint". I wanted to be fair to all the parties and
14 includes all of their proposed conditions without
15 addressing them from my own perspective or giving my own
16 personal view on them. That's why it's in there. But I
17 think that it's probably pretty apparent to the Committee
18 that, at least the language that's in here, if you adopted
19 that, it would be between the Applicant and its landlord,
20 the people who he leases the property from in this
21 particular project. Because there is no -- as far as I
22 know, there are no homes within the footprint of this
23 proposed project.

24 CHAIRMAN GETZ: Though, I think it
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1 speaks to all -- "Applicant agrees to guarantee the
2 property values of all real estate located between one and
3 two miles of the footprint boundary", which I guess hasn't
4 been identified. I don't know how many there might be, if
5 some of those camps might fall into that category. But I
6 think we need to address the larger issue.

7 Mr. Normandeau.

8 DIR. NORMANDEAU: I would say that I
9 can't -- my view would be you can't support that

10 condition. I mean, property values go up and down,
11 whether it would be related to the windpark or not. That
12 I don't see how everybody within -- every lot within
13 10 miles of the boundary of the project can have their
14 property values guaranteed by GRP. It just doesn't seem
15 to me to be a reasonable condition, honestly.

16 CHAIRMAN GETZ: Mr. Janelle.

17 MR. JANELLE: I would agree. You know,
18 I don't -- we don't know, we haven't seen presented to us,
19 that this wind farm will diminish property values, given
20 the proximity of properties to the wind farm. And, you
21 would think, if that's occurred throughout the country, we
22 would have seen evidence presented to that fact.

23 DIR. NORMANDEAU: And, if I may add, we
24 haven't seen any evidence about what the current values

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1 are.

2 CHAIRMAN GETZ: Mr. Scott.

3 DIR. SCOTT: Also, in the context of our
4 prior discussions, where we talk about the Mitigation
5 Agreement, the requirement for, assuming this happens, for
6 Fish & Game and the money they would receive to purchase
7 lands for mitigation, I would think, if anything, that
8 would have a tendency to drive up values in that area.
9 And, certainly, again, I see no evidence that there would
10 be a decrease in the value, but, even if, which I don't
11 accept there would be a decrease in value, but, even if I
12 did, I don't know how you guarantee any value. It strikes
13 me as unwieldy, and I wouldn't support it either.

14 CHAIRMAN GETZ: Mr. Harrington.

15 MR. HARRINGTON: Ditto what they said.

16 CHAIRMAN GETZ: Mr. Kent.

17 DR. KENT: Yes, this is an interesting
18 idea. However, I find the boundary arbitrary, and I find
19 the appraisal method to be susceptible to bias. So, I
20 would not want to impose any condition that would create
21 larger problems down the road.

22 CHAIRMAN GETZ: And, I also think that
23 it does kind of go back to the Mitigation Settlement
24 notion, in terms of the Mitigation Settlement was posed to
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1 address some negative effects. This is -- And, it's not
2 clear that there are negative effects on real estate.
3 And, so, it's -- And, it does seem kind of, practically, a
4 very difficult type of approach to implement. So, I take
5 it that the census of the Committee is that we would not
6 require a Real Property Value Protection Plan?

7 (No verbal response)

8 CHAIRMAN GETZ: Okay. Then, let's go
9 back to Page 1, under "Financial, Marginal and Technical
10 Capability". And, let's just take it from the top. And,
11 we have the five, what have been grouped as "Financing
12 Conditions". And, the first is, there's a proposal by the
13 Applicant to not commence construction until construction
14 financing is in place. Any concern with that?

15 (No verbal response)

16 CHAIRMAN GETZ: Okay. And, I'm just
17 going to, unless somebody jumps, I'm just going to move
18 along. Okay. So, it looks like the Financing Condition
19 Number 1 is acceptable. Number 2 is a proposal by Public

20 Counsel that "the Applicant demonstrate it has obtained
21 funds...in an amount of no less than \$300 million."

22 MR. NORTHRUP: I have a question.
23 Demonstrate to the Committee -- I mean, the Subcommittee?

24 CHAIRMAN GETZ: That's how I interpret
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1 it, which, you know, may get to another one of those
2 issues that I think was raised by your earlier comments,
3 --

4 MR. NORTHRUP: Right.

5 CHAIRMAN GETZ: -- is what is the
6 expectation? Is there going to be -- and how would you
7 administer this?

8 MR. IACOPINO: I think you have to read
9 Number 2 and Number 3 in tandem with each other, because
10 they sort of address that issue. Public Counsel suggests
11 that they should be required to demonstrate the funding in
12 an amount of \$300 million, and also that that
13 demonstration be provided to the Committee and the
14 parties, and allow ten days for a hearing before the
15 Subcommittee. I think that they probably -- the
16 difference between what Public Counsel is suggesting and
17 what the Applicant has suggested, is, number one, is
18 there's an amount tied into it, and, number two, there's a
19 process for parties to object to the financing and a
20 further hearing before the Committee.

21 CHAIRMAN GETZ: Director Normandeau.

22 DIR. NORMANDEAU: Again, and I guess my
23 view of this, is that we're dealing with a company here
24 that's demonstrated its ability to put these projects on

1 line in the past. That they, I would be very surprised,
2 will start spending a bunch of money on the ground prior
3 to having adequate funding. It would, I mean, I can't
4 possibly think of why it would benefit them to do so, and
5 then not have the funding to get the job done. It seems
6 to me that, as long as they don't start until they have
7 funding, I don't know that we -- that the rest of these
8 need to be demonstrated. You know, for example, Number 5,
9 a "power purchase agreement", I mean, I believe they'll
10 have to decide, it's their responsibility to decide what
11 they have to demonstrate to their lenders to adequately
12 fund this. You know, and while I realize, in today's
13 market from the testimony, we heard that a power purchase
14 agreement seems to be the way to go, versus some of the
15 other investment credits and all in the past. Maybe, in a
16 year, that could be something different, and, you know, a
17 law could change, so that a power purchase agreement may
18 not be the best avenue for financing. So, it doesn't seem
19 to me that, you know, given the demonstration that they
20 have been able to get the job done in the past, that we
21 should be micromanaging the methodology of their financing
22 and how -- and tearing it apart in a public hearing, from
23 my point of view.

24 CHAIRMAN GETZ: Mr. Harrington.

1 MR. HARRINGTON: Yes, I tend to agree
2 with Director Normandeau, especially on that Item 5. I

3 mean, that is -- that simply doesn't make any sense to put
4 in there, because it's a condition beyond the control of
5 the Applicant, and it puts them at a distinct
6 disadvantage. If they were to try to enter into a power
7 purchase agreement, the other person would realize, in
8 order to build their project, they would have to have one,
9 and they would then not have the ability of being able to
10 say "we don't like your terms" and walk away from the
11 table. So, clearly, that's something we don't want to
12 see. And, I think the rest of these are more in the,
13 again, the micromanaging field that we shouldn't get into.

14 I would be leaning towards accepting the
15 Applicant's one, with maybe a little more definition on
16 what "construction financing" is, just maybe a little bit
17 more detail as to what that does. But I wouldn't get into
18 how much it has to be and when and hearings. And, so, I
19 would -- certainly wouldn't want to impose what's been
20 labeled 2, 3, 4, and 5 on financial. And, maybe would go
21 with 1, as I said, with the idea that we put a little bit
22 more definition as to what "construction financing" is.

23 CHAIRMAN GETZ: Mr. Janelle.

24 MR. JANELLE: I guess just a question.

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1 Somewhere do we address, whether it's in decommissioning
2 or, you know, if the contractor gets started and, for some
3 reason, stops, that there's adequate funds to close up or
4 revegetate? Or, for some reason, the financing is in
5 place, they started the Project, and stops. I mean, it
6 seems to me, either through a bond or through a letter of
7 credit, somehow that should be provided for.

8 CHAIRMAN GETZ: Yes, I think those were
9 issues that came up in discussions of what the
10 decommissioning obligation should look like.

11 MR. JANELLE: Uh-huh. Okay. So, as
12 long as that's addressed as part of that portion of the
13 agreement, then I think Number 1 would be acceptable. The
14 other two seem like we're micromanaging.

15 CHAIRMAN GETZ: And, I think, as far as
16 Number 1 goes, if we could, you know, at a minimum add
17 that they provide us evidence of their construction
18 financing before they proceed with construction.

19 MR. HARRINGTON: Excuse me, Mr.
20 Chairman. What you just said, that would address my
21 concern, because then we would be able to look at it and
22 determine that construction financing was sufficient. So,
23 --

24 CHAIRMAN GETZ: But without the need for
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1 an actual hearing on the documents?

2 MR. HARRINGTON: That would be my
3 position as well.

4 CHAIRMAN GETZ: Mr. Scott, did you --

5 DIR. SCOTT: Yes. I guess I'm saying
6 the same thing. But I agree -- my concern is what is the
7 definition of "construction financing"? Are we looking at
8 full financing for the full construction or are we looking
9 at enough to start, that type of thing? So, I think,
10 again, if they can submit to us, not with a hearing, but
11 just to show that that was in place before starting, I
12 would be in support of that.

13 CHAIRMAN GETZ: Well, I think what we
14 would need, though, with that notion, would be some more
15 language in Condition 1, to the extent or in the nature of
16 "the Applicant shall not commence construction until such
17 time as it has provided the Committee evidence of
18 construction financing in an amount necessary to complete
19 the entire project", something along that line, it sounds
20 like where you're headed. Is that fair?

21 DIR. NORMANDEAU: Uh-huh.

22 CHAIRMAN GETZ: That's the idea. The
23 language needs to be massaged somewhat. So, okay, is
24 there any other -- Director Normandeau.

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1 DIR. NORMANDEAU: Just in maybe the one
2 thing, the one thing that you might add along with that is
3 to complete the project with possibly a reasonable
4 contingency. I mean, --

5 MR. IACOPI NO: You mean, within a
6 certain amount of time?

7 DIR. NORMANDEAU: No, I was thinking
8 about a contingency for unexpected --

9 CHAIRMAN GETZ: I think that circles us
10 back to the, you know, --

11 DIR. NORMANDEAU: Okay.

12 CHAIRMAN GETZ: -- the notions of "how
13 deeply are we getting into, you know, micromanaging?"
14 It's my assumption, you know, based on lots of
15 construction contracts I've seen, and the discussions
16 during the hearings that there is a, you know, some kind
17 of contingency built in.

18 DIR. NORMANDEAU: That's fine. That's
19 fine.

20 MR. IACOPI NO: My one question for the
21 Committee, for direction from the Committee, is this is
22 construction financing we're talking about, not the
23 permanent financing, is that correct?

24 CHAIRMAN GETZ: Yes.

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1 MR. IACOPI NO: Okay.

2 CHAIRMAN GETZ: Okay. Then, it looks
3 like we're in favor of Condition Number 1, with the
4 refinements that we've discussed, but not -- would not
5 require Conditions 2 through 5. So, it looks like we're
6 in agreement on that.

7 So, let's turn to the -- what are listed
8 as "Other Financial Issues". And, bonded contractors.
9 Mr. Harrington.

10 MR. HARRINGTON: Yes, Mr. Chairman. On
11 all of these issues, (6) Bonded Contractors, (7) which is
12 Construction Sequence, (8) General Contractor, and (9)
13 Operations Manager, again, this is -- these were all put
14 up by the Public Counsel, and they all seem to be an
15 attempt to micromanage the Project. I mean, obviously,
16 these people are talking about spending somewhere in the
17 range of \$280 million. I have to believe that they know
18 what they're doing as far as how to construct the Project,
19 and they don't need this to tell us exactly how. So, I
20 would say that none of these conditions should be applied,
21 simply under the idea that it's -- I don't think it's even
22 in our statutory authority to tell them exactly how to

23 build their project and what methods to use, and what type
24 of contractors to hire. And, so, I would recommend that
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1 all of these be eliminated.

2 CHAIRMAN GETZ: Well, I would -- I guess
3 I'd put it in this context. If we have some basis for
4 concern about their -- in this case it would probably be
5 managerial and technical and perhaps financial capability,
6 if we had some concerns about that, then some of these
7 might be appropriate. But, if you don't have concerns,
8 then it would -- the argument would tend the other way.

9 So, any other thought about those
10 conditions, 6, 7, 8, and 9?

11 MR. JANELLE: I guess my only concern
12 is, when we heard financial testimony, if I recall, one of
13 the issues was that one of their contractors wasn't
14 bonded, and that's why the contractor went bankrupt, and
15 that caused some financial problems for that project in
16 New York, I believe it was.

17 CHAIRMAN GETZ: Director Normandeau.

18 DIR. NORMANDEAU: I would mention, you
19 know, I think that their financial person brought up the
20 point, when you bond somebody, which I've been bonded many
21 times, you are not bonding your payments. You know, if
22 GRP bonds -- requires a contractor to be bonded, that's an
23 insurance policy to GRP, not to anybody else that they
24 pay. So that, you know, ultimately GRP's insured. But,
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1 when a company goes broke that's been bonded, the

2 responsibility of the bonding company is to finish that
3 contractor's work in the contract amount that they were
4 under bond with GRP for, you know, or the -- so, it's not
5 -- it's an insurance for the overall general contractor
6 and owner, more than it is for the people that are on the
7 other side of that. You know, if the State of New
8 Hampshire is bonded on a job, it means that, you know, if
9 you go belly-up and don't finish, the bonding company is
10 responsible at their cost, even if it's more than the
11 remainder of the contract, to get somebody in there to
12 wrap it up for you. So, I think there was a mixed
13 understanding of the benefits of bonding in that respect.
14 But, anyway, just my view of it.

15 CHAIRMAN GETZ: Any other discussion
16 about the bonding requirement?

17 (No verbal response)

18 CHAIRMAN GETZ: And, what we can also
19 do, I mean, it sounds like does any -- 7, 8, and 9, it
20 sounds like there's -- no one's really proposing that we
21 adopt those, as I take it from looking to the other
22 members. So, we could, at this point, say the
23 recommendation is not to impose 7, 8, or 9 as conditions.
24 And, we could set Number 6 aside for the moment and come

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1 back to it, and give folks a chance to think about that.
2 So, we're going to have create a little parking lot here
3 for issues that we want to revisit. But, Dr. Kent.

4 DR. KENT: Regarding Number 6, it was my
5 thinking that we passed that hurdle. We've determined
6 that this company is capable of doing this job,

7 essentially, both raising the funds and spending those
8 funds. And, I find 6, as well as the others, to be
9 superfluous and a revisitation of a decision we've already
10 made.

11 CHAIRMAN GETZ: Any other discussion? I
12 mean, we can -- I'm happy to try to, you know, try to sort
13 this out now or we can come back to it. Mr. Janelle, you
14 raised the concern. Do you have a preference?

15 MR. JANELLE: Well, if my memory serves
16 me correct again, I believe GRP -- or, Noble paid those
17 liens that were of concern in New York and covered the
18 non-bonded contractor's costs, and then will look to
19 resolve those later. So, I think the financial capability
20 has been demonstrated.

21 CHAIRMAN GETZ: So, then, it's fair to
22 say then you don't feel the need to require this as a
23 condition?

24 MR. JANELLE: Yes.

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1 CHAIRMAN GETZ: Okay. Then, let's --
2 well, next is the decommissioning.

3 DR. KENT: Mr. Chair?

4 CHAIRMAN GETZ: Yes.

5 DR. KENT: We had discussed earlier, you
6 raised the idea of having -- Mr. Iacopino raised the idea,
7 that's during the language about a change in corporate
8 ownership/organization, have we captured that yet into the
9 financing or under financial issues? Is that where that
10 would be captured?

11 MR. IACOPI NO: Yes, that's where I would
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12 put it, in "Managerial, Financial, and Technical
13 Capability".

14 DR. KENT: I would support that
15 condition.

16 MR. IACOPI NO: That being the condition
17 that I referenced before, that they -- the condition that
18 I referenced before, that the Certificate will not be
19 transferred nor there be a change in ownership of the
20 company or a change in corporate structure without
21 approval from the Committee?

22 DR. KENT: Correct. Thank you.

23 CHAIRMAN GETZ: Does everyone support
24 that as a condition?

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1 (No verbal response)

2 CHAIRMAN GETZ: Okay. Thank you. And,
3 well, let me make sure everybody is -- we're on the same
4 page. Does it make sense to put decommissioning off to
5 the end or do folks want to try to address that now?

6 DIR. NORMANDEAU: I'd just as soon dig
7 in. We're there, you know.

8 CHAIRMAN GETZ: All right. Let's do it.
9 So, then, let me just also make sure, Mr. Iacopino, that
10 we've got everything that we need to consider this. Part
11 of the decommissioning is at the end of the Coos County
12 Agreement. And, then, is everything else on Page 2 and,
13 you know, basically Items 10 through 23 that --

14 MR. IACOPI NO: Yes. Item 10 is actually
15 taken from the Applicant's brief. Its their Condition H.
16 It essentially is Paragraph 12 of the Coos County

17 Agreement, is what they're -- what the Applicant has asked
18 the Committee to put in as a decommissioning condition.
19 Item 11 was proposed by Public Counsel. Items 12 through
20 15 -- I'm sorry, through 17, were proposed by the
21 Appalachian Mountain Club. And, then, Items 18 through 22
22 were proposed by Industrial Wind Action Group. And,
23 Number 23 was proposed by Ms. Keene. I'm sorry if there
24 is some overlap within them. You may want to, at least in
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1 the first instance, consider them as whole packages with
2 each other, and then decide if it's worth it to mix and
3 match.

4 CHAIRMAN GETZ: You mean "whole
5 packages" by parties?

6 MR. IACOPI NO: Right, by party. Because
7 it seems to me that the parties probably put some thought
8 into what they were doing, and merely because they broke
9 it out into paragraphs didn't mean to offer them as
10 piecemeal. But it is certainly within your authority, if
11 you want to take pieces from each, and then cobble
12 together a different plan, it's certainly within your
13 authority.

14 CHAIRMAN GETZ: Any discussion?
15 Director Normandeau.

16 DIR. NORMANDEAU: In reading the County
17 Agreement plan, you know, I think, in a substantial way,
18 that covers many, if not most, of the issues in my mind,
19 with the exception of that it contemplates that the
20 Project will be totally constructed and built to a -- and
21 last its lifetime prior to decommissioning. So, it seems

22 like the two areas, in my mind, that are an issue is, you
23 know, a "what if" scenario, if decommissioning needs to
24 occur after only partial construction. And, secondly,
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1 whether or not the funding timeline that's proposed in the
2 County document is -- does the Committee consider that
3 adequate, in terms of taking ten years to fully establish
4 it? So, that's my two cents' worth of it on the issue.

5 CHAIRMAN GETZ: Mr. Harrington.

6 MR. HARRINGTON: Yes. As a follow-up on
7 that issue, if we go to Section (d) of this, which is the
8 "Ensuring Decommissioning and Site Restoration Funds", it
9 talks about payments so that at the end of ten years they
10 will be complete. But then it says "Prior to the
11 establishment of the full Decommissioning Fund at the end
12 of year 10, GRP shall on an annual basis provide the
13 County with proof (through insurance or other means) of
14 its financial ability to carry out decommissioning should
15 it be required prior to year 10." My concern there is
16 that it doesn't really have an initiation time frame. In
17 other words, is "prior to year 10" meaning that "prior to
18 the start of construction" they have to show that they
19 have that? I think that's the issue that Director
20 Normandeau was referring to as well. And that, maybe this
21 just needs to be clarified that the concern, again, is
22 that they got into construction, something, you know, a
23 Lehman Brothers II took place to their financing plan, and
24 they have torn up a good portion of the mountain, and now
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1 they have to not complete their project. So, at that
2 point, we want to make assurance that they had some type
3 of insurance or other means to be able to do the
4 decommissioning that would be required at that point.
5 And, I'm not sure that this statement here makes sure that
6 it happens, it says it's "in place prior to the start of
7 construction", it just says "prior to year 10, should it
8 be required." I don't know where year zero is or what
9 time frame zero is.

10 CHAIRMAN GETZ: Mr. Northrop.

11 MR. NORTHROP: Just on a general sense,
12 too, I agree with that. I think there should be something
13 in the decommissioning plan, whether it's this Paragraph
14 (d) in the County plan or if it's one of Public Counsel's
15 recommendations. Somewhere there needs to be something
16 that says that, prior to the full funding of the entire
17 decommissioning plan, if they start construction and
18 something happens, and they stop and go belly-up or
19 whatever, that there is money available to restore the
20 site. I'm not sure if -- where that language is or in
21 what condition, but just again, from my perspective, in a
22 general sense, I think that needs to be in the
23 decommissioning plan somewhere.

24 CHAIRMAN GETZ: Other thoughts?

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1 Dr. Kent.

2 DR. KENT: Yes, I have a couple thoughts
3 on this. One, there doesn't seem to be a -- the Coos
4 County, for the most part, is in good shape. But I didn't

5 recognize a mechanism that says "when we get to the life
6 of this particular turbine set, that we will just end up
7 replacing it." It presumes we're walking away from the
8 site, and I don't necessarily think that's what's going to
9 happen when the first set of turbines wear out. I think
10 the wind is still going to be there, and somebody, unless
11 we've gone to some new energy source we haven't conceived
12 yet, we're going to want to capture the wind. So, we need
13 some flexibility on this that doesn't require you to take
14 out every piece of equipment, if, in fact, equipment or
15 the pads or the roads or something else is going to be
16 necessary at the time these particular turbines are no
17 longer considered effective and efficient.

