

**THE STATE OF NEW HAMPSHIRE  
BEFORE THE  
NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**DOCKET NO. 2008-04**

**APPLICATION OF GRANITE RELIABLE POWER, LLC  
FOR CERTIFICATE OF SITE AND FACILITY  
FOR GRANITE RELIABLE POWER WINDPARK  
IN COOS COUNTY**

**UPDATE TO TESTIMONY OF DR. DAVID PUBLICOVER  
ON BEHALF OF  
APPALACHIAN MOUNTAIN CLUB**

**MARCH 13, 2009**

As set forth by Mr. Mark Lyons during the SEC’s public hearing on March 11, 2009, the New Hampshire Fish and Game Department (NHFG) and the Appalachian Mountain Club (AMC) reached a Settlement Agreement (the Agreement) with the Applicant to more appropriately mitigate for the impacts of the proposed Project to high-elevation ecosystems than originally proposed in the Applicant’s Appendix 40. The permanent conservation of the areas specified in the Agreement, in particular the restriction on commercial timber harvesting, and the funding of conservation of additional lands outside of the Project area, will provide lasting ecological benefit and enhance the habitat value of the conserved lands.

It is my professional opinion that the provisions of the Agreement provide sufficient mitigation to compensate for Project impacts to high-elevation ecosystems, habitats and species, and resolves any and all concerns regarding the issue of high-elevation mitigation. It is also my professional opinion that with the inclusion of the enhanced mitigation set forth in the Agreement the proposed development does not constitute an unreasonable adverse effect on the natural environment as understood by RSA 162-H.

AMC believes it is paramount that the SEC include the provisions of the Agreement as a condition of the Certificate of Site and Facility, should one be issued, to meet the requirement of NH RSA 162-H:16(c) (Findings) that requires the Committee to find that the project “*will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the **natural environment** and public health and safety.*” There is ample evidence in the record that the Project will have significant impacts on rare high-elevation ecosystems and species, and without appropriate mitigation of this magnitude the Committee would fail to meet this requirement.

I will explain how we reached this Agreement and our current position in light of our original testimony.

In our pre-filed testimony I presented evidence that the high-elevation ridgeline of Mount Kelsey and to a lesser extent Dixville Peak encompassed natural ecosystems of high ecological value. The development would impact primary old-growth forest that provides high quality habitat for several species of high conservation concern, primarily American marten, Bicknell's thrush and three-toed woodpecker. These areas also have important adaptive value in the face of future climate change by maintaining spruce-fir habitat in periods of warmer climate when this habitat is greatly reduced or eliminated at lower elevations, as they have since the last glacial retreat. Similar concerns were expressed by NHFG and witnesses for the Counsel to the Public.

We also stated our strong professional opinion that the mitigation originally proposed by the Applicant was insufficient to compensate for the impacts to these areas, an opinion shared by NHFG and the New Hampshire Natural Heritage Bureau.

At the February 2, 2009 Technical Session, the Applicant proposed an expanded high-elevation mitigation plan that included conservation of all land above 2700 feet on Mount Kelsey outside of the project footprint (as compared to the 500 foot corridor originally proposed). The Applicant also proposed to provide funding to NHFG to conduct studies on the impact of the development on species of concern, and to forego future development of wind power on ridges adjacent to Nash Stream State Forest for the duration of their lease. In subsequent meetings and conversations we and others with expertise on high-elevation ecosystems expressed our professional opinion that the mitigation proposal still was not sufficient, in part because the ecological value of the Mount Kelsey mitigation area was compromised by the fragmenting presence of the development, and because the relinquishment of development rights adjacent to Nash Stream could not be made permanent. Our professional opinion was that the proposal was sufficient to mitigate for the ecological impacts to Dixville Peak but not both Dixville and Kelsey.

AMC and others recommended to the Applicant what we considered to be appropriate mitigation. This proposal included the Mount Kelsey area and the funding for wildlife studies, but also included permanent protection of high-elevation land in four areas adjacent to Nash Stream State Forest (Long, Whitcomb, Muise and Baldhead Mountains) as well as another area that was never identified in any publicly available material. The lands adjacent to Nash Stream were of particular interest because they would complete the protection of several large blocks of high-elevation land that are partially contained within the state forest.

The Applicant subsequently indicated that they could not secure conservation of the lands on Whitcomb Mountain or the additional unidentified area from the landowners. The inability to protect Whitcomb Mountain was of particular concern, as this site had been identified as an area of high ecological value in the breeding bird studies conducted by the Audubon Society of New Hampshire (see Application Appendix 23), and had been

identified as a valuable potential mitigation area in the Applicant's Natural Community Characterization (Application Appendix 16). The southernmost portion of the Mount Kelsey area was also eliminated from the proposal. In return for these losses we accepted a one-time payment of \$750,000 to NHFG to be used for the conservation of additional lands outside the project area, with a preference given to high-elevation lands in Coos County. We also included a provision that will effectively preclude wind power development on Whitcomb Mountain as long as the project is operational. The final Agreement will permanently conserve approximately 1,735 acres of high-elevation land, supplemented by additional land conservation through the \$750,000 land conservation fund.

The prohibition on timber harvesting on a considerable area of high elevation land will maintain existing mature and old growth spruce-fir forest, and will allow for the restoration of natural habitat conditions in other areas that have undergone recent harvesting, thus enhancing their ecological value over the status quo. Current New Hampshire timber harvesting regulations and the Zoning Ordinances for Coos County Unincorporated Places provide very little protection for high elevation habitats. The terms of the Agreement reflects the preference of the Biologists Advisory Group that informed the development of the High Elevation Memorandum of Understanding in the 1990s that there be no harvesting above 2700 feet.

I concur with the supplemental testimony of Pelletier and Gravel regarding the benefits of the proposed mitigation proposal. It is my professional opinion that these benefits balance the impacts created by the development. This is the basis for our current position that the development, in combination with the mitigation provided for by the Agreement, does not constitute an unreasonable adverse effect on the natural environment.

I note that the value of this high-elevation mitigation proposal, estimated by the Applicant at \$2.4 million, represents less than 1% of the estimated Project cost of \$275 million. It is AMC's opinion that this does not create an excessive financial burden on the Project, and its implementation is absolutely necessary to satisfy the "no unreasonable adverse effect on the natural environment" criterion of NH RSA 162:H relative to high elevation ecosystems.