



The Appalachian Mountain Club's Closing Statement on the Granite Reliable Power  
Windpark Proposal -- March 19, 2009

Mr. Chairman and members of the committee, I am Kenneth Kimball, Director of Research for the Appalachian Mountain Club (AMC). I will be presenting the Appalachian Mountain Club's closing statement as Dr. Publicover, who was AMC's expert witness, has a previously scheduled commitment today.

In AMC's original pre-filed testimony we raised several issues regarding the proposed Granite Reliable Windpark. I would like to take this opportunity to describe AMC's current position on these issues, based on the information obtained during the hearings as well as settlement discussions between the Applicant and the NH Fish and Game Department and AMC. AMC's comments today cover three topics: high elevation ecosystem impacts, road construction and decommissioning.

**High elevation ecosystem impacts:**

The first and most significant issue for AMC was the proposed turbine strings on Mount Kelsey and Dixville Peak. AMC did not and does not oppose the other two proposed turbine strings on Fishbrook or Owlshead as we believe they may be appropriately sited relative to ecological and recreational concerns. We presented evidence that the high-elevation ridgelines on Dixville and particularly on Kelsey encompass natural resources of high ecological value. The testimony of multiple experts, in addition to AMC, supports this conclusion. Specific concerns documented in the record include:

- The proposed development would eliminate 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.
- The development would bisect and fragment the remaining old-growth habitat, creating increased edge effect and risk of competition to the interior forest species by invading generalist species.
- The turbines represent a threat to bird species of concern that utilize nuptial aerial displays, such as the Bicknell's Thrush.

In addition, these high elevation ecosystems also have important adaptive value in the face of future climate change. The scientific evidence shows that during previous warming periods since the last glacial period the higher elevation climate was less impacted and their spruce and

fir forests were stable refugia. These refugia likely had a role in re-colonizing the lower elevation spruce and fir forest as the climate cooled in the recent past. Today the region's lower elevations are experiencing warming again, and these mountain tops may again be the refugia for this forest type.

AMC stated its strong professional opinion that the mitigation originally proposed by the Applicant was insufficient to compensate for the impacts to these high-elevation areas. Subsequent to the filing of AMC's pre-filed testimony, the New Hampshire Fish and Game Department (NHFG) and the Appalachian Mountain Club (AMC) reached a Settlement Agreement (the Agreement, Petitioners Exhibit 48 ) with the Applicant to more appropriately mitigate for the very serious impacts of the proposed Project to high-elevation ecosystems. New Hampshire laws and regulations and Coos county Zoning Ordinances provide poor protection for high elevation forest from either development or timber harvesting. The mitigation package would protect 1,753 acres of high elevation forest above 2700 feet from both future development and logging, and some of the parcels identified for mitigation have direct nexus with like ecosystems in an adjacent State Forest to create larger ecological units. The Agreement also provides \$750,000 to protect additional lands with characteristics required by species of concern impacted by the project, and provides \$200,000 to study impacts of the Project on species of concern.

The AMC concluded that the provisions of the Agreement provide sufficient mitigation to compensate for Project impacts to high-elevation ecosystems, habitats and species of concern, resolving our concerns regarding the issue of high-elevation mitigation. AMC believes that in order for the SEC to conclude that there is '*no unreasonable adverse effect on the natural environment*' as described in RSA 162-H, any certificate issued by the SEC should include the mitigation as negotiated in the Agreement by the NH Fish and Game Department and the AMC. Without such mitigation it would be difficult to state that there is '*no unreasonable adverse effect on the natural environment*' as understood by RSA 162-H relative to high elevation ecosystems.

Further detail on our position on this issue may be found in the supplement to our testimony presented at the Public Hearing on March 13, which I will not repeat here.

### **High elevation road construction:**

This Project will require significant road construction under extremely difficult physical conditions, perhaps the most difficult found in New England and at a scale and magnitude much larger than used at ski areas. Steep slopes, problematic soils, a wet environment, and short growing seasons alone and together pose major road-building challenges. AMC has raised three concerns about the proposed roads. First, whether the culvert sizing calculations used by the applicant adequately take into account the greater precipitation that occurs at higher elevations. Based on our and others cross-examination of Steven LaFrance, and modifications that have been made to the original Application, our concerns in this area have been adequately addressed.

The second concern we raised regarding road construction was whether the proposed techniques would adequately maintain natural hydrologic patterns in high-elevation wetlands and other

areas with shallow subsurface flows. Artificially constricting and channeling broad subsurface flows under the roads as originally proposed is inappropriate. We and others recommended the use of a “rock sandwich” technique, as had been required on the Kibby Mountain project in Maine. It is AMC understands that the Applicant has since included this technique in its most recent site plans. AMC believes that the rock sandwich technique should be a required tool in the certificate.

Finally, even if the plans are adequate, we must note that there remains a high potential for erosion and other detrimental environmental impacts from construction of this magnitude in steep, fragile, high-elevation soils. Construction of the Project will require an exceptional level of diligence on the part of the Applicant, its contractors, and the Department of Environmental Services. The role of the Environmental Monitor (as set forth in the DES Alteration of Terrain Bureau’s proposed conditions of February 10, 2009) will be critical. The Monitor will essentially be DES’s “eyes on the ground”. AMC believes it is important that the following conditions be included as part of the monitoring requirement in the certificate:

- 1) Though paid for by the Applicant, the Monitor should directly report, and be responsible to, DES, not to the Applicant.
- 2) The Monitor should be free of any conflict of interest arising from his or her employment or relationship to the Applicant or its contractors.
- 3) The Monitor should have the authority to stop construction activity if permit conditions are not being strictly adhered to.

### **Decommissioning**

The final issue of concern for AMC is the proposed decommissioning plan.

First, AMC believes the SEC, not the Coos County Commissioners, should make the final determination on permit conditions relative to decommissioning. We realize that for the Lempster project the decommissioning plan was arranged through an agreement with the town. That project was less than 30 MW. However, under the SEC’s authorizing statute, projects over 30 MW in size (such as this one), fall under state, not local jurisdiction. The issues related to this project have statewide significance, and it is inappropriate for the SEC to delegate its responsibility on decommissioning to a local governing body. At a minimum the SEC should set the ‘floor’ as to what is required for decommissioning in its certificate and then permit local governing body(s) to set more stringent decommissioning conditions if they so choose.

Second, AMC believes that the establishment of the decommissioning fund should be advanced over the schedule currently proposed in the Application. The Applicant’s proposed schedule would not begin establishment of the fund until Year 11 of the project, which is substantially slower than that provided for by several other major projects in the region, including Lempster, as we outlined during the Public Hearing. And recent history has shown that today’s windpower technology could be outdated before the first 10 years of the Project are complete. We believe that a periodic payment schedule is appropriate, but that fund payment should begin when the Project begins operations, and be fully established by or before Year 10 of the project. We also believe that a secondary assurance should be provided (through insurance or other means) to

ensure that decommissioning could take place in the unlikely event it is required prior to the decommissioning fund being fully established.

We understand that there are a range of possible financial mechanisms by which the fund could be established. It is important that the SEC require a mechanism which provides an ironclad assurance that the funds will be available if and when they are needed. The funding mechanism should not rely in any way on the financial health of the project owner or its parent company, but must assume a worst-case scenario in which the project owner or its parent company has no financial resources.

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

We thank you for the opportunity to present this statement.