18 That's one. That's the first issue.
19 That's the bigger one.

20 CHAIRMAN GETZ: Yes, let me make sure,
21 I'm not sure I'm following. So, it's what should happen
22 when they're, you know, replacing a turbine or a number of
23 turbines?

24 DR. KENT: Let me try again. The
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1 decommissioning presumes we're walking away from the site.
2 I don't believe that's reasonable, that we'll walk away
3 from the site.

4 CHAIRMAN GETZ: Okay. But that doesn't
5 mean that we shouldn't have a decommissioning plan, in
6 case that happens --

7 DR. KENT: I agree. We should have a
8 decommissioning plan. There should also be a mechanism in
9 here that recognizes that decommissioning will not be

10 defined by taking everything off the site and restoring
11 the site. Because, if they come forward with another
12 project, that says "we want to put up a different type of
13 turbine on the hill", in essence, we have told them "You
14 have to decommission it, restore it to its natural
15 condition, and come apply to us and go back in."

16 CHAIRMAN GETZ: Mr. Iacopino.

17 MR. IACOPI NO: I was just going to point
18 out that the second full paragraph of Section 12 sort of
19 anticipates what Mr. Kent is talking about. It says, "As
20 the wind turbines approach the end of their expected life,
21 it is expected that technological advances will make
22 available more efficient and cost-effective generators
23 that will economically drive a replacement of the existing
24 generators." Is that the type of language that you're
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1 Looking for?

2 DR. KENT: That's what I imagine is
3 going to happen. But where in this, where am I not seeing
4 in the decommissioning structure from Coos County that
5 that is accommodated?

6 DIR. NORMANDEAU: The next paragraph.

7 DR. KENT: Okay. So, maybe I'm not
8 reading right. So, where am I?

9 MR. IACOPI NO: Yes. I don't -- it says
10 that "the minimum expected operational life is 20 years",
11 it's a minimum, in the first paragraph.

12 DIR. NORMANDEAU: Right.

13 DR. KENT: Right.

14 MR. IACOPI NO: I haven't read this to

15 mean that they have to decommission after 20 years, if
16 that's the concern?

17 DR. KENT: That's my question. So, the
18 Committee can perhaps help me understand where we have the
19 flexibility.

20 DIR. NORMANDEAU: If -- Mr. Chairman, if
21 I may?

22 CHAIRMAN GETZ: Please.

23 DIR. NORMANDEAU: If you look at the
24 next paragraph, it says the "Trigger for Implementing
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1 the...Plan". And, it says "if the Project has not
2 generated electricity for a period of 365 consecutive
3 days", unless it "produces evidence of mitigating
4 circumstances" and "long lead time for spare parts",
5 etcetera, I think that the anticipation would probably be
6 that, assuming upgrades were to be made or whatever, that
7 those would be considered "mitigating circumstances", or,
8 as they ran through the process replacing turbines, they
9 would not -- there would not be a 365 day period when
10 something wasn't generated out of the site.

11 DR. KENT: Right. But here's my
12 concern, is that it says "if the Project has not
13 produced". When does this stop being the Project we're
14 deciding on today and become a different project? If we
15 want to accept that the definition of "the Project" is
16 anything they put up on the hill, whether its upgrades or
17 whatever, then we're safe. But I would argue, if it's
18 considered a different project, if GRP or somebody else
19 has to come before us, the SEC, for a decision on whether

20 they can go forward with a project, then we are no longer
21 this project, and this project must be before the next
22 project can be put in. That's the trigger for me. That's
23 the concern.

24 CHAIRMAN GETZ: Yes. I guess I would
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1 I look at "the Project" as what is the 33 turbines and the
2 33 sites that the Certificate would permit. So, that's
3 the Application for the project. Then, I don't think that
4 would mean that it's limited to the 33 turbines that are
5 put in and then, if you wanted to replace a turbine, then
6 it became a different project at that time.

7 DR. KENT: How about if we replaced all
8 of the turbines, or we cut it down to ten turbines,
9 because they're so much more efficient? I don't know the
10 answer to this question. When does it become a different
11 project? And, are we trapped in a decommissioning mode,
12 even if we're still going to be generating wind on the top
13 of those notches?

14 MR. HARRINGTON: Mr. Chairman?

15 CHAIRMAN GETZ: Mr. Harrington.

16 MR. HARRINGTON: Yes. I think I
17 understand where Dr. Kent is coming from. And, it could
18 be a concern because of technological changes. I mean,
19 just for a for instance, let's say there's a breakthrough
20 in some type of storage technology, and it would cause
21 people to make a major change in what was up there prior
22 to the life of it expending, going, you know, expending
23 the 20 year operational life that they have referenced
24 here, because having the storage technology in would boost

1 the capacity of the wind machines, you know,
2 substantially.

3 So, we want to make sure that that
4 doesn't automatically trigger, and I think this is what
5 his concern is, it doesn't automatically trigger, saying
6 "well, you have to decommission before you can put in this
7 new technology." So, maybe accepting this, and adding
8 some other condition of our own that says, you know,
9 "notwithstanding this, that if a similar -- if this
10 Project is replaced by a similar project that generates
11 energy using wind, that the decommissioning trigger will
12 not be activated", or something to that effect.

13 CHAIRMAN GETZ: Any other thoughts?

14 Mr. Northrop.

15 MR. NORTHROP: I agree with that, sort
16 of the general premise that, if the project is built, and
17 it's there, and over time technology changes, and there
18 are changes to the Project, by new turbines or new
19 technology or something, that we don't want to have to
20 cause the entire site to be decommissioned, brought back
21 to its natural state, in order for some new technology to
22 be installed on the site. I'm in agreement with that
23 general principle. How we actually, you know, whether we
24 need to put that in language in the County decommissioning
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1 plan or whether it's already in there, I'm not sure. But,
2 again, just from my sense, that I agree with Dr. Kent, and
3 I think it's the general idea that we don't want to have

4 to go through a complete decommissioning, take everything
5 out, get it all back to the natural state, before we can
6 somehow move forward with a change, as far as a
7 technological advance, or what it says in here, the -- all
8 right, "technological advances", relative to more
9 efficient turbines or a more efficient delivery or, as
10 Mr. Harrington said, storage. How we do that, I'm not
11 sure. But, again, I agree with that general -- that
12 general idea.

13 CHAIRMAN GETZ: Mr. Janelle.

14 MR. JANELLE: Under 12(a), in the last
15 sentence, it talks about "restoration activities", too.
16 It says "Decommissioning and restoration activities will
17 adhere". And, I guess restoration would be more to the
18 putting back of the -- I guess that's not upgrading
19 turbines, I guess that would be restoring the roads and
20 the cleared areas.

21 CHAIRMAN GETZ: That's how I would take
22 it.

23 MR. JANELLE: Uh-huh.

24 CHAIRMAN GETZ: It seems like -- well,
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1 let me make sure I understand the issues. See if we can
2 compose these correctly. So, the concern really is about
3 premature decommissioning, that somehow the trigger under
4 12(a) is pulled before it really should be, and that
5 there's some other useful steps that the Applicant would
6 want to take on the Project site. Is that basically it?

7 DR. KENT: Not to muddy the waters, but
8 I think it comes down to the definition of

9 "decommi ssi oni ng". Is "decommi ssi oni ng" the end of thi s
10 project as currently proposed, constructed, with these
11 parti cul ar turbi nes, thi s number, or is "decommi ssi oni ng"
12 the end of a vi able wi nd project at the top of these peaks
13 by thi s Appli cant? If they have the authori ty wi thi n the
14 defi ni ti on of "decommi ssi oni ng" to repl ace those turbi nes,
15 reduce the number of the turbi nes, update it to new
16 technology, then I'm not concerned about that.

17 MR. HARRINGTON: Mr. Chair man, if I may
18 make a sugge sti on? That second paragraph, under
19 "Anti ci pa ted Li fe of Wi nd Turbi nes", talks about exactly I
20 thi nk what Dr. Kent's point is here. It says "it is
21 expec ted that technologi cal advances will make avail able
22 more effi ci ent and cost-effective turbi nes [generators?]
23 that will economi cally drive the repl acement of existi ng
24 genera tors." Maybe just adding a caveat there that says
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1 "Such repl acement will not activate the trigger for
2 imple men ti ng the decommi ssi oni ng plan in Secti on 12(a) by
3 thi s agree ment."

4 DIR. NORMANDEAU: Sounds good.

5 CHAIRMAN GETZ: Yes. And, I thi nk the
6 i ssue there bei ng whether, you know, what we'd be looki ng
7 at is that the trigger is if the project hasn't generated
8 electri ci ty for a year. And, if it's not doi ng it because
9 it wants to repl ace turbi nes with some -- these parti cul ar
10 turbi nes with some other better, newer technology. So,
11 that's kind of where you're --

12 MR. HARRINGTON: Yes, that's exactly
13 what I was referri ng to.

14 DIR. SCOTT: Wouldn't that be a
15 mitigating circumstance that has already been -- Sorry,
16 Steve. Wouldn't that be a mitigating circumstance as
17 already outlined in 12(a)?

18 CHAIRMAN GETZ: It could be. It's kind
19 of depending on -- there's another problem with trying to
20 write contracts and issue orders contemplating situations
21 that we don't know exactly how they're going to play out.
22 And, one way of looking at this is, you know, the
23 Applicant has signed this, and which, you know, to me
24 suggests that they're comfortable with it. If there were
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1 some way to what -- what we're trying to do is add in some
2 language that would essentially protect the Applicant, in
3 case it were in a situation where it wasn't going to be
4 operating for 365 days, but it had some reasonable good
5 faith plan to do something else there, so that it would
6 defer the trigger. Mr. Iacopino.

7 MR. IACOPI NO: Mr. Chairman, the only
8 other thing that, statutorily, that I would just mention
9 to you, because it would inform your discussion, is that
10 the RSA 162-H actually requires an applicant to come back
11 and obtain a certificate for a sizeable addition to an
12 existing project. So that, if this technology that you're
13 talking about were to vastly increase or were to meet the
14 definition, whatever that may be, because it's not in the
15 statute of "sizeable addition", then --

16 CHAIRMAN GETZ: Or change.

17 MR. HARRINGTON: You don't want to go
18 there.

19 MR. IACOPI NO: -- a sizeable change or
20 addition, then the Applicant would be required to come
21 back before the Committee in any event, at which time the
22 decommissioning aspects that would be associated with that
23 would clearly be within the bounds of what the Committee
24 could consider.

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1 DR. KENT: I would add that, I'm not,
2 with all due respect, I'm not really thinking about the
3 Applicant. I'm thinking about what's best for us. If we
4 know there's going to be another wind project up there, a
5 better wind project, I'd rather not restore and then
6 re-disturb the whole area again. I'd rather just say
7 "Let's leave the roads, let's leave the cleared area,
8 let's maybe even use the pads again", as the least
9 disruptive way to continue a wind project up there, from
10 our standpoint.

11 Is there any analogue for conventional
12 power facilities? Maybe that will guide us, since we're
13 on new ground with wind projects. Is there an analogue in
14 conventional projects, where, if something changes with
15 the plant, and we decide "Is that a new project or does it
16 fall within the original agreement?" How do we handle
17 those?

18 MR. IACOPI NO: From experience, there
19 are two. One is the "sizeable addition", which comes up
20 more frequently than you would think, when there are
21 changes that power plant operators, conventional
22 facilities will want to make. In fact, there's one
23 pending before the entire Committee as we speak. And,

24 they actually come up fairly frequently.

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1 The other is the delegation by this
2 Committee to authorize various State agencies to allow
3 modifications to facilities. Those are generally only
4 considered to be minor modifications, though. They
5 generally come in the form of air pollution controls or
6 water pollution controls, things like that.
7 Traditionally, the Department of Transportation and the
8 Department of Environmental Services have been the
9 agencies to which we most often delegate those sorts of
10 things. For instance, getting the turbines up there
11 requires traveling over the roads. We don't know what the
12 size of those things will be in ten years. So,
13 traditionally, we've delegated that.

14 Another thing that we've delegated is
15 enforcement of the blasting regulations to the Department
16 of Safety. So, we've done those things over the course of
17 time. That doesn't address your entire concern. But
18 those are two analogues, if you will, that have sort of
19 kept issues from returning to the Committee.

20 The only other, I mean, none of these
21 former projects, though, have the expanse of a wind
22 project. I mean, you're talking a much larger area, and
23 many more construction sites, when you're talking about a
24 wind project. Most conventional facilities have one site.

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1 CHAIRMAN GETZ: Where I take it we are

2 is then -- so, the concern is that if it's basically a new
3 project, new technology, new turbine, something more than
4 just replacing a turbine or just changing out the
5 turbines, but something substantially different in form
6 than what's there, and would require the -- require that
7 there would be no production of energy for a year, which
8 would be the trigger for decommissioning, we don't want to
9 trigger the decommissioning.

10 Now, I would take it from what
11 Mr. Iacopino is saying that, if something so vastly
12 different from what's there would require our approval,
13 the Committee's approval, unless the law changes in the
14 interim, but looking for some -- maybe some provision
15 that, to the extent that the Applicant is proposing a
16 substantially different technology in form that would
17 require them to be out of service for more than a year,
18 that they need to come here for approval, and that that
19 would not constitute a decommissioning under the
20 agreement. Does that kind of get us there? And, again,
21 we've got to really work on the language, but I think
22 that's the -- would that be the concept that you were
23 trying to protect or I missed it again?

24 DR. KENT: Yes. Sort of. I just
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1 imagine, once we've cleared this ridge top for wind
2 energy, use or capturing wind energy is going to be
3 perpetuated there. At some point, we may trigger --
4 there's a number of ways to handle this, I guess. If
5 somebody says "we're going to come back, we're going to
6 decommission," in a conventional sense," although that

7 word's become a little fuzzy all of a sudden, "if we're
8 decommissioning the turbines we have up there, we want to
9 remove them, we want to put something else up." You know,
10 "Well, you've got to come back to us." So, we go through
11 a new project.

12 Meanwhile, maybe we hit that 365 day
13 trigger, and, technically, they're supposed to, you know,
14 break everything down, move it out of there, restore the
15 site. Meanwhile, they're preparing to meet with us, we're
16 preparing to issue a decision. I want to avoid
17 inadvertently doing things to that ridge top that we don't
18 want them to do. We don't want them to say "well, restore
19 it and then, technically, we'll grant you permission to
20 rip it up again."

21 I'm looking for some flexibility. And,
22 there's a number of ways to address that. There's making
23 clear what "decommissioning" is. There's making clear
24 what a new project would be. Or, just accepting that, if
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1 they come back, we say -- they say "They're
2 decommissioning", we come back and we change the condition
3 that's in there before. We override a condition we might
4 issue now, 20 years down the road, if we're still around
5 doing this type of thing, and say "well, we're going to go
6 back. We do not want you to restore as part of your
7 decommissioning, as a condition of the new project."

8 MR. IACOPI NO: Well, wouldn't there be a
9 -- somebody would have to file an application to put a new
10 -- well, I suppose, unless it's under 30 megawatts,
11 somebody would have to.

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CHAIRMAN GETZ: Director Normandeau.

12
13 DIR. NORMANDEAU: I'm, myself, I'm sort
14 of satisfied with the way it's written. I think, as long
15 as it's economically viable to have something going on up
16 there, once this is built that would continue. Although,
17 the one issue I could see that would follow along with
18 Dr. Kent's thought process is if -- would be an
19 intervenor, who would be trying to force the provisions of
20 the restoration plan, because it is a legally binding
21 document, while somebody else is coming in trying to
22 redevelop the site, you know. And, that I could see
23 happening, you know, rather easily. You know, I'm not a
24 lawyer, I don't know how easy that would be. But, if you
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1 were trying to discontinue the situation up there as an
2 intervenor, and power hasn't been generated 365 days while
3 people are working on, you know, the new technology plan,
4 you know, clearly that's an avenue to be explored by
5 someone who's trying to, you know, court order the
6 implementation of the legal agreement to commence tearing
7 the place back down after 365 days without power. But, I
8 don't know, I guess, as a practical matter, I'm not -- you
9 know, as long as there's economic incentive to keep
10 producing wind power up there, I would think that it would
11 continue on pretty much on course.

12 CHAIRMAN GETZ: Director Scott.

13 DIR. SCOTT: I'd like to suggest similar
14 language to what's currently in 12(a), where, again, it
15 would be "required if the project does not generate
16 electricity for 365 days, unless previously approved by

17 the Site Evaluation Committee for a longer period of time
18 or unless a request is currently under consideration by
19 SEC". And that, to me, would cover all circumstances.
20 So, basically, if you've done nothing, and nothing is
21 going on, and 365 days it triggers. If it's longer than
22 that, that you currently have something before or, for
23 instance, let's say GRP has stopped producing power for
24 whatever reason, they're selling it, they're going to --
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1 that would require them to come to us. We would allow in
2 that circumstance decommissioning not to happen while we
3 ruled on that issue. And that, to me, would clean those
4 unlikely concerns up, I think.

5 CHAIRMAN GETZ: Dr. Scott, does that --
6 or, Dr. Kent. Because I think what -- I think it allows
7 not only the Applicant to essentially petition for relief
8 from the 365 day requirement, or, I guess, you know, we do
9 maintain continuing enforcement authority, I guess the
10 Committee on its own motion could start something along
11 those lines. Does that address --

12 DR. KENT: As long as there's -- yes,
13 that's fine. I just raise the issue of flexibility and
14 inflexibility.

15 CHAIRMAN GETZ: I think that gets us to
16 where we want to be, that we're not artificially imposing
17 a result that really doesn't, you know, achieve the goals.
18 And, certainly, the County's concern is it doesn't want,
19 and a general concern of decommissioning, you don't want
20 facilities sitting there not being used. And, so, if we
21 have some approach to the proposal, then I think Director

22 Scott's language addresses that issue.

23 MR. IACOPI NO: And, if I could just ask
24 for some direction. Mr. Scott, I have the 365 day trigger
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1 or something filed before the Site Evaluation Committee.

2 There was a third?

3 DIR. SCOTT: My thought was, unless, of
4 course, prior approval, so if they had come to the SEC
5 prior to that, or a motion was currently in consideration
6 or a project was currently under consideration by SEC.

7 MR. IACOPI NO: Okay.

8 DIR. SCOTT: And, not that it ever
9 happens, but that would allow, if the Project changes, was
10 requested, and we happen to go beyond that timeline.

11 CHAIRMAN GETZ: Okay.

12 DR. KENT: One further issue. My second
13 issue is quite a bit simpler. The Coos County Agreement
14 is vague about restoration specifics and erosion and so
15 forth. There's some language, I'm trying to track it
16 down, I think it came from the Applicant's post hearing
17 brief as a recommendation. That, "of areas above
18 2,700 feet in elevation will be revegetated in accordance
19 with a plan to be developed by GRP, in consultation with
20 New Hampshire Fish & Game. The plan will address
21 reestablishment of endemic species, including spruce and
22 fir", and so on. I'd like to make sure we capture that
23 language in decommi ssi oni ng.

24 It came, and I'm reading it out of the
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1 original package that counsel gave us, the "Outline of
2 Conditions by Category" we worked off of last time. And,
3 I haven't found it elsewhere yet.

4 MR. IACOPINO: I think it may be under
5 "Water Quality".

6 DR. KENT: It's under "Adverse Impact -
7 Water Quality", Applicant's conditions. So, it has to be
8 --

9 MR. IACOPINO: It would be under "Water
10 Quality" in the present package as well. And, I believe
11 there were -- that's one of the ones that was actually
12 combined, both Public Counsel and the Applicant used very
13 similar condition language.

14 DR. KENT: But the original language --

15 MR. IACOPINO: That would be Number 5,
16 under "Water Quality", is what Dr. Kent is referring to.
17 I can read it, if the Committee wants to hear it? "Areas
18 above 2,700 feet in elevation will be revegetated in
19 accordance with a plan to be developed by Granite Reliable
20 Power in consultation with New Hampshire Fish & Game.
21 This plan will address reestablishment of endemic
22 species, including spruce", I have "and fir", but I
23 suspect that's supposed to be "spruce-fir", "within the
24 restored right-of-way. The plan will include provisions
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1 for planting of seedlings and application of organic
2 matter to best support a successful restoration effort."
3 And, that comes from the Applicant's brief, Condition F
4 that they have suggested, and also from Fish & Game -- I'm
5 sorry, I said "Public Counsel" before, it actually comes

6 from Fish & Game's Condition B, as in "bravo".

7 DR. KENT: Thank you. And, it is
8 "spruce and fir".

9 MR. IACOPINO: And, it is spruce? Okay.

10 DR. KENT: Two different species.

11 Thanks.

12 CHAIRMAN GETZ: Okay. Then, I take it
13 that's acceptable to everyone. But let's get -- the way I
14 understand where we are is that everybody is subject to
15 the proposed language given by Director Scott, everybody
16 supports what's in the Coos County plan, except for the
17 issue that we need to follow up on raised by, I guess, a
18 combination of Mr. Harrington and Director Normandeau,
19 about how do we address the early years, in terms of, if
20 there is a, you know, cessation of activity, and what kind
21 of -- basically, when does funding start and what types of
22 assurances, what amounts? Director Normandeau.

23 DIR. NORMANDEAU: And, you know, I am --
24 I would be comfortable with the posting of a surety of
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1 some kind to do that in the early years. I mean, I can
2 understand GRP's cash flow issue, if you will, with coming
3 up with the entire amount prior to beginning construction.
4 So, that -- because, you know, they're clearly thinking in
5 the long term and putting this thing on line. But I do
6 think that, as long as it can be demonstrated that they
7 have coverage up to whatever point they're at in
8 construction to take care of it, you know, I think that
9 that would be adequate. To have -- To require them to
10 have an extra, whatever it might be, 50 million sitting in

11 a savings account somewhere just in case at the start of
12 things seems a little -- a little bit tough. But --

13 CHAIRMAN GETZ: Well, can we take a look
14 at, it looks like the Conditions 13 through 17, the ones
15 that were submitted by AMC. Can we look at that for maybe
16 trying to structure what we want to do? I think these go
17 to some of the issues that are being raised.

18 MR. HARRINGTON: Mr. Chairman.

19 CHAIRMAN GETZ: Mr. Harrington.

20 MR. HARRINGTON: I was just sort of
21 playing around with some words here to follow up on this
22 concern. And, since, if you look at Section (c), or where
23 it talks about "Estimate of Decommissioning Costs", it
24 says the "Detailed site-specific", this is in the Coos
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1 County Agreement on decommissioning, "Detailed
2 site-specific estimates of the following decommissioning
3 costs and salvage values", which has been called the
4 "Total Estimated Net Decommissioning Cost", will be
5 provided to the County prior to commencement of Project
6 construction, and updated every five years." So, what I
7 would suggest, some wording to the effect that "Upon
8 submittal of the initial Total Estimated Net
9 Decommissioning Cost, the Applicant will provide proof to
10 the Coos County Commissioners, through assurance or other
11 means, of its ability to carrying out decommissioning any
12 time between initiation of construction and year 10."
13 And, that would seem to cover the issue.

14 DIR. NORMANDEAU: Or, maybe from the
15 period initiation of construction -- oh, and year 10,

16 okay. I was thinking 2010. And year 10, by which time
17 they're supposed to have the fund fully funded.

18 MR. HARRINGTON: And, I think that
19 addresses the concern that I had in Section (d), where we
20 know they're supposed to do something prior to year 10,
21 but we don't know exactly where it starts. So, we're
22 saying here that you would have to submit that, which
23 could be the day before, I guess, construction is
24 scheduled to start, because there isn't any caveat of when
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1 they have to put their initial estimate in, other than it
2 has to be done prior to construction, the initial one.
3 So, when they submit that initial Total Estimated Net
4 Decommissioning Cost, they would also have to submit proof
5 that they had, through insurance or other means, of the
6 ability to carry out decommissioning any time between
7 initiation of construction and year 10.

8 MR. IACOPI NO: And, that's to the
9 County, you're suggesting?

10 MR. HARRINGTON: To the County.
11 Because, if you look at Section (d), that's what we're
12 referring to, where all this stuff is being submitted
13 anyways, is to the County. I'm assuming, it doesn't say
14 specifically, but, since it's agreement with the County
15 Commissioners, I'm going to assume that these various
16 things that have to be submitted are being submitted to
17 the County Commissioners.

18 DIR. NORMANDEAU: Perhaps the SEC's
19 would be cc'd on that.

20 CHAIRMAN GETZ: Well, certainly we can
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21 require that. And, so, then -- so, you're basically
22 saying some proof of funding ability, whether it's a
23 letter of credit or whatever instrument that they might
24 propose?

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1 MR. HARRINGTON: I'm just playing --
2 excuse me. I'm just playing off of using the same words
3 that were in the agreement in Section (d), but putting a
4 little bit more detail and certainty as to when the
5 starting point was. In this case, it would be -- they
6 would have to show the ability to carry out
7 decommissioning any time between the initiation of
8 construction and year 10.

9 DIR. NORMANDEAU: Mr. Chairman, it sort
10 of reminded me of getting a road bond. You know, when you
11 have a construction project that may cause damage to a
12 town or state road, and so you have to get a road bond, so
13 that, if, in fact, you do damage the road, and something
14 happens to your program, so you're not there to fix it,
15 you know, that insurance policy covers the Town, to make
16 sure it gets repaired. So, it would be the same type of
17 idea. I mean, a little more complicated, I'm sure, in
18 actually writing a policy for it, but --

19 CHAIRMAN GETZ: I guess the one issue
20 that occurs to me is more of a process issue, and looking
21 down again at what if there's a lack of agreement? If the
22 County doesn't necessarily agree that the evidence of or
23 assurance is adequate. I guess -- I think, under 162-H --

24 MR. IACOPI NO: Somebody could ask us to

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1 enforce, if they had an opinion as to what the certificate
2 requires, we could be asked to enforce. It's also
3 possible they could wind up in the Superior Court, I
4 suppose.

5 DIR. SCOTT: But, if it was a condition
6 of ours, I assume it would start with us, though?

7 MR. IACOPINO: Probably.

8 CHAIRMAN GETZ: Then, maybe it's do we
9 want to make express in here, to the extent that there's,
10 you know, not agreement, that it will, you know, come to
11 the Committee for resolution, at least to make it clear
12 what the backup is, if there's been some disagreement
13 between the County and the Applicant, is that --

14 MR. HARRINGTON: That would make sense
15 to me.

16 CHAIRMAN GETZ: Mr. Janelle.

17 MR. JANELLE: Your issue of disagreement
18 is on the amount of the surety or --

19 CHAIRMAN GETZ: Yes. I think the
20 language that Mr. Harrington suggested was that they make
21 some kind of showing to the County that they have the
22 ability to, you know, essentially decommission, basically,
23 after the start -- any time between the start of
24 construction and ten years from then, by some kind of

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1 showing of assets on their books, a letter of credit, some
2 performance bond, I'm not sure what the instrument would
3 be, but -- and what happens if the Applicant provides that

4 case to the County, and the County says "We don't think
5 that's good enough." So, that's what I'm just positing,
6 what happens then?

7 MR. IACOPINO: Well, there are two,
8 under what you're talking about, there are two areas of
9 possible friction. Number one is, what happens if, under
10 (c), they can't agree as to what the net estimate of the
11 cost is, because that actually requires them to agree on
12 it, if they can agree. And, the second is, let's say they
13 agree, but then they disagree about the adequacy of the
14 instrument that is offered by the Applicant. So, let's
15 say they get a letter of credit from some bank that nobody
16 has ever heard of, and the County says "We're not willing
17 to do that." So, there are two areas where there could be
18 friction.

19 CHAIRMAN GETZ: And, where they might
20 want to turn to us for some resolution.

21 MR. HARRINGTON: Mr. Chairman, couldn't
22 we simply broaden that, so that it covers that any -- what
23 would I say -- "Any disagreements over decommitting
24 costs or decommitting financial assurance will be
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1 brought to the SEC"? Just simply leave it go at that?

2 CHAIRMAN GETZ: I think that probably
3 works. But, Mr. Scott.

4 DIR. SCOTT: I don't want to take this
5 beyond the scope of what we're talking about, but I would
6 ask, why wouldn't we have the same type of, for the whole
7 agreement with the County, whether its emergency response
8 or anything else where they're supposed to be cooperating,

9 I would think we'd want that for all of that, if they
10 can't resolve, then they'll know they will come to us.

11 CHAIRMAN GETZ: And, there is an
12 argument that, even without saying it expressly, that they
13 would have that.

14 DIR. SCOTT: And, that's my feeling,
15 too. If it's put in as certificate condition for our
16 certificate, I would argue that, if somebody argued it was
17 not being met, then it would be up to us to enforce, I
18 would think.

19 CHAIRMAN GETZ: But let's, again, like
20 we were doing with those other state permits, let's make
21 it express. Are there any other of the items then that
22 fall under, you know, points 10 through 23 that we want to
23 include in here?

24 MR. IACOPI NO: If I may, while we're on
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1 that, did you want to do the same thing with the Agreement
2 for the Town of Dummer as well?

3 CHAIRMAN GETZ: I think that would work.

4 DIR. SCOTT: Mr. Chair, could I, it may
5 be not necessary, the Mitigation Agreement perhaps also, I
6 was trying to think if there was anything in that also
7 explicitly?

8 CHAIRMAN GETZ: Well, let's do it. I
9 don't think there's any harm in making it express for all
10 of the agreements.

11 MR. IACOPI NO: Okay.

12 DR. KENT: Can I ask a clarification
13 question? I just want to make sure I know what we've

14 bought into. Have we now become a mediating body between
15 the Applicant and any other parties in which there's a
16 dispute?

17 CHAIRMAN GETZ: I would characterize it
18 more that, to the extent that we approve an agreement
19 between the Applicant and any other parties as an express
20 condition of the Certificate, and if there is a dispute
21 about the meaning of the agreement/condition, that we are
22 in a position where we would have to -- we have this
23 continuing enforcement agreement, and we'd have to resolve
24 any debates about whether conditions are being met by the
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1 Applicant.

2 MR. IACOPI NO: As part of exercising our
3 enforcement authority, we would have to resolve the issue.

4 DR. KENT: Okay.

5 CHAIRMAN GETZ: But it would have to be
6 linked, you know, expressly to a condition of the
7 Certificate. So, is there anything else in the
8 decommissioning items? I mean, it seems what we have done
9 is incorporated the notion of assurances and ensuring that
10 there will be some reasonable obligation to decommission
11 in the early years. Are there other concerns or notions
12 that are raised here that anyone would like to discuss?

13 (No verbal response)

14 CHAIRMAN GETZ: Some of these items seem
15 to, you know, sound the same kind of theme, maybe with
16 just a little more specificity. I'm not seeing any that
17 are really of a different nature, but --

18 (Short pause.)

19 CHAIRMAN GETZ: If there's nothing else
20 on decommissioning, it's a little after noon. Maybe this
21 is a good time to take the lunch recess. And, then, we
22 could pick up with "Orderly Development". And, a lot of
23 what's in this package we've already approved, because
24 they're parts of the permits. So, hopefully, we'll be
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1 able to get through the rest of the package. Any other
2 discussion before we take a lunch recess?

3 (No verbal response)

4 CHAIRMAN GETZ: All right. Then, let's
5 take the recess and resume at 1:15.

6 (Whereupon the lunch recess was taken at
7 12:10 p.m. and the deliberations
8 reconvened at 1:18 p.m.)

9 CHAIRMAN GETZ: Okay. Good afternoon.
10 We're back on the record in Site Evaluation Committee
11 Docket 2008-04. And, we are continuing our deliberations
12 and addressing proposed conditions. And, I would suggest
13 we take up with the conditions that are outline under
14 "Orderly Development". I'll note that we already today
15 addressed the agreement between the Town of Dummer and
16 Granite Reliable, as well as the agreement between the
17 County of Coos and Granite Reliable, which are addressed
18 in Conditions 1 and 2 under "Orderly Development". We've
19 also spoken to the High Elevation Mitigation Settlement
20 Agreement, which is Number 6. And, also, Item Number 13,
21 which is the Real Property Value Protection proposal.

22 So, I think we should work through the
23 rest of the items and see where we stand. And, the first

24 item is a proposal by Public Counsel to provide funding to
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1 DRED for "promoting eco-tourism in the Project area".
2 And, I know we had some discussion of this, actually, some
3 discussion of all of these items back on April 20, but I
4 think we need to address today definitively what we want
5 to include and what we wouldn't include as conditions.

6 Actually, so Items 3, 4, and 5 are by
7 the -- proposed by Public Counsel. So, is there any
8 discussion in favor or in opposition to those proposed
9 conditions? Mr. Harrington.

10 MR. HARRINGTON: Yes. On Item 4, it
11 talks about "Prior to commencement of any construction,
12 the Applicant shall provide the Subcommittee a completed
13 system impact study from ISO-New England indicating no
14 significant impacts to the system." This is, to me, is
15 certainly an appropriate statement to make, but it's kind
16 of self-fulfilling. I can't see that any company would go
17 forward and start constructing until they got their system
18 impact from ISO-New England. And, in fact, that's -- the
19 results of that interconnection or system impact study are
20 going to be or are scheduled to be presented at the
21 Reliability Committee meeting coming up in July. So, I
22 mean, we could look at it and say "yes, it's a valid
23 condition", but I think that impact study will be
24 completed and be made public well before there's any
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1 chance of any construction happening. So, I'm not sure if
2 it's necessary to include it.

3 CHAIRMAN GETZ: And, let me also point
4 out, in the context of the system impact study, Item
5 Number 15 is also a proposed condition with respect to the
6 system impact study. But goes quite a bit further and
7 suggests that there should be some review of the final
8 study before we make a decision on the Application. So,
9 any other discussion about conditions related to the
10 system impact study or the other proposals by Public
11 Counsel? Mr. Harrington.

12 MR. HARRINGTON: Getting back to some of
13 the other proposals, the first one, Number 3, is the
14 "Applicant shall provide the amount of \$200,000 to DRED
15 for the purpose of promoting eco-tourism in the area", I
16 just clearly do not see that as the responsibility of the
17 Applicant to do that. If the State of New Hampshire feels
18 that they want to promote eco-tourism, then, by all means,
19 they can go through the budgetary process and try to do
20 that. But, to try to force as a condition of receiving
21 approval by this Committee \$200,000 out of this for
22 eco-tourism, I think it's just an attempt at legalized
23 blackmail, for lack of a better term. I mean, we have the
24 Mitigation Agreement, where you can say you're definitely
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1 Looking at very specific things that the Project is going
2 to cause harm to or potential harm to. So, in order to
3 mitigate that, I think it's valid to have them set aside
4 additional lands and funds to take care of this. But this
5 has to do with promoting tourism, which I see has
6 absolutely nothing to do with this Applicant's obligation,
7 if they were to receive approval of this Committee. Mr.

8 Scott.

9 DIR. SCOTT: I concur with that on
10 Number 3. I can see somewhat of a nexus, if you would
11 concur that housing values and all that would be brought
12 down by the Project, this could perhaps offset that. But
13 I think this is a dangerous precedent, frankly. Few of
14 the things that we certificate wouldn't have a similar
15 argument, I wouldn't think, about whether it's a power
16 plant or a gas pipeline, for instance. So, I don't think
17 that's necessarily appropriate.

18 Having said that, obviously, I think it
19 would be wonderful if they were to do that type of thing,
20 but that would be up to the Applicant.

21 CHAIRMAN GETZ: Any other discussion?
22 Director Normandeau.

23 DIR. NORMANDEAU: I'll concur with
24 what's been said, and just add relative to posting against
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1 hunting or trapping. Obviously, at Fish & Game, we do our
2 best to keep all land possible open for those purposes.
3 The current landowners, they have always left the land
4 open, and the lands that would be used for, in the
5 mitigation, because they would be owned by Fish & Game,
6 would be also left open for those purposes. I guess I'm,
7 you know, I can go either way on whether that's a
8 condition or not. My experience would indicate they'd
9 just -- they would stay unposted anyway, so -- except,
10 again, for safety-related issues. It's up to the group as
11 a whole, if they have a preference there.

12 CHAIRMAN GETZ: I want to ask
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13 Mr. Iacopino, I couldn't find -- I thought there was some
14 other mention of hunting and trapping somewhere else in
15 some other conditions. Am I mistaken or --

16 MR. IACOPINO: It might be in "Natural
17 Environment, off the top of my head.

18 DIR. NORMANDEAU: Unless it was in the
19 Mitigation Agreement, it's possible there.

20 CHAIRMAN GETZ: All right. Well, we
21 have three very different conditions. And, the first --
22 well, let's take them one-by-one. I want to make sure I
23 understand where we are. I'm not hearing any support for
24 the required payment to DRED for eco-tourism. Is that a
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1 fair conclusion?

2 MR. JANELLE: Yes.

3 CHAIRMAN GETZ: Okay. And, it appears
4 to be a fair conclusion. And, the second, on Item 4,
5 which relates to Item 15, is a condition related to the
6 system impact study. And, I think what I'm hearing is
7 that's really not something that's necessary as a
8 condition. That it is, I guess, self-enforcing or
9 self-actuating, as Mr. Harrington has indicated, and the
10 Applicant will be required to meet ISO rules in building
11 its project and interconnecting into the grid. So,
12 there's really no -- nothing to be gained or no need to
13 have a specific condition on that.

14 But the last one is the post -- "the
15 Applicant shall not post against hunting or trapping". It
16 sounds like there's support for that general notion. I
17 guess there's a question of whether it needs to be a

18 condition or not, is that where we where?

19 DIR. NORMANDEAU: Yes, I guess, I mean,
20 I can go with the will of the group on that, because I'm
21 not sure it's going to affect us very much, really,
22 because of the mitigation lands that will be surrounding
23 these areas.

24 CHAIRMAN GETZ: Mr. Harrington.

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1 MR. HARRINGTON: I just had a question,
2 and maybe Director Normandeau can answer. The Applicant
3 doesn't have necessarily the authority to post the land,
4 because they don't own it, right? So, I guess that it's
5 the land that they lease, would they be able to post it or
6 would that be contingent on the terms of the lease?

7 DIR. NORMANDEAU: Well, it would
8 probably be contingent on the terms of the lease, and
9 whether the fee owners would -- what their issues would be
10 related to that. But, again, historically, those owners
11 have always left that land, you know, unposted.

12 CHAIRMAN GETZ: Mr. Scott, did you have
13 something on this?

14 DIR. SCOTT: I was addressing the same
15 issue. To me, the owner of the land that surrounds it
16 will have an overriding -- if you can't get to the land
17 because of that reason, if they post huntingwise and
18 fishingwise, if they posted it. So, I'm personally more
19 comfortable of leaving it up to the owner of the lands,
20 what they wish to do. I think the sentiment clearly would
21 be you'd want it to be access to the public, if possible.
22 To require that, I don't know how we force that, if the

23 owner did not want that.

24 CHAIRMAN GETZ: Yes. Going on with

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1 following on that comment, Mr. Harrington, maybe the best
2 we could do is, as a condition, is require best efforts
3 from the Applicant to reach an agreement with the
4 landowners to --

5 DIR. NORMANDEAU: I'd just leave it
6 alone. I mean, essentially, that could amount to --
7 asking them to negotiate their lease again and adding it,
8 you know. And, I'm satisfied just leaving it the way life
9 is today.

10 CHAIRMAN GETZ: Okay. No objection to
11 that then?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. So, then, we
14 would not require that as an express condition. So, then,
15 we would turn to -- Item 6 we discussed, the Settlement
16 Agreement, the High Elevation Mitigation. So, Item 7, and
17 this has to do with the mitigation lands and actions taken
18 by the Governor and Council, that we've had a variety of
19 discussions around as how to, I guess, how to essentially
20 make sure that those lands can be protected, if they
21 aren't accepted in the first instance by the State.

22 So, any discussion of -- Director.

23 DIR. NORMANDEAU: All I would say is
24 that, based on our history, it would truly be exceptional

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1 for the Governor and Council not to approve the acceptance
2 of this. I mean, that would be a very strange scenario to
3 be, you know, offered this property and not have it
4 accepted by the -- or, have it approved by the G&C. So,
5 relative to not rendering a decision on this Application
6 until such time as an answer is received, well, you know,
7 given that the provisions of the agreement aren't going to
8 be met for some time, pending financing and other issues
9 for them to go ahead, I mean, we could -- that could be a
10 year down the road here, and basically stop all
11 production, if you will, from this Committee for an
12 extended period of time. So, I don't see that as a viable
13 scenario.

14 CHAIRMAN GETZ: Well, I think it also
15 creates kind of the impractical notion that I guess there
16 would be a proposal to G&C that the lands be accepted, if
17 indeed a certificate were approved. And, so, --

18 DIR. NORMANDEAU: And, by then, there
19 could be an election, and we might not have the same
20 counsel members or even the same Governor. So, I would
21 suggest that --

22 CHAIRMAN GETZ: Well, there was a
23 discussion during the hearings, and I think earlier even
24 during our discussion of the conditions about whether

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1 there is some backup language essentially that "what would
2 happen in the event that the Governor and Council didn't
3 accept the lands?" And, that there would be some other
4 way of passing ownership. Sounds like certainly a better
5 approach procedurally. It's a question, I think, I guess

6 of "who that entity would be?"

7 DIR. NORMANDEAU: And, I would think,
8 that if you're going to go down that road, we would need
9 to have a contract in hand and all, you know, I don't
10 think we could simply name someone, you know, without
11 having an extensive discussion of whether or not they're
12 willing to be the recipient.

13 DIR. SCOTT: Mr. Chair? I'm sorry.

14 CHAIRMAN GETZ: Mr. Scott.

15 DIR. SCOTT: Would it be inappropriate
16 to accept this condition, and then add language to the
17 effect that, should this happen, that the land would --
18 that the Applicant would put this land in easement until
19 such, and bring -- and come back to the SEC for a
20 resolution of the issue?

21 CHAIRMAN GETZ: Well, when you say "this
22 language", you're not talking -- This language basically
23 says "we shouldn't make a decision until we know what G&C
24 is going to do."

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1 DIR. SCOTT: You're correct. So, I
2 guess it wouldn't be this language, you're right. But,
3 basically, if this were to happen, some language said
4 "such that if the G&C were to disapprove the transfer, the
5 Applicant would put the land in conservation easement and
6 come to the SEC for disposition of the property or a
7 ruling on that."

8 CHAIRMAN GETZ: Yes. I think that's --
9 I think the better approach is to have some backup
10 language in front, whether it's "come back to us", if

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11 there's, you know, depending on what G&C says, or I guess
12 we don't know who this other party would be. So, it may
13 be the better way to approach it.

14 DIR. NORMANDEAU: I think that would be
15 better, if it was to simply to just be put in -- well, you
16 can't even say "put in a conservation easement", because
17 who's going to be the easement holder? You know, all you
18 could really say, I think, is that it would -- is that the
19 issue would have to come back before the SEC for further
20 action.

21 DIR. SCOTT: Wouldn't the easement
22 holder at the time be Granite Ridge [Reliable?]? Granite
23 Ridge [Reliable?] will, correct me if I'm wrong, will
24 purchase the property, no?

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1 DIR. NORMANDEAU: That's the case. They
2 would purchase the property and transfer it to Fish &
3 Game. However, when you have a conservation easement,
4 that's not normally held by the fee landowner. It's held
5 by some conservation interest that will -- that will
6 enforce that easement, to see that things, you know, bad
7 things don't happen on it. That's why we've tried to get
8 away from easements, because it costs money to monitor
9 them and maintain them. And, so, it's easier to simply
10 own the property.

11 CHAIRMAN GETZ: Mr. Janelle.

12 MR. JANELLE: I mean, can we just state
13 that simply, that if G&C didn't approve the transaction,
14 that it would come back to the SEC to determine an
15 appropriate easement holder for the property at that time?

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CHAIRMAN GETZ: Dr. Kent.

16
17 DR. KENT: There's language, there's a
18 suggested recommendation, a condition, recommended
19 condition from Fish & Game in their post brief: "D.
20 Contingency if the Governor & Executive Council
21 disapproval of Fish & Game acceptance of the mitigation
22 parcels. If G&C do not approve Fish & Game's acceptance
23 of the mitigation parcels and payments, GRP shall transfer
24 such mitigation parcels and payments to a conservation
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1 organization chosen by consultation with Fish & Game."
2 CHAIRMAN GETZ: Mr. Harrington.
3 MR. HARRINGTON: Yes. I've expressed
4 this position before. I don't agree with that provision
5 there. I don't think that we should have one private
6 entity be forced to buy land and transfer it to another
7 private entity as a condition for doing business in the
8 State of New Hampshire. But I also think that the
9 Director's point is probably the most valid one here, is
10 that the chance of the G&C turning this down is pretty
11 rare. So, rather than getting into a debate on it, I
12 would go along with what Mr. Janelle said, and say simply
13 "if that happens, then the Applicant will bring that
14 information to the Site Evaluation Committee for further
15 action", and just leave it go at that. Don't attempt to
16 name who this other party would be at this time, because
17 the chances of it happening seem to be so slim, it's not
18 worth debating the issue.
19 DIR. NORMANDEAU: And, when I brought
20 that point up, it was as I -- I recall Mr. Harrington's

21 objection to that. I mean, the normal scenario for Fish &
22 Game, nine times out of ten, is that, if we don't own it,
23 either the Nature Conservancy or the Society for the
24 Protection of New Hampshire Forests would be our next two
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1 choices. But, with his objection, I didn't think that
2 that was a place to go. So...

3 CHAIRMAN GETZ: Dr. Kent.

4 DR. KENT: I don't read "conservation
5 organization" as necessarily an NGO. I don't think that's
6 the way Fish & Game intended it either, frankly. Fish &
7 Game is a conservation organization, DRED is. They're
8 agencies. But, at the end of the day, what we're talking
9 about is, "Is it Fish & Game's choice, if they can't
10 accept the land, or would it be our choice?" That's
11 really the question on the table. And, since they got the
12 deal, I'd just as soon leave it up to Fish & Game.

13 DIR. NORMANDEAU: And, we'd be happy to
14 go with that interpretation also.

15 CHAIRMAN GETZ: Mr. Harrington.

16 MR. HARRINGTON: I'm not quite sure what
17 you were getting at, Dr. Kent. You said the "conservation
18 agency could be DRED"? I'm assuming that, if the Fish &
19 Game can't take the land, then the Governor and Council
20 wouldn't allow DRED to take it either. So, it would,
21 almost by definition, we're talking about a non-government
22 agency. And, that's my concern. That we'd be
23 transferring private property as a condition for this
24 certificate, we'd be making the Applicant purchase private
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1 property and give it to another private group. And, I
2 don't think that's the correct way to be doing business.

3 CHAIRMAN GETZ: Well, I think that maybe
4 what Dr. Kent is suggesting, if G&C won't approve, that
5 basically we delegate to Fish & Game the authority to say
6 who should get it, but not making a -- maybe not using the
7 language used in the Fish & Game's brief, which could be
8 read kind of restrictively. Is that fair?

9 DR. KENT: There were two points. The
10 first one was, I don't read "conservation organization" as
11 literally as Mr. Harrington does. It doesn't say
12 "non-governmental conservation organization". It simply
13 doesn't. It says "conservation organization". There's a
14 number of State agencies that function as conservation
15 organizations.

16 My second point is that, yes, what we're
17 posing is "do we say, in that event, which however small,
18 the SEC makes a decision about who's going to be
19 responsible for that, those mitigation parcels, or do we
20 leave it with Fish & Game who made the deal to begin
21 with?" And, I would argue that this is Fish & Game's
22 deal, it's not our deal. We're only deciding whether we
23 think it's appropriate within the context of this Project
24 or not.

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1 CHAIRMAN GETZ: Mr. Harrington.

2 MR. HARRINGTON: Well, maybe I'm not
3 communicating here, because I don't understand, you're
4 talking about "it doesn't have to be a non-governmental

5 agency, it could be something else within the state. But
6 why would the Governor and Council reject it and say "Fish
7 & Game, you're not allowed to take this land. But, DRED
8 or the State Park System or somebody else, you can"? It
9 doesn't seem to me that that's going to happen. If
10 they're going to reject it for Fish & Game to take it,
11 they're not going to allow any other State agency to take
12 it as well. So, I would prefer to see, if we were going
13 to put somebody down there, I would prefer to see that
14 Coos County be the option here. That's a government
15 agency that's not within the realm of the State, and they
16 could take it over, since they're jurisdictional on this.
17 But, just to leave it wide open to Fish & Game to pick who
18 they want, I think the Director has made it clear, they'll
19 pick one of these conservation agencies, and that gets me
20 back to my original point. That I don't think we should
21 be mandating the transfer of land from one private owner
22 to the other as a subject to getting the certificate.

23 CHAIRMAN GETZ: Director Normandeau.

24 DIR. NORMANDEAU: Just that, you know,
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1 it could be a conservation commission. I don't know if
2 Coos County has a conservation commission. It could be
3 anybody that's not a State agency that it could go to, and
4 would not be subject to G&C.

5 CHAIRMAN GETZ: Well, I guess I would
6 suggest that, you know, first of all, that we want to give
7 ourselves flexibility here, and not try to, you know,
8 create unintended consequences by being very specific
9 about what language we use. And, so, it seems to me we

10 really have two kinds of options. One is we just, I think
11 along the lines of what Mr. Janelle said, is to the extent
12 or in the event that G&C does not approve the transaction,
13 then it comes back to us. And, the alternative to that
14 is, if G&C doesn't approve the transaction, that the
15 decision be delegated to Fish & Game, which, under the
16 setup of 162-H, I think we have the authority to do that.
17 So, it's really kind of, if we get to a situation, which
18 most people assume is unlikely, who's going to make the
19 decision. So, should it be the Site Evaluation Committee
20 or Fish & Game, and then without making any preconditions
21 on about how that decision would be made, who would be the
22 -- who would be the recipient. Mr. Scott.

23 DIR. SCOTT: Again, I would suggest we
24 go with that it would come back to the Site Evaluation
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1 Committee, especially given Mr. Harrington's concerns.
2 Also, the discussion over some third party, who it goes
3 to, for us to decide now, without even talking to that
4 third party, seems very inappropriate, no matter who it
5 is. The only one, Fish & Game has already agreed, yes, we
6 know that. But nobody else, even if it is an NGO, has
7 been consulted or agreed to this. So, I think that's very
8 inappropriate for us to put that in. So, I think the best
9 ground we would be on is, in the very unlikely event that
10 the G&C said "no", to come back to the SEC, and then we
11 would decide. And, that would allow us to have the
12 discussions with whoever those agencies or bodies are, "Do
13 you want to take this? Are you willing to take the
14 responsibility?", etcetera, prior to putting the condition

15 in.

16 CHAIRMAN GETZ: And, certainly, I guess
17 at that time, if Fish & Game had a proposal, then --

18 DIR. SCOTT: Right.

19 CHAIRMAN GETZ: -- it could be part of
20 the mix in making the decision. Is there any objection to
21 that approach? Anyone feel strongly about delegating to
22 the Fish & Game in the first instance?

23 (No verbal response)

24 CHAIRMAN GETZ: Okay. Hearing nothing,
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1 then we will pose the condition that, in the event G&C
2 does not approve the transaction, then we'll expect a
3 proposal from the Applicant on how to -- who should be the
4 holder of those mitigation lands.

5 Okay. Item 8. Is the requirement that
6 Granite Reliable or successors shall secure an agreement
7 that will prohibit any wind turbines from being
8 constructed on any lands, on properties owned by the State
9 of New Hampshire, or the Bayroot Parcel and Phillips Brook
10 parcel.

11 DIR. NORMANDEAU: I don't see that as a
12 feasible condition, Mr. Chairman.

13 DIR. SCOTT: Is that even legal for us
14 to do that?

15 CHAIRMAN GETZ: Mr. Iacopino.

16 MR. IACOPI NO: I don't think you can
17 prohibit the State from, until the State comes to you for
18 a certificate, --

19 [Laughter.]
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20 MR. IACOPI NO: -- you could prohibit
21 them from trying to build their own windmills.

22 MR. HARRINGTON: I think they would
23 probably just come with a law in hand saying "we're going
24 to do it."

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1 MR. IACOPI NO: But I wouldn't -- I have
2 these in here because I wanted to be fair to all of the
3 participants, that their recommendations would be
4 considered.

5 DR. KENT: Mr. Chair, I'd be willing to
6 skip ahead to 16, unless somebody has something before
7 that.

8 CHAIRMAN GETZ: Well, yes. We've
9 already decided 13 and 15. So, I guess, generally, if we
10 want to take a look on Items 8, 9, 10, 11, 12, and 14, are
11 there any of those items that Committee members would
12 propose as conditions to the Certificate?

13 DIR. NORMANDEAU: Item 9 is in the
14 Mitigation Plan, Mitigation Agreement.

15 MR. HARRINGTON: Just a question, Mr.
16 Chairman, on Item 11. And, this has to deal with:
17 "Construction commencement until all payments in the
18 Settlement Agreement have been secured", which I assume
19 they mean the Mitigation Settlement Agreement, "and put in
20 a fund for disbursement." I don't recall how that was
21 done. Is that addressed in the Mitigation Agreement as to
22 when the funds have to be in? Is it pre-construction?

23 CHAIRMAN GETZ: Yes. My recollection is
24 that this would accelerate things. And, I think we've had

1 some conversation about this before. But if -- okay. I
2 think on Pages 3 and 4 of the High Elevation Mitigation
3 Settlement speak to the payments.

4 MR. HARRINGTON: Mr. Chairman, it sounds
5 as if the Mitigation Agreement, on Page 2, says that "All
6 obligations specified under the Mitigation Agreement shall
7 be completed prior to conducting any construction activity
8 (including clearing of vegetation) above 2,700 feet in
9 elevation on Mount Kelsey". So, that would be different
10 than Item 11, which says "no construction shall be
11 started". So, Item 11 would be posing a fairly stricter
12 requirement than was agreed to by the parties in the
13 Mitigation Agreement.

14 DIR. NORMANDEAU: Mr. Chairman?

15 CHAIRMAN GETZ: Mr. Normandeau.

16 DIR. NORMANDEAU: If you continue to
17 read that, prior to 2,700 on Mount Kelsey and Dixville,
18 "however, GRP shall have no obligations hereunder if it
19 does not commence such activities." I believe the
20 restrictions -- the Agreement is written that way, because
21 the mitigation was most especially for Kelsey and
22 Dixville, and, therefore, should limitations come out from
23 this Committee that limited their ability to construct up
24 there or in some other way that construction didn't

1 happen, the need for the Mitigation Agreement would be
2 moot. And, so, therefore, it was written this way.

3 MR. HARRINGTON: Yes, I tend to agree
4 with that. I think that Item 11 isn't needed.

5 CHAIRMAN GETZ: Okay. Let me make sure
6 I understand then. Under Item 8 of the Mitigation
7 Settlement, the one-time payment of \$200,000 to be used to
8 conduct studies on the development of the area, so I'm
9 trying to --

10 MR. IACOPI NO: Eight and ten contain the
11 money.

12 CHAIRMAN GETZ: And, I want to
13 understand exactly when those payments would be due.

14 MR. IACOPI NO: Before construction at
15 2,700 feet.

16 CHAIRMAN GETZ: Both of them?

17 MR. IACOPI NO: Yes, because they're both
18 in the Mitigation Provisions.

19 MR. HARRINGTON: "All obligations
20 specified under the Mitigation Provisions."

21 CHAIRMAN GETZ: In the introductory
22 language?

23 MR. HARRINGTON: Yes.

24 CHAIRMAN GETZ: Okay. Are folks then
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1 comfortable with the way the Mitigation Settlement poses
2 the payments or would it require something more than that?

3 (No verbal response)

4 CHAIRMAN GETZ: I will take it that --

5 DIR. SCOTT: I'm comfortable.

6 CHAIRMAN GETZ: -- that the members are
7 comfortable with the Settlement Agreement as is, and won't

8 require the additional -- or, the accelerated payment
9 proposed by Ms. Keene. Okay. So, anything else before we
10 move to the FAA approvals?

11 MR. HARRINGTON: Could we just address
12 14 and 15 briefly? I'm not quite sure what 14 is saying.
13 Apparently, it's saying "The County Commissioners were
14 remiss in negotiating a figure that could be substantially
15 higher than the current amount." I guess this is just
16 saying that Ms. Keene thinks that they could have got more
17 money than they did. So, is that all that is saying?
18 Does it say anything else there? If that's the case, I'd
19 just as soon leave it out.

20 DIR. NORMANDEAU: I'll agree with that.
21 I don't think it's our job to renegotiate the agreement
22 with the County. I don't think Bing Judd's every missed a
23 dime anyway, so...

24 [Laughter.]

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1 CHAIRMAN GETZ: Okay. Then, I'll take
2 it there's no support for imposing Item Number 14. Then,
3 Item Number 15, we've already discussed on the system
4 impact study.

5 MR. HARRINGTON: This asks for some
6 additional information, such as "projected electromagnetic
7 radiation levels", and I don't even think that's within
8 the scope of the system impact study, to tell you the
9 truth. So, again, I'd say that was out as well.

10 CHAIRMAN GETZ: Okay. Then, we're at
11 Item 16, about FAA approvals that are pending. Dr. Kent,
12 had you intended to address that issue or --

13 DR. KENT: I'm sorry, could you repeat
14 that?

15 CHAIRMAN GETZ: You said you wanted to
16 skip to Item 16. So, I was wondering if you had something
17 in particular on Item 16?

18 DR. KENT: No, I just wanted to make
19 sure the condition is in there, that we had approvals from
20 FAA, unless we've already received them. And, I'm not
21 familiar with that.

22 CHAIRMAN GETZ: It was my understanding
23 they were not complete, that was the status as of our last
24 meeting. And, I think we've expressed prior our intention
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1 that we would incorporate as conditions whatever was
2 required by the FAA. So, I think we're covered in that
3 respect. But, Mr. Scott.

4 DIR. SCOTT: Not to be contradictory,
5 I'm just questioning, the FAA approval is something I
6 believe that would be required totally independent of us.
7 And, if they don't get it, they can't construct. So, I
8 would ask, what would be the point of having it in our
9 Certificate?

10 CHAIRMAN GETZ: Well, I mean, I think
11 we've addressed this in a couple of forms already. That
12 if there are issues that have independent effect and force
13 of law, but I think the practice has been is to expressly
14 include them as conditions. I don't think you're creating
15 any harm. But, I think, as a matter of legal effect,
16 you're correct. And, do you recall, Mr. Iacopino, what we
17 did in Lempster?

18 MR. IACOPI NO: I think it was a similar
19 thing. Simply that they obtain whatever FAA approvals
20 were required. I think part of what the Committee wants
21 to -- wants the public to understand is that you've
22 considered all of the various things that apply to
23 building a plant of this size. That certain air traffic
24 and hazards for air traffic certainly are part of them,
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1 albeit, on a jurisdictional basis, the FAA has carte
2 blanche. But, if the Committee chooses to put a condition
3 in there, it demonstrates that you're considering all of
4 the issues.

5 DIR. SCOTT: I don't object to it. I'm
6 just asking.

7 CHAIRMAN GETZ: And, I guess I, you
8 know, would like to support that notion, that there is
9 also, to the extent that we're going to have a order and
10 decision, for the sake of completeness, having in this all
11 of the items that were considered all in one place, you
12 know, does serve the purpose of a single place where
13 people can see what was considered, what decisions were
14 made, what conditions were imposed, and it is always a
15 very useful purpose for a written decision.

16 All right. Then, let's move onto --

17 MR. HARRINGTON: Excuse me, Mr.
18 Chairman, just a question, maybe for counsel. I wanted to
19 make sure we didn't drop this. In the Coos County
20 Agreement, I had brought up those two issues, and I'm not
21 sure how they got captured. One in the "Warning" section
22 on Page 1, that I felt that 300 feet from each wind

23 turbine was insufficient; it should be 1,300, based on the
24 manufacturer's recommended exclusionary zone. So, I don't
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1 know if we're going to put in an additional condition that
2 would be to modify, you know, a modification into the Coos
3 County/Granite Reliable Agreement. And, then, also, on
4 the Page 3, the "Project Security", that I thought that
5 the "not climbable" should be up to "20 feet", and not
6 "15".

7 MR. IACOPI NO: That one I don't have,
8 but the first one, I think we were going to address that,
9 I thought we said we would address that when we got to
10 "Public Health and Safety".

11 MR. HARRINGTON: Okay. Do you want to
12 hold the second one for "Public Health and Safety" as well
13 then?

14 MR. IACOPI NO: That's probably where it
15 should be.

16 MR. HARRINGTON: Okay. Fine.

17 CHAIRMAN GETZ: Okay. Then, let's --
18 the next series of conditions comes under the heading of
19 "Aesthetics". That follows right after the -- some of the
20 agreements regarding "Orderly Development". Well, Item 1
21 looks to be subsets of the Agreement between the Applicant
22 and the Town of Dummer, so those have been addressed.
23 And, under Item Number 2, these are -- is a subset of the
24 Agreement between the Applicant and Coos County, so that
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1 has been addressed.

2 So, we turn to Item Number 3. And, this
3 is a -- I guess, somewhat related to the earlier proposed
4 condition by Public Counsel, with respect to, "In
5 corporation with DRED, the Town of Errol, and the Coos
6 County Commission, the Applicant should construct a
7 Visitor Center in Errol" and have "kiosks...along Route 26
8 or Route 16". So, any thought on that, Director
9 Normandeau?

10 DIR. NORMANDEAU: I think I would just
11 be satisfied to say that the stipulations reached in the
12 Agreement with the Town of Dummer and Coos County are
13 sufficient. And, beyond that, I'd be prepared to move
14 onto the next category.

15 CHAIRMAN GETZ: Is there any support for
16 this condition?

17 DR. KENT: DRED would prefer to work out
18 its own marketing and branding efforts for the North
19 Country, without direction from the SEC. Thank you.

20 CHAIRMAN GETZ: All right. Let's move
21 on to Item Number 4: "Upon completion of construction,
22 the Applicant shall install and maintain vegetative
23 screens along sightlines of the Project along Dummer Pond
24 and Phillips Pond, and Project roads, and shall study the
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1 feasibility of installing vegetative screens to obstruct
2 views of the Project when seen from Route 16." Mr. Scott.

3 DIR. SCOTT: I'm very reluctant to go
4 down this, to do anything with Number 4, particularly
5 since I don't think we have enough information, even if we
6 were to desire to put screens, from exactly what vantage

7 point you can be screening, how tall would the screens
8 have to be. There's a lot of issues there I think that
9 perhaps could cause more problems than they're worth. So,
10 I don't support Condition Number 4 here.

11 CHAIRMAN GETZ: Mr. Harrington.

12 MR. HARRINGTON: Yes. There's also
13 absolutely nothing brought up in the record on this. So,
14 it wasn't discussed. We have no need what this may
15 involve. So, again, I can't support this.

16 DR. KENT: Excuse me, Mr. Chairman. Are
17 these, a clarification, are these private properties?
18 That's what it looks like. So, we would have no
19 jurisdiction and no public to be concerned about, unless
20 they chose to be there with the permission of the
21 landowner.

22 CHAIRMAN GETZ: Yes.

23 DR. KENT: Not to mention the
24 infeasibility of actually accomplishing this task. But,
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1 if it's private land, I think we're beyond our realm here.

2 CHAIRMAN GETZ: All right. I take it
3 then there's no support for imposing the vegetative
4 screening condition, largely because of the -- there's a
5 lack of evidence about where such screening would take
6 place, who would do it, and whether there's even -- the
7 Applicant would have the authority or ability to comply
8 with the condition.

9 So, let's turn to historic sites. And,
10 it's noted here that no party offered specific conditions
11 concerning historic sites. But there is a letter from the

12 NHDR that recommends that, if any archeological resources
13 are discovered, the Division should be consulted on the
14 need for appropriate studies, determinations, and
15 mitigating measures.

16 So, does anybody have any concern about
17 including that as a condition? Mr. Harrington.

18 MR. HARRINGTON: Well, this seems to be
19 we're right back to what would be our practice for
20 including something like this, because you'd want to say
21 "as required by federal law and regulations". So, it
22 appears that the Applicant is already required to do this,
23 if they were to come across whatever archeological
24 resource or so forth. But the way we've been going, to
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1 stay consistent and to be complete, I would say we should
2 probably put this in as a condition, just so we'll have
3 them all in one place.

4 CHAIRMAN GETZ: Okay.

5 MR. IACOPI NO: Mr. Chairman, I would
6 also suggest that it's appropriate for this to be another
7 place where we put in the delegation language to the
8 Division of Historical Resources, so that we don't have to
9 resolve, if some artifact is found, we're not in a
10 position resolving it, but it can be resolved by
11 Historical Resources.

12 CHAIRMAN GETZ: Is that acceptable to
13 everyone? It appears that it is.

14 DR. KENT: Yes.

15 CHAIRMAN GETZ: Thank you, Mr. Iacopi no.
16 The next subject area is under "Water Quality". And, the

17 first four items, three are DES permits and the fourth is
18 the High Elevation Mitigation Plan. We've already
19 discussed those.

20 So, Item Number 5 is a proposal from the
21 Applicant, indicating "Areas above 2,700 feet will be
22 revegetated in order with a plan to be developed by them,
23 in consultation with Fish & Game." Which we probably
24 should read in combination with Item Number 6, to make
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1 sure that we're not considering conditions that may be in
2 conflict.

3 MR. IACOPI NO: Mr. Chairman, when I
4 added 5 and 6, I didn't combine them because I thought
5 that 6 contained more specifics, especially with respect
6 to the percentage of what vegetation cover was required.
7 And, I didn't -- and, in addition, Number 6, according to
8 the AMC, appears to exceed the conditions that are already
9 required in the Wetlands Permit and the Alteration of
10 Terrain Permit.

11 CHAIRMAN GETZ: Yes. Actually, I think
12 it would be helpful just to take a couple seconds to read
13 these two conditions closely.

14 (Short pause.)

15 CHAIRMAN GETZ: And, as I'm reading it,
16 I think the distinction seems to be this, in 5, "the plan
17 will be developed in consultation with Fish & Game", and
18 it doesn't have any -- doesn't go into detail about what
19 that plan would look like. Whereas, in Item 6, the AMC
20 proposal, there's a little more definition up front about
21 basically what the subsets of that plan would look like.

22 DR. KENT: I would argue that Number 6
23 is equally as vague. It's conceptually more definitive,
24 but, in practice, equally as vague. And, my
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1 recommendation is we go with 5. What we want to happen,
2 this is an area that's in flux. We don't have a standard
3 mix for elevations above 2,700 feet that we can pull out
4 of the drawer. So, it's something we need to figure out.
5 And, I would anticipate that, if Granite Reliable engages
6 Fish & Game, they're actually going to come check with
7 Natural Heritage, and we'll figure out the best thing,
8 based on the site conditions up there. But there's no
9 standard pull-it-off-the-shelf mix that we know what's
10 going in.

11 DIR. NORMANDEAU: I agree.

12 CHAIRMAN GETZ: Mr. Northrop.

13 MR. NORTHROP: And, I agree as well. I
14 think it would be best to leave this to something that
15 Granite Reliable works out with Fish & Game.

16 CHAIRMAN GETZ: All right. Then, I take
17 the sentiment is to approve 5, and not to include Item 6
18 as a condition.

19 Which brings us to Item Number 7: "The
20 Applicant shall hire an independent engineer/environmental
21 monitor to monitor the construction of the Project."

22 DR. KENT: I would suggest that this is
23 covered by the permits from DES. Am I not incorrect?

24 MR. IACOPI NO: Yes. This, Number 7 was
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1 proposed by a number of the participants. I believe that
2 there is also an environmental monitor required, I forget
3 which permit it's in. The only differences in the
4 conditions, as proposed by the parties, is that the AMC
5 had that additional sentence that dealt with the
6 commencement of construction after there's been a stop
7 work order. I think it was the Water Quality Certificate
8 that had language regarding environmental monitor.

9 CHAIRMAN GETZ: Well, I think we need to
10 also look at this, when we're looking at 7, we should be
11 looking at 8 as well. That "DES shall review and approve
12 the contract for and hiring of the environmental monitor."
13 Mr. Janelle, did you have something?

14 MR. JANELLE: I just want to, it's in
15 the water -- the Alteration of Terrain Permit as a
16 condition as well, as Number 10.

17 MR. HARRINGTON: Is that before or after
18 this in the package?

19 MR. JANELLE: The Alteration of Terrain
20 Permit is just following the Water Quality section.

21 DIR. NORMANDEAU: It starts on Number
22 10.

23 CHAIRMAN GETZ: Mr. Harrington.

24 MR. HARRINGTON: Well, it appears that
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1 this is duplicative of something we've already approved.
2 With the exception of the last sentence there, that the
3 AMC condition was "Construction activity shall not
4 commence until", I guess it would be "not recommence",

5 "until the Environmental Monitor determines that all
6 issues related to the stop work order have been corrected
7 and resolved." I think that's putting an undue amount of
8 authority in the hand of the environmental monitor. Once
9 they brought it to the -- whatever condition that caused
10 the stop work, they brought to the notice of the
11 appropriate parties, then there's more than adequate
12 control to see who should -- when construction should be
13 started up again. To put it in the hands of the
14 environmental monitor, he may have a particular pet peeve
15 about this. I've been in situations where this type of
16 thing is employed, and you get down to one person having
17 too much power. And, I think, if they have notified the
18 particular committees, whether it be DES or whatever, and
19 the Applicant, then they can come to an agreement as to
20 when to recommence construction, and not leave the power
21 to put this project on complete hold in the hand of one
22 individual.

23 CHAIRMAN GETZ: Mr. Scott.

24 DIR. SCOTT: I did want to point out
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1 that the DES permits specify a certified professional
2 and/or professional engineer. So, first of all, in
3 theory, and it is my belief that those certifications and
4 professional ties hold those people to a certain code of
5 ethics, which this implies is not there. You need a third
6 party, etcetera.

7 Also, I'll state that DES does have
8 oversight of all this work in any case, whether it's
9 specified or not. Again, that's something that's already

10 there, whether it's through inspection and just general
11 program requirements. So that there is a level of
12 oversight that's already there from DES.

13 CHAIRMAN GETZ: Does DES go so far as to
14 review and approve the contract for the hiring?

15 DIR. SCOTT: No, not the hiring part.
16 I'm talking about more the site-specific work.

17 DR. KENT: If you keep reading through
18 the Alteration of Terrain Permit, you'll see that the
19 monitor has to report to DES and provide documentation.

20 MR. IACOPI NO: And, there's also a
21 pretty specific schedule for the monitor, too. He's got
22 to inspect once a week, and during any one-half inch or
23 greater rain event, or within 24 hours of that event. So
24 that the requirements of the Alteration of Terrain Permit
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1 and the Water Quality Certificate appear to be fairly
2 specific, in terms of control of the environmental
3 monitor.

4 DIR. NORMANDEAU: Mr. Chairman?

5 CHAIRMAN GETZ: Mr. Normandeau.

6 DIR. NORMANDEAU: I'd go along with
7 that. That the requirements of the permits are adequate.
8 The caveat that "construction activity shall not
9 commence", well, we're going to be looking at construction
10 over a wide area, with pieces of machinery they're renting
11 for tens of thousands of dollars a day. And, so, if there
12 is, in fact, an erosion issue that needs to be dealt with,
13 you know, on Owlhead, does that condition mean that
14 everything gets shut down at Kelsey and Dixville also? I

15 think that what's in the permits is totally adequate to
16 cover the situations that might arise, as opposed to
17 adding extra on top of it.

18 CHAIRMAN GETZ: Okay. Then, I'm taking
19 it that the direction of the Committee is that the Item 7
20 and 8 are unnecessary, with respect to the environmental
21 monitor, because of all of the conditions that are part of
22 the DES permits covering the subject matter.

23 Then, I think we can move onto Item
24 Number 9, which is very specific, and it would conclude
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1 that the "Applicant shall not conduct any clearing or road
2 construction activities above 2,500 feet elevation on
3 Mount Kelsey, Owlhead or Dixville Peak between April 1 and
4 August 1. Mr. Scott.

5 DIR. SCOTT: I can understand the
6 concept here. I remember the discussion regarding nesting
7 and hatchlings, etcetera, during those timeframes. So, I
8 could understand the concept for clearing and
9 clear-cutting, that type of thing for preparation
10 activities. I'm not as clear, and maybe somebody could
11 help me, once it's cleared, though, if it's already
12 cleared, what would be wrong with construction or road
13 construction in this case? But, again, I think the intent
14 was to limit the activities during this timeframe when, in
15 theory, could have a higher impact on the wildlife.

16 CHAIRMAN GETZ: Mr. Harrington.

17 MR. HARRINGTON: I guess I would just
18 second what Mr. Scott said. I don't quite get the -- once
19 the area is cleared out, then there's going to be no

20 nesting of birds, because there's nothing to nest in. So,
21 why road construction couldn't go forward at that time, I
22 don't understand why. But, again, maybe somebody else
23 knows better than I do.

24 CHAIRMAN GETZ: Mr. Janelle.

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1 MR. JANELLE: I guess I would agree. If
2 we don't allow them to construct between April and August,
3 it's going to be pretty difficult to build any other time
4 of the year. But, with the clearing, the clearing should
5 address -- I would think would address the issue of
6 nesting and birds.

7 CHAIRMAN GETZ: Any other discussion on
8 that issue? I mean, it does seem to be a, at a minimum, a
9 too broadly written condition that may, in effect, prevent
10 construction during the period of time when construction
11 is, you know, most easily and most likely done. So, if
12 there were some other -- if there are other concerns about
13 nesting and other issues, then it's better it's addressed
14 in some other way, and I think we'll be looking at some of
15 those related types of conditions as we move through the
16 package. So, I'll take it then that we won't adopt this
17 particular condition.

18 Item Number 10 is "Prior to the
19 commencement of construction, the Applicant shall retain
20 the services of a professional engineer with experience in
21 designing and constructing a project of this type and
22 scale and in high elevation locations to review the
23 plans." Any discussion about this particular proposed
24 condition? Mr. Harrington.

1 MR. HARRINGTON: Well, again, this seems
2 to be repetitive. I mean, if you look at the various
3 things that they're suggesting that they look at, all of
4 these things have been looked at somewhere along the line.
5 And, it seems to be getting in, again, to micromanaging
6 and putting another layer on, we've asked all these things
7 to be done. The Applicant is going to hire professional
8 engineers. They're going to have people that know what
9 they're doing. They have a very, very heavy vested
10 interest in making sure what they put up there, turbine
11 pads and so forth, that they stay put. So, I just don't
12 think this level this Committee should be getting into
13 because it's duplicative of things that have already been
14 done.

15 CHAIRMAN GETZ: Mr. Northrop.

16 MR. NORTHROP: I would agree. It sounds
17 like this condition is kind of setting up to have dueling
18 engineers, where you would have a second opinion, sort of.
19 And, I don't know if we want to necessarily be setting
20 that out.

21 CHAIRMAN GETZ: Yes. And, some of this,
22 it seems to me, almost brings us back to, you know,
23 technical capability, and whether, you know, if we found
24 that they are technically capable of constructing this
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1 project, then what's the purpose of this condition and,
2 you know, what ends would it serve? Mr. Janelle.

3 MR. JANELLE: I mean, I think some of
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4 this has been done through the permitting process. That
5 the plan was designed by a professional engineer, it was
6 reviewed by engineers at the State and wetlands experts at
7 the State as well, to look at these issues already, and
8 it's been approved. So, I think we're duplicating the
9 efforts unnecessarily.

10 CHAIRMAN GETZ: Okay. Mr. Normandeau.

11 DIR. NORMANDEAU: I would agree with
12 that. And, I actually would say that that's the case with
13 11 and 12 also, frankly.

14 CHAIRMAN GETZ: Okay. Well, let's look
15 at 11 and 12, though. Eleven (11) says that "The
16 Applicant shall provide for subterranean installation of
17 electrical collection facilities located within 1,000
18 feet." And, Item 12 says "The Applicant shall employ a
19 certified wetlands scientist to design and implement plans
20 to restore 10 acres of already impacted wetlands",
21 etcetera. So, Mr. Harrington.

22 MR. HARRINGTON: Yes, I think, on 11,
23 I'm not even sure if that's possible to be done, given the
24 slope of the land up there. I thought that was discussed.

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1 There may be some places where it would be almost
2 impossible to go subterranean. I'm not exactly sure, but
3 you've got a pretty steep drop off coming off of some of
4 these peaks. And, to say you're going to go underground
5 for 1,000 feet, it may not even be possible. Again,
6 that's something that should have been discussed and
7 brought up during the hearing, if someone really wanted to
8 make that as a point. So, I would not go along with that.

9 And, I agree with Director Normandeau,
10 12 is just ditto 10, and I would not repeat my reasons for
11 putting it out, but I would not like to see it in.

12 CHAIRMAN GETZ: Mr. Scott.

13 DIR. SCOTT: I concur, especially for
14 Item 11. Again, without more information, but it would
15 occur to me that burying a thousand feet of cable, without
16 taking regards to hydrology and other issues, could cause
17 more of an environmental impact than it saves. And, it's
18 not clear to me what the need for this would be. What
19 would this do positively? It's not clear to me.

20 CHAIRMAN GETZ: Okay. Then, I take it
21 then --

22 MR. IACOPI NO: Mr. Chairman, I would
23 just point out that, with the plans that were filed, do
24 call for the subterranean installation of electrical
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1 collection for the vast majority of the Project. I think
2 there was one section of the project at the southern end
3 of Fishbrook, because of the slope, was going to require
4 overhead wires. But the electrical collection facilities
5 were slated to be underground up on the ridge tops where
6 the turbines are, is my recollection.

7 CHAIRMAN GETZ: Mr. Harrington.

8 MR. HARRINGTON: Yes. I mean, they do
9 that for the main reason, so they don't have to worry
10 about damage from ice or wind or falling trees or anything
11 else. So, --

12 MR. IACOPI NO: I just want to make sure
13 that everybody is aware that that's actually in, by

14 approving the Certificate, if you approve a Certificate,
15 you're actually approving subterranean installation,
16 because that's part of the plans that have been submitted,
17 with the exception of that one piece.

18 DIR. NORMANDEAU: Right. I think Public
19 Counsel was not satisfied with that final section for some
20 reason.

21 MR. IACOPI NO: Yes.

22 CHAIRMAN GETZ: All right. Then, I
23 guess what I'm hearing with Sections 10, 11, or 12, is
24 either there's no basis for imposing these in conditions
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1 or no benefit to be drawn from imposing them as
2 conditions?

3 (No verbal response)

4 CHAIRMAN GETZ: And, that appears to be
5 the sense of the members. So, let's turn to Item Number
6 13 about "The rock sandwich technique must be used to
7 maintain surface and subsurface hydrology."

8 DR. KENT: Mr. Chair, I believe that the
9 rock sandwiches were identified on the plans that were
10 accepted by DES. I don't have the plans here to verify
11 that again, but I believe that the DES plans include the
12 rock sandwiches.

13 MR. IACOPI NO: They were. And, also, if
14 you look in the 401 Certificate, the comments -- I believe
15 the AMC commented to DES, and DES indicated that they
16 have, in fact, required the rock sandwich construction.
17 I'm trying to find that in the comments for you.

18 DIR. SCOTT: I believe it's incorporated
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19 in -- I think it's Sheet 17, I think. It's incorporated
20 by reference into the permit.

21 MR. IACOPI NO: Yes, Comment A3. In the
22 -- contained within the document entitled "DES Response to
23 Public Comment and List of Substantive Changes Section 401
24 Water Quality Certification". And, it's on Page 2 of 8,
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1 Comment A3. It's a comment from the Appalachian Mountain
2 Club. And, in the response from DES indicates that "The
3 Applicant has included the rock sandwiches in the design."
4 And, cites that "Sheet 143 of the plans showing a detail
5 of a rock sandwich." And, they added Condition E-9 to the
6 401 Certificate, which specifically referenced that
7 detail.

8 CHAIRMAN GETZ: Okay. So, it appears
9 then that the, you know, the substance of this condition
10 has already been covered by the DES, looks like the 401
11 permit.

12 All right. Then, Item Number 14:
13 "Culverts shall be designed, installed and maintained to
14 facilitate upstream and downstream passage of the aquatic
15 biota." Is that the correct pronunciation, Dr. Kent?

16 DR. KENT: "Aquatic biota", correct.
17 And, I would offer that that's covered in the permits from
18 DES.

19 CHAIRMAN GETZ: Okay. Then, let's move
20 along to Item Number 15. Now, this I guess gets us back
21 to --

22 MR. HARRINGTON: There's a little more
23 to it, though.

24 CHAIRMAN GETZ: Yes, the G&C issue.
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1 DIR. NORMANDEAU: I can't quite make
2 heads or tails, Mr. Chairman, about this, what this is
3 about, but --

4 CHAIRMAN GETZ: Yes, I think we've
5 addressed the substance of how to deal with the transfer
6 of land and what the Governor and Council may or may not
7 do in approving it. So, I take it that there's no support
8 for this item.

9 So, let's move on to Item Number 16.

10 MR. HARRINGTON: Basically, what we did
11 before, just a little broader basis. Or, is it the same
12 thing exactly?

13 CHAIRMAN GETZ: It looks to be the same
14 items that we discussed under "Orderly Development". So,
15 Items --

16 MR. IACOPI NO: 16 --

17 MR. HARRINGTON: 16.

18 CHAIRMAN GETZ: -- 15, 16, 17, 18?

19 DIR. NORMANDEAU: Uh-huh.

20 CHAIRMAN GETZ: We've already determined
21 we would not make conditions.

22 So, that brings us up to Item Number 19:
23 "GRP shall provide an agreement that states only lands
24 where the turbines will be constructed (surveyor's acre)
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1 be disturbed by construction."

2 DIR. NORMANDEAU: This is the helicopter
3 program, I believe.

4 MR. HARRINGTON: Yes, I don't see how
5 this could possibly be done, because it would not allow
6 you to put in the roads.

7 CHAIRMAN GETZ: Okay. Is there any
8 support for this proposed condition?

9 (No verbal response)

10 CHAIRMAN GETZ: Hearing nothing, no
11 support, then we would not impose it, and move onto item
12 Number 20, which we've already discussed that as well.
13 And, Item Number 21, I read basically to say that --
14 they're looking for us to approve the High Elevation
15 Settlement, and we've done that.

16 Item Number 22, "The Applicant, or
17 subsequent owners, shall fund a hydrologist to conduct a
18 hydrogeological analysis to assess localized stormwater
19 flow and ground water flow diversions." Any discussion
20 about that? I assume that relates, in large extent, to
21 some of the DES permits. But, Mr. Janelle.

22 MR. JANELLE: Well, the stormwater study
23 has been done. The groundwater study, I don't believe
24 that's been done or should be done. I mean, that's not
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1 typical that it would be done for this type of a project,
2 I believe.

3 CHAIRMAN GETZ: Any other discussion
4 about whether that's a condition that members would think
5 should be imposed here?

6 (No verbal response)

7 CHAIRMAN GETZ: Hearing no support for
8 that condition, then let's move on to 23. And, this goes
9 to "pre-construction blasting evaluations to assess the
10 potential for bedrock fracture impacts that may affect
11 nearby wetlands." Mr. Harrington.

12 MR. HARRINGTON: I believe this was
13 discussed quite a bit with the engineer for the Applicant.
14 And, you know, his assessment was, and there was really no
15 one reputed it, that this isn't all it's cracked up to be,
16 that's a bad play on words there, and that it really would
17 not be of much use.

18 CHAIRMAN GETZ: Any other discussion on
19 that, on that proposed condition?

20 (No verbal response)

21 CHAIRMAN GETZ: Then, I conclude that
22 there's no support for that.

23 And, then, if we turn to Item 24, speaks
24 to the notion of delivering turbines by helicopter at any
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1 elevation above 2,000 feet. And, I guess, as Director
2 Normandeau noted, is substantively related to Item Number
3 19. So, and I think we did have some testimony to the
4 effect that, once you get up to those elevations, and when
5 you're placing turbines, you want them in the windiest
6 places possible, so you may run into logical problems with
7 flying helicopters to be delivering large equipment at
8 that height. So, I take it no support for Condition
9 Number 24 as well.

10 So, let's move on then to -- the next 15
11 or 20 pages are the DES permits, so we come to a section

12 on "Natural Environment", and conditions with respect to
13 the Natural Environment. So, Item Number 1 relates to the
14 High Elevation Mitigation Plan, which we've already
15 discussed and have determined to make it a condition of a
16 certificate.

17 So, under Item Number 2, we have, under
18 the general heading "Avian Species Protection". So, is
19 there any discussion of the items under "Avian Species
20 Protection"?

21 DR. KENT: There's a similar condition
22 on Page 3 of this section, Number 8. It's by the --
23 suggested by Fish & Game. And, my recommendation is to
24 adopt the Fish & Game condition, rather than the
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1 Applicant's condition.

2 CHAIRMAN GETZ: Well, let me make sure I
3 understand, Dr. Kent. So, basically, all of Item 2,
4 subsections (a) through (e), your recommendation is that
5 Item 8 covers all the necessary elements, and would be the
6 better of the two conditions to impose?

7 DR. KENT: That would be my
8 recommendation.

9 DIR. NORMANDEAU: I'll concur with that.

10 MR. HARRINGTON: Just, Chairman, just to
11 comment, I guess, or a question on this. It appears, in
12 reading these, that the one proposed by the Applicant,
13 even though it seems to be a little bit more specific as
14 to exactly what would be done, talks about "basic outline"
15 is below, and "A final detailed study protocol will be
16 provided to Fish & Game for review prior to construction",

17 says it's reviewed. Whereas, in Item 8, it basically says
18 it would be "reviewed and approved by Fish & Game". Am I
19 missing it or is that basically the difference between the
20 two?

21 DR. KENT: That's a significant
22 distinction.

23 MR. HARRINGTON: Yes, I understand it
24 is.

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1 DR. KENT: Yes.

2 MR. HARRINGTON: But, I mean, it appears
3 to me that that is the major distinction. One lists a lot
4 of things and says that it will be -- it's based on
5 numerous studies, and, you know, it will -- to include
6 some of the following. And, Item 8 isn't as specific,
7 other than it would, I assume, require most all the same
8 things, but maybe some additional ones, but would require
9 by approval by Fish & Game, rather than just review?

10 DR. KENT: Yes.

11 CHAIRMAN GETZ: And, it's almost a
12 similar comparison that we made on a previous issue, that
13 what appeared to be the longer and more detailed
14 condition, really, the shorter condition provided greater
15 protections, it seems to be. So, I guess, is there -- is
16 it the sense of the Committee then that we would adopt
17 Item 8 as the condition, and not adopt Item 2?

18 MR. HARRINGTON: Well, I just, I think,
19 for a practical matter, if you were to look at Item 2, and
20 Fish & Game reviews it and they don't like what they see,
21 they're going to come back to us anyways, and we're

22 probably going to turn around and say "Well, do something,
23 because Fish & Game are the recognized state experts on
24 this, do something to make them happy, Applicant." So,
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1 why not just cut out all that extra stuff and go directly
2 to the chase here, and say let Fish & Game approve it up
3 front and save ourselves an awful lot of time.

4 CHAIRMAN GETZ: Okay. Hearing no
5 objection, then let's move on to Item 3.

6 DIR. NORMANDEAU: Mr. Chairman, I think
7 both Item 3 and Item 4 would probably be covered again
8 under 8 as being issues that would be reviewed and dealt
9 with by Fish & Game, in view of what they would ask for
10 as part of the studies.

11 CHAIRMAN GETZ: Well, actually, these
12 are --

13 DR. KENT: Actually, these are different
14 studies.

15 DIR. NORMANDEAU: Oh, I see, "prior to
16 the commencement".

17 DIR. SCOTT: Right.

18 DIR. NORMANDEAU: Well, okay, the second
19 one is "after commencement". But, I see, "prior to".

20 DR. KENT: Three is a different study.
21 Four does refer to the post-construction mortalities.

22 DIR. NORMANDEAU: Yes, I see that. I
23 missed the "prior to".

24 DR. KENT: I'll fess up here. I had
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1 been going down this path in our last meeting about
2 bolstering the pre-construction breeding bird and raptor
3 studies and some others. And, I wasn't happy with the
4 quality of them. But, as we've slipped, and I've looked
5 back at the documents that were produced, particularly by
6 Audubon, I think I found a way to move us forward here,
7 without having to send the Applicant back out for breeding
8 surveys right now, since we're in the breeding season,
9 kind of late. And, I think we can make due with the
10 existing information upfront. So, I'm not -- I'm not
11 recommending at this moment another upfront study. We can
12 address either suggestion for a post study, that's not
13 included here. But, for Item 3, I'm not endorsing any
14 more upfront work.

15 MR. HARRINGTON: Mr. Chairman?

16 CHAIRMAN GETZ: Mr. Harrington.

17 MR. HARRINGTON: Just as a point here,
18 in 3, 4, and apparently 5 at least, they also make the
19 presumption that a Technical Advisory Committee is going
20 to be established, which is a point we haven't addressed
21 yet. So, we would be kind of getting ourselves into do-do
22 here, if we're going to have something approved by a
23 committee that we haven't decided if we're going to
24 approve yet.

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1 So, either we should take up the
2 Technical Advisory Committee issue first, I think we need
3 to do that at least before we could vote positively on any
4 of these recommendations, it would require one to exist.

5 CHAIRMAN GETZ: Yes, I think that's a
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6 great idea. So, why don't we move to that, basically Item
7 Number 5 is the proposal that there be a Technical
8 Advisory Committee, comprising the Applicant, U.S. Fish &
9 Wildlife, ACE --

10 MR. IACOPI NO: Army Corps of Engineers.

11 CHAIRMAN GETZ: -- Army Corps of
12 Engineers, New Hampshire Fish & Game, and AMC, Coos
13 County, Town of Dummer, Public Service of New Hampshire,
14 and the Attorney General. And, that the Applicant shall
15 fund its activities including \$300,000 for consultants.
16 So, discussion? Director Normandeau.

17 DIR. NORMANDEAU: I just really don't
18 see the need for this. I mean, you know, whether it's
19 Fish & Game or DRED, with Dr. Kent, or whatever, you know,
20 we're not doing anything in a vacuum here. We talk to
21 each other, we're going to understand what is going on. I
22 just think we can move on with the program as established.
23 And, you know, either let the Applicant build its Project
24 or create hurdles. And, I think we should let them build
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1 this project. So...

2 DR. KENT: Yes. I want to reinforce
3 that. I think that the most effective way to do this is
4 that we tie these wildlife-type conditions to Fish & Game,
5 talking to Fish & Game, and trust that Fish & Game, as the
6 lead on these types of issues in the state knows what it's
7 doing, and, if they need to talk to anybody else, they
8 will talk to anybody else. Rather than create some
9 enormous committee that's just going to get in the way of
10 each other and the Project being built effectively

11 anyways.

12 CHAIRMAN GETZ: Mr. Scott.

13 DIR. SCOTT: I don't disagree with any
14 of that. I just wanted to point out, and this is somewhat
15 by memory, so it may be somewhat faulty, but again
16 Lempster, using that as a template, we did, actually, I
17 think the Town's agreement created, with the Applicant,
18 created some sort of Advisory Committee, does that sound
19 correct?

20 MR. HARRINGTON: Yes, it does.

21 DIR. SCOTT: And, I have not heard
22 anything good or bad from that. So, I don't know if
23 there's anything to be learned from that.

24 CHAIRMAN GETZ: Mr. Harrington.

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1 MR. HARRINGTON: Yes. Following up on
2 what Mr. Scott said. I believe he's correct. But it was,
3 at that time, a Technical Advisory Committee was set with
4 the mutual concurrence with the Town and the Applicant.
5 The Applicant apparently has not requested this in this
6 case, and having heard from the two people on the
7 Committee who I guess would be the most involved in this
8 type of activity, I say, you know, let Fish & Game do
9 their job, and we have no reason to believe that they
10 wouldn't do it correctly, and not put up, as the Director
11 said, another \$300,000 hurdle. It's getting kind of high
12 to jump over.

13 CHAIRMAN GETZ: Any other discussion
14 about the Technical Advisory Committee?

15 (No verbal response)
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16 CHAIRMAN GETZ: So, I take it then that
17 there's -- the consensus is that there's not support for
18 creating such a committee. But then that brings us back
19 to the surveys. And, Dr. Kent, did you have other
20 proposals different from or in addition to these or --

21 DR. KENT: The only, let's see, what's
22 missing here, the only thing I think is missing right now,
23 you know, I haven't been shy about my unhappiness with
24 some of the environmental work leading up to this. I went
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1 back to the Audubon survey. And, there's enough meat
2 there that we can build off of that. We're looking at
3 mortality, that's built in here already. We're looking at
4 what gets whacked by the blades. But there's another
5 aspect of this, which is the indirect impacts. What are
6 the impacts to breeding bird communities? And, I'll limit
7 it to that. Fish & Game is going to pick up some of the
8 mammal stuff. And, my concern has been that we didn't
9 have enough information to be able to evaluate those
10 impacts. Going back to the data in the Audubon survey, I
11 think there's enough data we can work with, if we would
12 conduct post-construction surveys analogous to the Audubon
13 breeding bird survey in the Project areas. Then, we will
14 have the information to determine if there's other types
15 of impacts, other than getting whacked by a blade, on
16 communities, which we need to assess ultimately the
17 impacts, the final impacts of this Project, as well as to
18 lead us forward in the future with additional projects,
19 and give us some sense of what impacts we're talking
20 about.

21 Clearly, what we have is a void here.
22 None of us know what the impacts are going to be, except
23 for the direct impact of losing forest. We need to start
24 building that knowledge. So, what I'm suggesting is we
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1 replicate the breeding bird survey, Audubon's methods, in
2 the Project area, at, say, year one, three and five, after
3 construction, so that we have enough information to make
4 knowledgeable statements about the impacts of the Project
5 on breeding birds in the area.

6 CHAIRMAN GETZ: So, does this go to the
7 notion of creating like a more extensive baseline?

8 DR. KENT: The baseline would have to be
9 done pre. We're going to rely, as a surrogate, on the
10 breeding bird survey conducted by Audubon, to get that
11 baseline information.

12 CHAIRMAN GETZ: Mr. Scott.

13 DIR. SCOTT: On the baseline issue, I
14 can see not wanting to, in effect, de facto require a
15 delay of the Project, meaning "X" amount of years of
16 pre-construction survey, therefore it delays. But, given
17 that, for instance, there's still a federal potential here
18 for an environmental impact statement or EA, or there's a
19 potential lag here time of us issuing a certificate, and
20 -- if we do, and actual construction starting, would it
21 not make sense to, in order to establish a better baseline
22 than we have now, to require that to go on until
23 construction starts? So, if it starts next month, then
24 that's when it stops. If it starts a year from now, you
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1 get another year that way.

2 DR. KENT: The simple answer is "yes",
3 of course, it would be better to have a better baseline,
4 if we have time. But I didn't know the answer to that
5 question whether we would have time to get it in.

6 DIR. SCOTT: Well, I'm suggesting
7 conditional. Meaning it wouldn't be that, if you don't do
8 two years, then you can't start. I'm suggesting that you
9 would be requiring the Applicant to do the study, do the
10 appropriate studies, until such time as they start.
11 Whenever that time is is when that time is.

12 MR. IACOPI NO: I would probably need
13 some help in terms of the language then, if that condition
14 were required. Not so much from the legal, but just from
15 the -- what you're actually going to be requiring for a
16 survey and when they have to be done.

17 DR. KENT: Right. And, I think the
18 shortcut on that is, what's the language I used before?
19 Excuse me for a second. Where we talked about "review and
20 approval by Fish & Game", I think it's 8, right?

21 CHAIRMAN GETZ: Yes.

22 MR. HARRINGTON: That was 8.

23 DR. KENT: "Review and approval" is the
24 shortcut language we could use to get there. And, what
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1 Director Scott is talking about is, if, for some reason,
2 the Project isn't going to get going on schedule, for
3 example, the federal process holds them up and we do come

4 to another breeding season, then why not collect some more
5 baseline information. Correct? Did I get that right?

6 DIR. SCOTT: Yes.

7 CHAIRMAN GETZ: Mr. Harrington.

8 MR. HARRINGTON: But the performance of
9 that survey would not delay construction, is that what I'm
10 hearing?

11 DIR. SCOTT: Correct.

12 CHAIRMAN GETZ: Director Normandeau.

13 DIR. NORMANDEAU: And, to kind of get my
14 head around what Dr. Kent is saying, and I think I
15 understand, doing these surveys, going forward, isn't as
16 much as a preventative measure for this particular
17 project, as it is a learning experience, given this isn't
18 the last wind project we're going to do. And, it's going
19 to give us the, you know, knowledge in the future about
20 what may go on when these projects are installed in other
21 areas, I think.

22 DR. KENT: Right. I think we all
23 understand that, when we ask "what are the impacts for
24 this project?" We don't really know all the impacts. We
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1 don't have enough information to make that kind of
2 decision. And, we're going to be faced with it every
3 time. And, I, frankly, don't want to sit here every time
4 we do one of these projects and go "I don't know what the
5 impacts are going to be, but, what the hell, let's come up
6 with a mitigation agreement we think might work." I'd
7 rather have more information about it. I think it serves
8 another purpose, which benefits the Applicant. They need

9 information as well. And, they may decide, in the future,
10 they can better design their projects, maybe the turbine
11 maker can come up with a better turbine design. Who
12 knows? So, I think we all benefit down the road.

13 CHAIRMAN GETZ: Mr. Scott.

14 DIR. SCOTT: On the same topic, again, I
15 think we can be informed by at least my recollection, but
16 I think what we did for the Lempster wind farm is
17 regarding the post mortality studies, there was some
18 thought, and I don't remember the language, that, should
19 there be a problem discovered, a higher number than
20 anticipated or are unacceptable, is what that -- that was
21 in the details, obviously, of bird or bat kills, that
22 accommodations could be made. And, what they could be,
23 for instance, is if -- I think it's been discussed in some
24 of the testimony also, if you see a -- certain migration
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1 times of the year you're seeing very high kill rates,
2 perhaps you could feather or take appropriate actions or
3 that type of thing. And, I know we had some similar
4 language in Lempster, if I remember correctly, I don't
5 know if anybody else does, and I don't think it was that
6 long, but basically to the effect that that would be used
7 to educate moving forward for that project even, from what
8 I remember.

9 DR. KENT: Right. An analogy, that's a
10 good analogy. For what I'm talking about, the breeding
11 bird surveys, is if we find out that every bird moves out
12 of that area for, you know, 5 acres around each turbine,
13 then we'll have a good sense of what kind of an impact

14 there is. You can be able to assess where we made the
15 right decisions on the mitigation, for our standpoint, and
16 then there's some benefits for the Applicant and the
17 turbine makers down the road.

18 CHAIRMAN GETZ: And, I think,
19 ultimately, I think this may be where you were heading as
20 well, Mr. Scott. If there are inordinate or unreasonable
21 effects, then the Applicant may be required to operate its
22 turbines in a different way, --

23 DIR. SCOTT: Right.

24 CHAIRMAN GETZ: -- not operate them at
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1 certain times of year, certain times of day. So,
2 ultimately, we have to collect the knowledge to know what
3 are the impacts, and then, you know, what's the reaction
4 we're going to have to those impacts. And, ultimately,
5 what the Applicant may be required to do in the future.

6 But I think I'm sympathetic to what may
7 be concerning Mr. Iacopino, is how are we actually, you
8 know, what is this condition going to look like? And,
9 maybe I would suggest, well, three things. First, I'd
10 like to finish the list under "natural environment". And,
11 then, it may be, if we took a recess, and then if Dr. Kent
12 could collect his thoughts, and based on what he's heard
13 from Director Scott and others, work with Mr. Iacopino to
14 compose what that condition would look like. And, I guess
15 also, if we could take a look during the recess, at the
16 Lempster decision, to see if there are actual conditions
17 in there that may be useful in this regard.

18 Does that sound like a useful approach?

19 Because I think we really need to be very clear on the
20 issue of the studies and what they would look like. But,
21 before we do that, then let's --

22 MR. HARRINGTON: Excuse me, Mr.
23 Chairman. So, this new condition is going to negate the
24 need for Items 3 and 5, is that correct?

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1 CHAIRMAN GETZ: Well, I guess it's some
2 combination of 3, 4, and 5, I think is how to address
3 those.

4 MR. HARRINGTON: This will replace those
5 then? Okay.

6 CHAIRMAN GETZ: Yes.

7 MR. HARRINGTON: Or negate the need for
8 them specifically. Okay.

9 CHAIRMAN GETZ: So, on Items 9 -- well,
10 let's see where we are. Item 6 we already discussed,
11 that's 1,000 feet within, subterranean installation of
12 electrical collection facilities.

13 Item Number 7, "Subcommittee shall
14 retain jurisdiction", the Subcommittee retains, you know,
15 its enforcement authority. So, I don't think that's
16 required.

17 And, so, then Item Number 9 sets up a
18 fining system to be levied for, you know, dead birds, bats
19 or mammals indigenous to the area. Mr. Normandeau.

20 DIR. NORMANDEAU: I really don't think,
21 given our current budget situation, I would really want to
22 be tempted with the inducements that this might present.
23 So, I don't think we could really go forward with that.

24 DR. KENT: There are existing federal
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1 laws that cover mortality to migratory birds and
2 endangered species. We don't need to add on top of that
3 some additional fine.

4 CHAIRMAN GETZ: And, I think
5 Mr. Iacopino also makes the very good point, with respect
6 to Items Number 9 and 10, what the extent of our legal
7 authority is to impose, you know, per se fines of this
8 nature, so --

9 MR. HARRINGTON: And, Mr. Chairman, it
10 also would be -- turn into a bit of a expensive
11 proposition, because every time you found one of these,
12 you would almost have to do autopsies to find the cause of
13 death. I mean, some animals do die of other causes other
14 than windmills. It could be from a predator, it could be
15 from a disease. We would have to be setting up a portable
16 morgue for small creatures in the North Country.

17 MR. IACOPI NO: Well, at \$30,000 a pop,
18 though, you could probably finance it.

19 CHAIRMAN GETZ: Okay. So, I take it
20 that there's -- the conclusion is that Items Number 9 and
21 10 are impractical, and we may not have the legal
22 authority to impose. And, so, we shouldn't pursue those.

23 And, then, the last item basically would
24 require that the Applicant shall sign an agreement that
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1 the turbines located on Kelsey and Dixville would be shut
2 down during the breeding seasons of the Bicknell thrush.

3 Any --

4 DIR. NORMANDEAU: Again, I think that's
5 going to be determined by those studies with Fish & Game,
6 whether or not that issue becomes -- really will become an
7 issue or not. And, I think that that's going to be
8 determined at that time.

9 CHAIRMAN GETZ: All right.
10 Mr. Harrington.

11 MR. HARRINGTON: Yes. The only evidence
12 that was presented as a threat to the Bicknell's thrush
13 was the clearing of land. And, I don't remember seeing
14 anything brought into evidence that the rotors were going
15 to be chopping them up, per se, as it implies here. So, I
16 agree with Director Normandeau. Until we know there's an
17 actual problem, we shouldn't be trying to solve them.

18 MR. IACOPI NO: Mr. Harrington, I would
19 just point out that Trevor Lloyd-Evans did testify about
20 the rotor sweep and the concern for the Bicknell thrushes.
21 So, I don't want the record to suggest that it wasn't
22 considered. You can determine whether you consider it to
23 be a realistic issue or one that would be better addressed
24 after the studies are done after construction. But it was
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1 in the record.

2 CHAIRMAN GETZ: Dr. Kent.

3 DR. KENT: Yes. I'll clarify that even
4 more. Since this is it for Bicknell's, and nobody has
5 built a wind tower up there before, it's impossible to
6 have pre-existing information about the effect of the
7 rotor blades on Bicknell's. We won't know until the

8 towers go up and we find out whether they're wondering
9 into the blades or not. That's why we have mitigation.

10 CHAIRMAN GETZ: Director Scott.

11 DIR. SCOTT: Before we leave the
12 wildlife and natural environment, again, we had discussed,
13 under "water quality", this concept of no clear-cutting
14 between 1 April and 1 August. Would this not be the place
15 to insert that, if we so desire? I think we agreed that
16 we didn't want to eliminate any construction activities,
17 but I thought there was some support for not clearing any
18 significant amount of trees in the habitat during those
19 timeframes.

20 CHAIRMAN GETZ: So, did you have -- you
21 had a modified proposal on it, with respect to what
22 activities should be precluded during April 1 and
23 August 1?

24 DIR. SCOTT: Just say "significant
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1 clearing", I think.

2 MR. HARRINGTON: Just a question. We're
3 talking about going back to the Item Number 9, under Water
4 Quality", that said "Applicant shall not conduct any
5 clearing or road construction activity above 2,500 feet
6 elevation on Mount Kelsey, Owlhead, --

7 DIR. SCOTT: Yes.

8 MR. HARRINGTON: -- and Dixville Peak
9 between April 1 and August 1?

10 DIR. SCOTT: Right.

11 MR. HARRINGTON: I think we all decided,
12 it seemed to me, that the road construction wasn't

13 applicable or appropriate, --

14 DIR. SCOTT: Correct.

15 MR. HARRINGTON: -- because the damage
16 was done via the clearing. And, once it's cleared,
17 building a road on it was not going to cause any
18 additional harm.

19 DIR. SCOTT: Right. It was unclear to
20 me, Mr. Chair, if we had decided that issue or not.
21 That's all.

22 CHAIRMAN GETZ: I don't think -- I think
23 we had decided not to impose a general prohibition against
24 construction during April 1 and August 1, but we left open
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1 whether there's something less than that that --

2 DIR. SCOTT: And, what I'm suggesting is
3 that we keep the clearing -- the "significant clearing"
4 part of that, since the intent again was for wildlife
5 habitat, which is why I bring it up under this section.

6 MR. NORTHROP: So, we didn't deal with
7 it under "water quarter", but it will be under the --

8 DIR. SCOTT: That's what I'm suggesting.

9 MR. NORTHROP: Right.

10 CHAIRMAN GETZ: In a more limited way?

11 DIR. SCOTT: Right. Still
12 clear-cutting. I was suggesting we're not talking about
13 construction at all in that context, just the clearing of
14 land.

15 CHAIRMAN GETZ: That there would be no
16 clearing of land --

17 DIR. SCOTT: Or significant clearing of
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18 I and --

19 (Multiple members speaking at the same
20 time.)

21 CHAIRMAN GETZ: Well, let me propose
22 another homework assignment during the recess. Why don't
23 you -- so, I'll ask Dr. Kent to work with Mr. Iacopino to
24 come up with specific language about what the required
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1 studies would look like. And, that Director Scott also
2 work on language about a condition relative to any
3 restrictions on clearing activities that would occur
4 between April and August. And, I'll also take a look at
5 the Lempster decision, and then we'll -- when we resume,
6 we'll try to address the remaining issues under the
7 "natural environment". And, then, we would, after that,
8 move onto the public health and safety issues.

9 So, is everyone good with that approach?
10 Okay. Then, let's take a recess for the public --

11 MS. TUCKER: Ten minutes.

12 CHAIRMAN GETZ: Well, I don't know if
13 it's going to be ten minutes, but we'll see how quickly we
14 can do our homework.

15 (Recess taken at 2:59 p.m. and the
16 deliberations resumed at 3:38 p.m.)

17 CHAIRMAN GETZ: Okay. We're back on the
18 record in Site Evaluation Committee Docket 2008-04. And,
19 before the recess we were discussing conditions with
20 respect to, among other things, pre-construction and
21 post-construction studies. And, Dr. Kent, I believe, has
22 a proposal to make or Mr. Iacopino has composed the

23 proposal ?

24 DR. KENT: My spokesman, Mr. Iacopino,
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1 will --

2 MR. IACOPI NO: Dr. Kent can correct me
3 if I get wrong what I understand what he would like to see
4 as conditions.

5 With respect to pre-construction bird
6 studies, a condition that states: "The Applicant shall
7 conduct additional pre-construction breeding bird surveys
8 and raptor surveys and such other surveys as can be
9 accomplished prior to commencement of construction. The
10 protocol for such studies" -- that should be "such
11 surveys", "shall be subject to review and approval by New
12 Hampshire Fish & Game. A full report with analysis shall
13 be submitted after each year of study." Although, with
14 the pre-construction -- well, I suppose we should leave it
15 in, "each year of study", because, theoretically, it could
16 be more than one year involved.

17 The second condition that he has
18 proposed involves post-construction studies, and reads:
19 "The Applicant shall conduct a post-construction breeding"
20 -- I'm sorry, "post-construction breeding bird surveys
21 that replicate the pre-construction surveys for the
22 Project site. The protocol for said study shall be
23 subject to review and approval by the New Hampshire Fish &
24 Game. The post-construction study shall occur one, three,
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1 and five years after construction has been completed. A
2 full report with analysis shall be submitted after each
3 year of study. If the" -- And, the next condition
4 actually applies to both of the two prior ones: "If the
5 Applicant and Fish & Game cannot achieve general consensus
6 on the issue, they may petition the New Hampshire Site
7 Evaluation Committee."

8 And, then, the other one that we put in
9 here, which is: "If, after notice and an opportunity to
10 be heard, the Site Evaluation Committee determines that
11 the Project is having an unreasonable adverse impact on
12 any species, it may take appropriate action within its
13 jurisdiction." And, then, the language that is contained
14 in most of our orders that involve birds: "This condition
15 is not intended nor shall it be deemed to constitute a
16 permit to take any species or has any waiver of any of the
17 entities that are represented on the Committee of" -- I
18 messed this up. It should be "a waiver of any of the
19 entities' enforcements rights or the powers under the
20 federal Migratory Bird Treaty Act or any other applicable
21 law." In essence, I think I deleted a clause in that
22 accidentally. But, in essence, basically a final condition
23 which would specifically state that there's nothing about
24 our order that permits violation of the federal Migratory
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1 Bird Act.

2 CHAIRMAN GETZ: Which was similar to
3 what was in the Lempster --

4 MR. IACOPI NO: I think that that
5 condition came right out of the Lempster decision, but I

6 think I, in cutting and pasting, I lost a clause. So, it
7 doesn't make sense now, but we can certainly make it make
8 sense.

9 CHAIRMAN GETZ: All right. Did you want
10 to say anything more about that, Dr. Kent?

11 DR. KENT: No. Thank you.

12 CHAIRMAN GETZ: Is there any discussion?
13 Mr. Harrington.

14 MR. HARRINGTON: A clarifying question.
15 When you say the studies will go on up until the time of
16 construction, just as to reiterate, which I think
17 Mr. Scott's point was, that what we're saying here is
18 that, that as construction as such time as it would happen
19 regardless of these studies. In other words, these
20 studies are not intended to delay the start of
21 construction. That is correct?

22 DR. KENT: That is correct.

23 MR. HARRINGTON: Thank you.

24 CHAIRMAN GETZ: Anything else? Any
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1 further discussion about the proposed condition?

2 (No verbal response)

3 CHAIRMAN GETZ: Do I take it that the
4 Committee is in favor of the -- I see assent from the
5 Committee members that that proposed condition is
6 acceptable.

7 Mr. Scott, did you have a proposal with
8 respect to clearing?

9 DIR. SCOTT: Yes. Again, going back to
10 the clearing, again, to reiterate the concern, it was

11 really over 2,700 feet, not 2,500 feet, as in the Public
12 Counsel's suggestion. And, what I'm trying to do is
13 accommodate some of the concerns related to specifically
14 Mount Kelsey and Dixville Peak. And, again, the concern
15 was cutting vegetation between 1 April and 1 August, and
16 the impacts on hatchlings and that type of thing. So, my
17 suggested language, and Mr. Iacopino I think has it, is
18 "The Applicant shall not conduct any significant
19 vegetation cutting activities above 2,700 feet elevation
20 on Mount Kelsey or Dixville Peak between April 1st and
21 August 1st."

22 CHAIRMAN GETZ: Okay. Any discussion
23 about that proposed condition?

24 (No verbal response)

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1 CHAIRMAN GETZ: Any objection to that
2 proposal?

3 (No verbal response)

4 CHAIRMAN GETZ: Okay.

5 MR. IACOPI NO: I would just note that
6 that does permit the Applicant to work at Fishbrook and
7 Owlhead, and to do clear-cutting or significant vegetative
8 cutting between April 1 and August 1.

9 CHAIRMAN GETZ: All right. Then,
10 Mr. Iacopino, then I would include that as well as a
11 condition in the draft.

12 So, I think that concludes all of the
13 conditions under "natural environment". So, that leads us
14 to the last set of issues and the last page under "Public
15 Health and Safety". Item Number 1 speaks to the Agreement

16 with Coos County. We've already addressed that.

17 And, Item Number 2 would require that
18 the Applicant file with the Subcommittee a detailed
19 emergency response plan prior to the commencement of
20 construction. Any discussion? Mr. Harrington.

21 MR. HARRINGTON: I believe the emergency
22 response issue is already covered under the Coos County
23 Agreement. They talk about -- and, in fact, we discussed
24 this earlier. It is Section 8, on Page 3. And, it goes
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1 into -- there's a few paragraphs on it, on what shall be
2 done under our first responders and emergency response
3 services, and it shall establish protocols to provide
4 emergency response access to the site, etcetera, etcetera.
5 So, I think that's adequately covered in Section 8(a)
6 through (f).

7 CHAIRMAN GETZ: Well, also, while we're
8 on this section then, let's also include Section 6. It
9 says: "GRP, or subsequent owners, shall deliver to the
10 Site Evaluation Committee a proposal and funding that will
11 protect the public safety against fire, oil spills and
12 turbine collapses." And, so, is your suggestion,
13 Mr. Harrington, that basically the agreement between the
14 Applicant and Coos County would make Item Number 2
15 unnecessary, is that --

16 MR. HARRINGTON: Yes, that's what I'm
17 saying.

18 CHAIRMAN GETZ: Would that also apply to
19 Item Number 6?

20 MR. HARRINGTON: Yes, I believe so,

21 because there's also another section in someplace else to
22 cover against oil spills.

23 CHAIRMAN GETZ: Okay. Is that the sense
24 of the members then that these additional Conditions 2 or
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1 6 are not required because of the Coos County Agreement?

2 (No verbal response)

3 CHAIRMAN GETZ: Okay. I'll take it that
4 that's the sense of the Committee. Let's move on to Item
5 Number 3. The "Applicant shall file with the Subcommittee
6 a detailed storm water system maintenance plan certified
7 by a licensed professional engineer prior to the
8 commencement of commercial operations." Director
9 Normandeau.

10 DIR. NORMANDEAU: You know, I asked a
11 little bit about this when it was being discussed, and
12 there was confusion on the part, I think, of the
13 Applicant's engineer. I mean, I'm not any kind of an
14 expert on storm water, but I never heard of a "storm water
15 system maintenance plan". You design a storm water
16 system. And, if anything goes wrong with it or if
17 something gets plugged up, you go fix it. So, I don't
18 quite understand what was -- where this was -- what
19 exactly he was saying that they wanted, other than, you
20 know, a couple times a year you run through your -- you
21 know, you're going to be on these roads all the time that
22 you, you know, maybe systematically check each culvert,
23 etcetera, over so many times a year, just to make sure
24 things aren't plugged with leaves or that something hasn't
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1 caused an erosion problem. But, really, I've never seen a
2 plan that had a detailed storm water system maintenance
3 plan. I don't quite understand what was being got at.

4 CHAIRMAN GETZ: Mr. Janelle.

5 MR. JANELLE: Given the type of system
6 that is proposed as part of this Project, most are open
7 swales, culverts, drainage of that sort, I mean, I would
8 think, if something like this would have been required,
9 DES would have put it in their permit and required it.
10 And, the only time I've heard of something like this, if
11 you've got similar to a septic system, where it needs to
12 be maintained or a retention basin that needs constant
13 maintenance. So, I guess I would, you know, DES, the
14 Wetlands folks, the Alteration of Terrain Permit looked at
15 these issues, it wasn't part of their requirement. So,
16 I'd be hesitant to put it in as part of a different
17 condition, where it could do more harm than good, if
18 they're out cleaning out ditches and removing vegetation,
19 things like that could cause problems.

20 CHAIRMAN GETZ: Anyone else? Director
21 Scott.

22 DIR. SCOTT: And, I'm not quite sure
23 what the -- the person, I can't remember who put this in
24 here, but I suspect it was the issue of erosion more than
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1 anything else was the issue. And, I do know, in looking
2 at the DES responses to comments, as were part of the
3 record, they did actually increase or make more stringent
4 the amount of review required for pre and post any major

5 rain events. So, I guess, given the high terrain and the
6 likelihood for erosion, that was the concern for storm
7 water. But, again, I would argue that DES has addressed
8 that in their permits, in the monitoring requirements that
9 they added in.

10 CHAIRMAN GETZ: Okay. So,
11 Mr. Harrington.

12 MR. HARRINGTON: Yes. It just seems to
13 me it's one of those things that just common sense will
14 take care of itself. That one of the things that a storm
15 water system is going to do is for erosion, and probably
16 also to protect the roads as well. And, I think this is
17 sort one of those things that anything that gets built
18 people are going to periodically look at, if there's a
19 problem, they'll fix it. I don't think you need a
20 specific plan to address how you're going to do it, any
21 more than you need a plan to address if there was erosion
22 in the road, and they would have to fix the road before
23 they could drive a truck across it.

24 MR. IACOPINO: Mr. Chairman, there is an
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1 -- it's Condition E-11 of the 401 Certificate, there is a
2 requirement that the Applicant develop an inspection and
3 maintenance plan. It states that "In order to ensure the
4 long-term effectiveness of approved permanent stormwater
5 practices, the Applicant shall develop an inspection and
6 maintenance plan approved by DES. Unless otherwise
7 authorized by DES, the I&M plan shall comply with the
8 requirements of the Alteration of Terrain regulations.
9 Prior to construction, the Applicant shall submit the I&M

10 plan to DES for approval and then implement the approved
11 plan. "

12 CHAIRMAN GETZ: Okay. So, then, I would

13 --

14 DIR. NORMANDEAU: I stand corrected

15 then.

16 CHAIRMAN GETZ: So, based on that
17 language, and I guess the other commentary, then it sounds
18 like that the direction of the Subcommittee is that is an
19 unnecessary condition. So, let's turn to Item Number 4.

20 MR. HARRINGTON: Mr. Chairman, can I
21 make just a suggestion, should we combine Item 4 and Item
22 7, that's attributed to myself, because they're both the
23 same issue.

24 CHAIRMAN GETZ: Okay. So, Item 4 is a
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1 proposal by Public Counsel, the "Applicant shall file a
2 detailed safety and access plan providing, among other
3 things, gate access protocols, and warning signs no less
4 than 1,500 feet from any turbine location." And, I guess
5 Mr. Harrington had indicated before, and it's reflected
6 here in Item Number 7, that limitation on access be a
7 1,300 foot radius, which, again, is larger than I think
8 the Agreement with Coos County was --

9 MR. HARRINGTON: 300.

10 CHAIRMAN GETZ: -- 300 feet. Did you
11 want to speak to that, Mr. Harrington?

12 MR. HARRINGTON: Yes. I think that,
13 whether it's 1,300 or 1,500, from my memory I don't know
14 exactly, but I know there was a piece of evidence put in

15 in the form of a -- recommended from the manufacturer of
16 the turbines on an exclusion zone. I think it was 1,300,
17 but subject to check, you could always go back and 1,500
18 is the correct one. But, because that recommendation is
19 out there from the manufacturer, and I'm assuming it
20 probably has the potential of ice throw, I can't think of
21 really any other problem, or catastrophic blade failure.
22 There has to be some way of letting people know that they
23 shouldn't get any closer than that. Because, I think, to
24 some extent, these are going to be an attractive nuisance,
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1 especially in the wintertime, when people are liberated
2 from having to walk up and down the mountains, but they
3 can ride snowmobiles. So, there's going to have to be
4 some type of a perimeter set up around the banks of the
5 turbines, you know, when I say "banks", the five or six
6 that are together in a group. So that at least if
7 somebody continues in and decides they want a close look
8 at the turbines, that they have been forewarned that
9 that's not a very smart idea.

10 CHAIRMAN GETZ: Director Normandeau.

11 DIR. NORMANDEAU: I would just say that,
12 you know, perhaps some signage. But, you know, when I
13 look at that 1,300 feet, you're essentially saying you've
14 got a half mile diameter circle around each turbine. And,
15 I don't know exactly what the plan is, would be for that.
16 But, you know, first of all, that entire area is going to
17 be in the mitigation property, not in the properties that
18 are typically anyway. And, so, that stuff up there,
19 again, typically is pretty thick. And, so, to -- I'm not

20 sure you could have something that's truly effective,
21 unless you essentially build a circular, you know, road or
22 pathway around the turbines on a 1,300 foot radius, and
23 then, you know, signs. I mean, I'd be against any kind of
24 fencing, because that's going to affect wildlife movement.

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1 So, while I recognize that that's what
2 the turbine manufacturer said, I'm kind of at a loss as to
3 what the practical application of that is going to be,
4 because -- and how it would be maintained short of, you
5 know, basically laying out a circle around each turbine
6 and building a tow road around it.

7 MR. HARRINGTON: Can I just -- I
8 understand what you're talking about, as far as the
9 problems there. So, that's why I say -- I was very
10 nonspecific in my recommendation. Some of the things I
11 would look at is at trail heads you'd put up warning
12 signs, whether they be for foot traffic or for -- I don't
13 know if all-terrain vehicles are allowed in this area,
14 but, if they were, on there. Certainly, snowmobiles would
15 be allowed in the wintertime, so you would put up signs on
16 the trail heads there. The parking areas you could put
17 signs up on. And, even, as the Forest Service does, in a
18 lot of places where you get temporary trails being
19 developed in the wintertime, if there was one that -- a
20 snowmobile trail that was being, you know, had been run
21 quite a bit in the area of the turbines, you could put up
22 a temporary sign in that area. I'm not looking for
23 anything absolute, rather than some type of a plan to
24 address it, which would include certainly parking lots,

1 trail heads, and then maybe other access points, such as
2 roads and stuff like that. I don't think, as the Director
3 said, you would have to put a sign up on every tree
4 literally to cover it otherwise, and that's not my intent
5 here.

6 CHAIRMAN GETZ: Dr. Kent.

7 DR. KENT: There is some language in the
8 Coos County plan on Page 3. (7) "Public Information,
9 Communications and Complaints". (c) "Signs shall be
10 reasonably sized and limited to those necessary to
11 identify the Project site and provide warnings or
12 liability information", and it goes on from there. So,
13 there's a mechanism for that. As far as how much specific
14 information we feel we need to provide, I feel it's in the
15 -- putting warning signs up is in the best interest of the
16 Applicant, and they will probably do a better job about
17 deciding where those need to go than we will sitting here.

18 CHAIRMAN GETZ: Mr. Harrington.

19 MR. HARRINGTON: Well, the reason I
20 brought it up is because the Applicant had signed the
21 agreement with Coos County that limited the access to
22 300 feet, and that was what prompted my concern, because
23 it says "clearly visible warning signs concerning safety
24 risks related to winter or storm conditions shall be

1 placed no less than 300 feet from each wind turbine tower
2 base on access roads." And, you know, it needs to be

3 1,300 feet. Now, I don't know, maybe that was a typo in
4 there, maybe they dropped the "1" off, I don't know. But
5 that's what prompted me to say that it should probably at
6 least say that the Applicant should develop a plan for
7 putting up, to warn people of the hazards of being within
8 1,300 feet of the turbine, and they should be posted at
9 trail heads and parking lots and other appropriate
10 locations, and leave it go with that.

11 CHAIRMAN GETZ: Yes. I think there is a
12 couple of distinctions between the language in the Coos
13 Agreement that basically says, you know, that the warning
14 signs should be on access roads, versus the way this
15 condition doesn't really make that clear. I mean, going
16 to, you know, Director Normandeau's comment that that --
17 would it mean a ring of signs for the whole radius, which
18 certainly gets more and more difficult the longer the radius
19 is. But --

20 DIR. NORMANDEAU: And, I agree totally
21 with what Mr. Harrington said, if, in fact, there are
22 signs set up along, you know, areas people come into that
23 say, you know, "Warning - Manufacturer's recommendation is
24 to stay in excess of 1,300 feet away." I think that's

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1 totally appropriate. You know, I just didn't want to get
2 into, you know, a chain link fence at 1,300 feet scenario
3 around every tower, you know, or that type of -- or that
4 sort of interpretation.

5 MR. HARRINGTON: That clearly was not my
6 intention.

7 DIR. NORMANDEAU: Yes.

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CHAIRMAN GETZ: Mr. Scott.

8
9 DIR. SCOTT: Having said all that,
10 earlier we talked about wanting the land not to be posted
11 against hunting or fishing. That's, to me, is a different
12 venue. People on a road driving a car, obviously, that's
13 easy; trail heads, that's easy. But, if I'm going to hunt
14 the area, I'm not necessarily going to be walking on one
15 of those two areas. So, that's where I guess you get back
16 into some kind of reasonable posting. I don't know what
17 the standard is, but I would ask, if I was to post my own
18 property, I believe there's a --

19 DIR. NORMANDEAU: One hundred yards.

20 DIR. SCOTT: -- every 100 yards I have
21 to post, and that meets the standard, so to speak, if
22 somebody is violating that. It doesn't mean on every
23 tree. So, I just suggest that's something to consider
24 also. I don't know how much of an issue, how much hunting
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1 really goes on there, but that would be another factor for
2 the Applicant to consider.

3 CHAIRMAN GETZ: Mr. Harrington.

4 MR. HARRINGTON: I'll let him speak
5 first.

6 CHAIRMAN GETZ: Dr. Kent.

7 DR. KENT: The 300 feet refers to
8 "winter or storm", you know, winter and ice conditions,
9 isn't that what the Coos County referred to?

10 CHAIRMAN GETZ: Yes.

11 DR. KENT: I think the intent is to
12 prevent people from getting whacked by ice coming off the

13 towers, not to set an exclusi onary zone.

14 CHAIRMAN GETZ: Mr. Harrington.

15 MR. HARRINGTON: Yes. Just maybe to
16 kind of move this thing along. Kind of going back to what
17 I originally had said there, that the Applicant develop
18 some type of a plan, and put in conjunction with Fish &
19 Game, to ensure that people are aware that there's a
20 1,300 foot exclusi onary zone, it would include putting
21 signs at trail heads and parking areas and other places as
22 deemed appropriate. And, that would be suffi cient to me.

23 CHAIRMAN GETZ: Well, let's retrace our
24 steps then. I think Dr. Kent makes a good point about,
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1 you know, what's speci fi cally in the Coos Agreement is
2 that there be, you know, was addressing "winter or storm
3 conditions no less than 300 feet." So, are we in a
4 situation where we're looking at -- do we want two types
5 of things? We want what's in the Coos Agreement, but we
6 may want something more further from it. Or, were you
7 thinking that we wanted -- you wanted it, even with
8 respect to the winter or storm warning condi tions, that
9 you wanted that further away from the --

10 MR. HARRINGTON: Well, I'm not going to
11 question why that was put in there. So, let's let it stay
12 as it is in the Coos County Agreement. This would be in
13 addition to it. But I would think that, if you were
14 concerned with ice throw, that given the size of these and
15 the speeds, clearly, you could get ice throw more than
16 1,300 feet from the turbine. I mean, I haven't run a
17 calculation, but I imagine that's where that 13 -- more

18 than 300 feet. I imagine that's where that 1,300 feet
19 comes from. 300 feet is not very far from the base of the
20 turbine, given the size of these blades, it's, you know,
21 literally a half a blade length away from the tip of the
22 blade. Because they're, what are they, 300 feet across or
23 something like that. So, I would say leave that in. But
24 then, since we have had evidence that the manufacturer
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1 recommends an exclusionary zone of 1,300 feet, that we put
2 up, you know, other signage as appropriate to enforce
3 that.

4 CHAIRMAN GETZ: Well, let me address
5 process then, because there's other pieces to this
6 proposed Condition Number 4. And, it says, you know, it
7 suggests a filing of "a detailed safety and access plan
8 providing, among other things, gate access protocols, and
9 warning signs no less than 1,500 feet." I think the way
10 this was contemplated would be something submitted to us,
11 that we would then have to take some action on. Are you
12 suggesting, like we've done in some other areas, basically
13 a -- for the Applicant and Fish & Game to work out safety
14 and access?

15 MR. HARRINGTON: Yes, that's exactly
16 what my suggestion is.

17 CHAIRMAN GETZ: Does the Director of
18 Fish & Game have something to say about that?

19 DIR. NORMANDEAU: Yes. Well, I'm not
20 sure that we have that much of a problem doing something
21 like that with the conservation officers, you know, the
22 lieutenant in the area could, but you also might -- also

23 Bureau of Trails, you know, might, if there is, in fact, a
24 snowmobile trail or something going through that area.

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1 And, then, essentially, I think you'd sign -- you'd put
2 that signage at those trail heads or at parking areas
3 where someone who is hunting, fishing, hiking,
4 snowmobiling or whatever up in there, you know, can see
5 them. They would simply be warning signs. But that could
6 -- I don't think that would be a big deal for the
7 Applicant to work out with, you know, the local lieutenant
8 and the Bureau of Trails. I think that could be a
9 relatively painless program. As long as we're not saying,
10 you know, that we've got all these footage requirements.
11 You know, I think the signs would simply make the
12 recommendations based on what the manufacturer is saying
13 about how far to stay away from these things, but...

14 CHAIRMAN GETZ: Any other thoughts on
15 that? Mr. Iacopino.

16 MR. IACOPINO: I just -- I don't have
17 thoughts on it, I just want to point out some things from
18 the record for the Committee. I check Mr. Harrington's
19 number, it is 1,300 feet. And, it was on -- this was
20 testified to by Mr. Mandli on March 9th at the
21 adjudicatory hearing. And, he was questioned by Ms.
22 Linowes. He was questioned with a -- she had a copy of
23 the Mechanical Operating and Maintenance Manual for the
24 V90s, and she asked for Mr. Mandli to read a section of

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1 it. And, that section was entitled "Stay and Traffic by
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2 Turbine". And, Mr. Mandli read the section and as
3 follows, and this on Page 82 of that transcript, and I'm
4 quoting from Mr. Mandli: "First of all, it's in Denglish,
5 but it says "Do not stay within a radius of 400 meters
6 from the turbine unless it's necessary."" And, then she
7 asked him if "that distance of 1,300 feet seems unusual",
8 and he said "no." That he understands that to be the
9 safety zone for turbines of this size, essentially, as he
10 goes into it on Page 83.

11 CHAIRMAN GETZ: Thank you.

12 DR. KENT: I'm wondering if the right
13 entity for the Applicant to work with on this is Coos
14 County. No offense to Fish & Game, but it seems like --

15 DIR. NORMANDEAU: None taken, believe
16 me.

17 DR. KENT: It seems like the Applicant
18 just needs to sit down with Coos County and come up with a
19 plan that they're happy with. And, in that process, I'm
20 sure Fish & Game will be asked some questions of the
21 County and the Trails Bureau will be asked questions by
22 the County. But it seems like Coos County has the lead
23 here on public safety issues.

24 MR. HARRINGTON: I would have no problem
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1 with having the County take the lead on it or as the lead
2 agency for them to work with. I just think someone has to
3 be assigned to work with them to make sure that it gets
4 done. That's all.

5 CHAIRMAN GETZ: Well, then, is the
6 proposal the condition would be directing the Applicant to

7 work with Coos County to develop a detailed safety and
8 access plan for -- including, among other things, gate
9 access protocols and warning signs"?

10 DIR. NORMANDEAU: Perfect.

11 CHAIRMAN GETZ: Using the language from
12 the Public Counsel?

13 DR. KENT: That would be fine for me.

14 MR. HARRINGTON: I would just go with
15 the 1,300 feet, rather than the 1,500, because I don't see
16 any reason, no justification for stretching it out an
17 extra 200 feet.

18 CHAIRMAN GETZ: All right. I think it
19 looks like we have agreement on that. And, then we turn
20 to Item Number 5, is the proposal that the Applicant buy
21 Coos County two forest fire fighting apparatus.
22 Mr. Northrop.

23 MR. NORTHRUP: This is already covered
24 in the Coos County Agreement, 8(b) on Page 3 of the Coos
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1 County Agreement. It says "GRP shall cooperate with the
2 County's emergency services to determine the need for the
3 purchase of any equipment required to provide an adequate
4 response to an emergency at the Project that would not
5 otherwise need to be purchased by the County."

6 DR. KENT: Mr. Chairman?

7 CHAIRMAN GETZ: Yes.

8 DR. KENT: I would suggest that this is
9 an issue between the Applicant and the County. It's not
10 for us to determine how many fire trucks the County needs.

11 MR. HARRINGTON: I agree.

12 CHAIRMAN GETZ: Okay. Looks like
13 there's agreement with that. Then, we won't impose that
14 condition. So, we move on to I guess the last item, Item
15 8, with respect to "relocation of portions of the Cohos
16 Trail that traverse the summit of Dixville Peak."

17 MR. HARRINGTON: Mr. Chairman, may I
18 speak on that, since I was the one who brought that up?
19 Early in the hearings, and I don't remember exactly which
20 day, this issue came up. And, it was discussed, and I
21 believe the Applicant said that they were working with the
22 Cohos Trekkers, who I think are the correct term for the
23 people that build and maintain the Cohos Trail, and they
24 were going to come up with something. I mean, obviously,
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1 from the condition we just put in, of the 1,300 foot
2 exclusion zone, the present Cohos Trail goes directly over
3 the peak of -- over the top of Dixville Peak, which would
4 put it dead smack in the middle of that exclusion zone.
5 So, there has to be something done. And, I would prefer
6 to see something done, rather than just a sign on the
7 Cohos Trail that says "Don't go any farther". Because,
8 you know, there's been a lot of time and effort by a lot
9 of people to build that trail. And, so, I'd like to see
10 somehow that we have a provision so that it gets relocated
11 around that 1,300-foot exclusion zone, and people are
12 still able to, you know, keep going on the trail, and not
13 have to, I don't know what the option would be, turn
14 around and go back and go down to the road, I guess.

15 DIR. NORMANDEAU: Look up.

16 MR. HARRINGTON: Or bushwhack. And,
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17 those conditions up there, having tried it a couple of
18 times, is not a fun experience at all.

19 CHAIRMAN GETZ: Well, I guess, what
20 precisely do we know about the Cohos Trail? So, the Cohos
21 Trail, I guess, operates based on an agreement with the
22 landowners in that area?

23 MR. HARRINGTON: I would have to assume
24 so. I don't know if they have a lease or it's just they
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1 have been allowed to do it. I can say that they have
2 cleared a substantial amount of land, basically starting
3 from the White Mountains to almost the Canadian border.
4 And, there are developments that they have done along the
5 way. Meaning, they have built shelters, and there's a few
6 places where there's campsites, and I think there's
7 actually some portable or, you know, back country toilets
8 installed in a few places as well.

9 So, I don't know how they -- what they
10 operate under, if it's a lease agreement or just they
11 allow them to do it. I would assume, before they invest
12 the time and effort to build something, that they would
13 have, at least for those properties, some type of a legal
14 agreement, more than just, you know, "Go ahead and clear
15 the land. We don't mind."

16 CHAIRMAN GETZ: Yes. I'm just trying to
17 think through what are the implementation issues.
18 Because, you know, presuming, based on what we're saying,
19 in terms of, you know, these exclusion areas around the
20 turbines, to the extent that any piece of the trail would
21 basically be in an exclusion area, then they would have to

22 move somewhat.

23 MR. HARRINGTON: That's correct, yes.

24 CHAIRMAN GETZ: But I don't know what

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1 the Applicant's authority is. So, are we in a position of
2 saying -- so, I think, again, we're getting back to, we've
3 got to be precise about what kind of condition we want.

4 The ultimate goal is just like to see the trail continued,
5 but moved in a safer area. But I'm trying to figure out
6 how we can make that happen. Director Normandeau.

7 DIR. NORMANDEAU: I think that that is
8 an area where you would probably have to deal with Fish &
9 Game, because most likely, at the end of the day, it's
10 going to be in the mitigation properties. So,
11 conceivably, Fish & Game will be the landowner when you
12 want to move that. So, -- or, pieces of it could be on
13 the mitigation property, as well as on the original
14 ownership. So, that may have to be something that goes
15 with, you know, whoever the associated -- the group is,
16 and Fish & Game and Trails bureau.

17 MR. HARRINGTON: Well, Mr. Chairman, if
18 I may make a suggestion here, because I think we are a
19 little bit deficient in some of our knowledge, as far as
20 how the Cohos Trail actually operates. So, maybe we could
21 ask the -- as a condition, we could have the Applicant
22 develop a plan, in conjunction with Fish & Game, the
23 landowners, the Bureau of Trails, and the Cohos Trekkers,
24 develop a plan to relocate the Cohos Trail out of the

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1 1,300 foot exclusion area, and resubmit it to either us or
2 submit to, I don't know, someone help out here, with the
3 Bureau of Trails, Fish & Game, whoever would be the
4 appropriate State agency, and we could delegate them the
5 authority to say "This looks fine."

6 DIR. NORMANDEAU: I would suggest that
7 we don't specify that it's being moved out of the 1,300
8 foot exclusionary area until you see how it actually lays
9 out with -- I mean, it could be that it's in that zone,
10 and yet, because of the trees, the forest whatever,
11 you're, you know, largely shielded, shall we say. And,
12 you don't know -- I mean, I don't know. I would suggest
13 that you leave it up to the parties that are going to be
14 involved to do what they think is safe.

15 DR. KENT: Mr. Chairman?

16 CHAIRMAN GETZ: Dr. Scott -- Dr. Kent.

17 DR. KENT: I think I want to reinforce
18 that notion. We have less than imperfect knowledge about
19 the trail and what's going on out there, who owns what
20 land, what permissions they have. We have no complaints
21 from anybody about the trail right now. Let's let this
22 thing play out. If we find a conflict between it, the
23 Applicant will work it out with the Cohos Trekkers or
24 whoever owns the land. We don't have enough information
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1 to come up, maybe somebody else does, I can't be smart
2 enough about this issue to come up with an intelligent
3 condition, I guess is the bottom line.

4 DIR. NORMANDEAU: And, I don't know

5 anything about it either.
6 CHAIRMAN GETZ: I think, yes, I guess
7 the best that occurs to me, given that, you know, we don't
8 know what the arrangement is between the trekkers and the
9 landowners, is to do something like a condition that
10 requires "best efforts" from the applicant to work with
11 Fish & Game and other interested parties to, you know,
12 preserve the trail and access in a location that is, you
13 know, is most suitable under the circumstances. Something
14 that gives you some flexibility, that has a goal in mind,
15 but not really overly restrictive, because we don't know
16 the facts.

17 DR. KENT: Right.

18 DIR. NORMANDEAU: So, may I suggest that
19 the condition would be a directive to the Applicant to
20 work with the interested parties to maintain the integrity
21 and usefulness of the Cohos Trail, however that may -- and
22 add "safety" in there, if you like, and let it go. I
23 mean, we know what we're looking for.

24 CHAIRMAN GETZ: I mean, I -- do you have
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1 anything on that, Mr. Harrington?

2 MR. HARRINGTON: Yes. Well, I agree.
3 We have kind of a fuzzy condition here. In fact, I'm kind
4 of surprised that someone from the Cohos Trekkers has not
5 at least sent a letter or something, you know, over the
6 course of this hearings, because they certainly must be
7 aware at this point that someone is planning on putting
8 windmills right dead smack in the middle of their trail.

9 But the two things we do know, that

10 we're establishing a 1,300 foot exclusionary zone, a
11 safety zone, around the turbines, and that the Cohos Trail
12 runs right through the middle of that zone. So, I think
13 it's incumbent upon us to do at least something. So,
14 maybe the words that Director Normandeau came up with
15 would work, if he just put in "in a safe manner" or
16 something to that effect in there, and then it would be
17 incumbent upon the Applicant to reach out to whoever they
18 need to to try to come up with that.

19 CHAIRMAN GETZ: Does that meet with the
20 approval of the members?

21 (No verbal response)

22 CHAIRMAN GETZ: Okay. All right. Then,
23 that --

24 MR. HARRINGTON: Mr. Chairman, there was
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1 one other issue that we moved over.

2 CHAIRMAN GETZ: Okay.

3 MR. HARRINGTON: And, this was the, it's
4 kind of -- it seems trivial after all these major ones.
5 But this was the 15 feet versus 20 foot non-climbable zone
6 on the turbines. And, I'm assuming the reason that "15
7 foot non-climbable zone" is so they don't have people
8 climbing up the turbines or trying to. But I would
9 contend that, in the wintertime, if someone -- of course,
10 they have already ignored our signs, so we know they're
11 not exactly working in a -- you know, going to follow all
12 other instructions. But, if they get over there, and
13 they've got six or seven feet of snow, and they're
14 standing on top of a snowmobile, a 15-foot ladder is

15 accessible. And, so, I would suggest we just change that
16 to 20 feet.

17 CHAIRMAN GETZ: Okay. Is there any
18 objection to making it a 20-foot requirement under the
19 Coos County Agreement, rather than a 15?

20 DIR. NORMANDEAU: I'd only add that, you
21 know, I don't know the difference, but I do know, in
22 Lempster, there is no way to go up the outside. So, it's
23 a smooth tube all the way to the top. The only way up is
24 inside the tower. So, I don't even know if there's any

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1 issue.

2 MR. HARRINGTON: And, I assume that that
3 could be the case here. And, the only reason I bring it
4 up is because, within the Coos County Agreement, it says
5 "The exterior of the wind tower shall not be climbable up
6 to 15 feet above ground surface." So, for some reason,
7 that was put in with the Agreement of Coos County and the
8 Applicant. So, I just think it should be 20. If that
9 wasn't there, I would never have brought the issue up.

10 MR. IACOPI NO: I think they coat it with
11 lard.

12 [Laughter]

13 CHAIRMAN GETZ: Okay.

14 MR. IACOPI NO: Mr. Chairman, I have one
15 other suggestion.

16 CHAIRMAN GETZ: Then, I think the sense
17 of the Committee is to change it to 20 feet. Mr.
18 Iacopi no.

19 MR. IACOPI NO: Just with respect while

20 you're on "Public Health and Safety", in prior orders of
21 the Committee we have required the Applicant and its
22 contractors to abide by the blasting regulations of the
23 Department of Safety and the transportation of explosives
24 under the Department of Transportation's regulations.

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1 CHAIRMAN GETZ: All right. I take it
2 there's support for those conditions?

3 (No verbal response)

4 CHAIRMAN GETZ: And, it appears that the
5 Committee supports those conditions. Are there any other
6 conditions that -- on anyone's list?

7 (No verbal response)

8 CHAIRMAN GETZ: Okay. Hearing nothing,
9 and I don't see anything --

10 MR. HARRINGTON: I did have one.

11 CHAIRMAN GETZ: Mr. Harrington.

12 MR. HARRINGTON: There was one question
13 I had. Just I'm not sure if this is a condition or just
14 maybe I'm just not clear on something. I have a note here
15 about post-construction monitoring plan. And, what it was
16 and what the scope was, and I see that it's come up in my
17 notes a couple of times. Can anybody refresh me on what I
18 was referring to?

19 CHAIRMAN GETZ: Well, I think that goes
20 to the issues that Dr. Kent had raised about the
21 post-construction avian species studies.

22 MR. HARRINGTON: I'm not sure, for some
23 reason I don't think it was the birds and stuff. But let
24 me just -- if you can bear with me just for a second and

1 see if I can find more detail on those. Okay. Maybe this
2 can help me out. Pelletier, he was a representative of
3 the Applicant that dealt with -- Mike, do you know that?

4 MR. IACOPI NO: Yes.

5 DR. KENT: Want me to take it?

6 Pelletier was talking about the bird and bat mortality
7 surveys.

8 MR. HARRINGTON: Okay. Then, that's
9 what it is, because that's where it came up, the term
10 "post-construction monitoring plan". Okay. So, I think
11 we've already addressed that. So, Mr. Chairman, no, I
12 don't have any others.

13 CHAIRMAN GETZ: Okay. Then, I guess I
14 would just summarize that we've gone through all of the
15 findings that we are required to make under RSA 162-H: 16,
16 IV. And, under 162-H: 16, I, it says "The Committee shall
17 incorporate in any certificate or findings issued as such
18 terms and conditions as may be specified", and we've spent
19 the day going through those, through the conditions.

20 So, at this point, then we have to make
21 the ultimate decision whether to issue the Certificate,
22 issue the Certificate with conditions, or deny the
23 Certificate. So, those are the three options under the
24 statute that are available to us. So, Director

1 Normandeau.

2 DIR. NORMANDEAU: Mr. Chairman, I would
3 make a motion that we issue the certificate subject to the

4 conditions that we have come up with today.

5 DIR. SCOTT: Second.

6 CHAIRMAN GETZ: Okay. Second by

7 Director Scott. Any discussion? Any further discussion?

8 (No verbal response)

9 CHAIRMAN GETZ: Okay. Hearing nothing,
10 and in light of the several days of deliberations that
11 we've already made on all of these issues, I would ask all
12 those in favor of issuing a certificate with conditions,
13 please signify by saying "aye"?

14 (Multiple members indicating "aye".)

15 CHAIRMAN GETZ: Are there any opposed?

16 (No verbal response)

17 CHAIRMAN GETZ: None opposed. Note for
18 the record that it is the unanimous decision of the
19 Subcommittee to issue a Certificate with the conditions as
20 described today.

21 At this point, or the next requirement
22 then is that we would -- I'd ask counsel, Mr. Iacopino, to
23 memorialize in a written order and decision the
24 deliberations that we've made beginning back in April, and
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1 the discussions we've had on the findings and the
2 conditions, and to draft that into an order that would be
3 subject to our review and signature. I expect that will
4 take some time. At this point, it's June 10. We had
5 enlarged the time for our review until June 30. My
6 expectation and hope, Mr. Iacopino, is that we will be
7 able to meet that deadline. Can you --

8 MR. IACOPI NO: I will do my very best to
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9 meet that deadline. It's a good deadline for me, too, as
10 I'm going to start the Brown trial on the 29th. So, I
11 would love to have this done before then.

12 CHAIRMAN GETZ: Okay. Is there any
13 other discussion? Comment?

14 (No verbal response)

15 CHAIRMAN GETZ: Okay. Then, hearing
16 nothing, we will close this public meeting and await a
17 draft of a written order. And, assuming the order is in a
18 condition for signature, then we will issue a Certificate,
19 subject to certain conditions, by the end of the month.

20 So, thank you, everyone, for all your
21 effort through this process. Appreciate it.

22 (Whereupon deliberations ended at 4:25
23 p.m.)

24

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