

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

**Docket No. 2008-04**

**Application of Granite Reliable Power, LLC  
for a Certificate of Site and Facility  
for the Granite Reliable Wind Park in Coos County**

**POST-HEARING BRIEF OF  
KATHLYN J. KEENE, INTERVENOR**

**April 6, 2009**

**INTRODUCTION**

**I would respectfully propose to the Site Evaluation Committee, in its findings, that the Applicant, Granite Reliable Power, LLC has not provided sufficient data, used unethical practices, and displayed lack of competence in their financial portfolio, technical and managerial skills to allow this Committee to grant a certificate of site and facility. This Applicant has chosen to conduct itself in such a manner that has left this Committee with poor data, incomplete documents and questionable code of conduct and ethical issues. The Applicant's chosen engineering consultant, Stephen M. LaFrance, retained to compile critical engineering data and oversee this project, has proven to be unprofessional, unethical and dishonorable in his conduct (See document filed with the SEC on March 22, 2009 and Misconduct Agreement filed March, 2009). The Applicant's employees and consultants have proven to engage themselves in less than truthful statements and unethical behavior that would result in compromising Coos County's stability in tourism, financially**

and future development of our area. The Applicant has proven to have a weak financial standing and the usage of “uncommon” financial practices as compared to their competitors.

This is the second wind facility that has been proposed for the state of New Hampshire.

The project is immense and will encompass over 3, 747 acres of high elevation areas including wetlands of unfragmented forest in the northern reaches of Coos County.

Let the findings of State and Federal agencies, Public Council’s expert Consultants, Intervenor’s testimonies, cross examinations and closing statements determine the frailty of the Applicant’s ability to construct this industrial wind facility.

*Let these facts stand, with their strengths, to render a decision to deny a Certificate of Site and Facility to Granite Reliable Power, LLC.*

*Project Description*

The application and data resources have indicated that this facility will be located on two parcels. Phillips Brook Parcel (23,767 acres) and the Bayroot Parcel (59,772 acres).

Acreage total is 83,544 acres.

These two properties share a common boundary that roughly forms a ridgeline south of Dixville Peak along which the wind turbines strings will be located. *This ridgeline also forms a divide between two watersheds; to the west the Phillips Brook and its tributaries drain into the upper Ammonoosuc River as it flows west to meet the Connecticut River in Groveton. The Bayroot parcel drains largely to the east through several tributaries that join the Androscoggin River as it flows south and east through Gorham.*

**FINDINGS OF FACT**

- 1. Granite Reliable Power, LLC is a Delaware Limited Liability Company registered to do business in New Hampshire. Granite Reliable Power is owned in majority by Noble Environmental Services, LLC.**
- 2. The industrial wind facility proposes to construct and operate 33 wind turbines and associated electrical interconnections with a total name plate of 99 megawatts located in the unincorporated places of Dixville, Ervings Location, Millsfield and Odell and the incorporated Town of Dummer. The turbines will be erected on the summits of Fishbrook ridges, Owlhead, Mount Kelsey and Dixville Peak encompassing elevations from 2,582 feet up to 3,482 feet. The projects components will span the terrain approximately 14.5 miles from the northernmost wind turbine string to the existing transmission line located to the south.**
- 3. The 33 turbines proposed are Vestas “V90-3.0 MW” series brought to the market approximately 10 years ago. Tubular steel tower is 262 feet high and supports the nacelle that is 32 feet long. The blade in diameter is 295 feet. Total height is 410 feet tall from the base to the tip of the blade and are becoming obsolete as new technology advances.**
- 4. The area to be cleared for the turbine foundation is 200’ x 200’ (40,000 sq. ft.; surveyor’s acre). The turbines foundation will be concrete. Cutting into bedrock in the highest elevations of this fragile forested area.**
- 5. Data has not been disclosed and questions dismissed regarding the extent of the blasting that will occur on the several summits in the proposed areas. Evidence of these high**

reaches of forested areas have bedrock that is located near the surface of the soil.

Without a pre-construction study it will be difficult to determine the fractures that will occur and the effect on the water resources and wetland.

6. To collect the electricity to send to the grid, transmission lines will have to be erected as well as associated new substations for collection. A system impact study was conducted by PSNH and the ISO. These studies would produce the thermal and voltage to determine if the existing electrical system could accommodate the load. The study resulted in a finding that there were some upgrades and re-sagging to be done on the lines. This cost would be born by the Applicant.

There will be approximately 30.4 miles of collection line and 5.8 miles of new electrical interconnection line to serve the generator.

7. The project will have a maintenance building that will be approximately 5, 000 sq. ft. to store tools and associated materials for the project vehicles, spare parts and associated equipment.

8. The applicant proposes disturbing 3, 747 acres of high elevation forests. There will be approximately 19 miles of existing roads (upgraded) and 12 miles of new access roads to reach the wind turbines. These roads will be cutting through existing wetlands. The remaining components of the project consist of a new substation, laydown yard and interconnecting switching station that will be erected in the incorporated town of Dummer.

9. The applicant reports, in a general statement, that the net capacity factor is approximately 35 per cent for the proposed project. Electricity generation will be sold to the open market, not New Hampshire.

Public Hearings

There were two public hearings held in Coos County for the residents to learn about the project and to air their concerns.

The first was held on October 2, 2008 at the Groveton High School in Groveton, New Hampshire. There were approximately 200 residents that attended this hearing. This evening was full of insightful questions and discussions. Granite Reliable Power, LLC was there to give a presentation to the public in helping them understand the magnitude of their industrial wind facility. They presented pictures of a photo simulation of what the turbines would look like in the area. Jackie Hines, of Millsfield, realized that her house sat just below a string of the turbines and was outwardly upset with the lies and misrepresentation that GRP had given her. In a display of much emotion, Ms. Hines wanted to know if GRP was going to buy her property because what they are about to do is going to render her property worthless. She wanted to know why Pip Decker had told her they would be on the other side of the ridge? The hearing closed and the residents were left with much to ponder.

The second was held on March 23, 2009 at the Lancaster Town Hall in Lancaster, New Hampshire. There were approximately 160 +/- residents attending this meeting. According to a local newspaper article 27 people, mostly Wagner Forest Management Company employees (some from outside the area), spoke in favor of the project. Wagner manages the parcels for the current owners. The newspaper indicated that 15 residents of Coos County spoke against the project and gave very insightful reasons for their disapproval. There were 2 residents of Coos County that spoke and indicated that they had not reached

**a conclusion on the project because it lacked proper information to make an informed decision. Coos County residents are good at attending hearings because they are hopeful for informative information. You can be sure that if they are attending a hearing it is because they are concerned with the outcome.**

**Usually if they remain silent, and the majority of them do, it is because they are against it.**

**They do not speak because many of them are employed by the logging companies or County Commissioners and know if they do they will not continue to be employed.**

**This is substantiated by this example. Peter Riviere, Director of the CEDC, had his budget slashed to \$8,000 by the County Commissioners. At a public County Commissioner meeting held in the afternoon, Mr. Riviere lost his salary and most of his budget. Mr. Riviere completed a report for his superiors indicating that studies, reports and recommendations by economic affiliations that Coos County should pursue community heating for the Coos region. He also indicated in his report that \$250,000,000 would not be necessary to upgrade the Coos County electrical grid loop. This report cost Mr. Riviere's budget. The County Commissioner's publicly stated at their meeting that if he could not think like the Commissioners then he was out. (See cross-examination of Kathlyn Keene, March 17, 2009)**

**Proposed Findings**

**Environmental Impact Statement**

- 1.) The Federal Agencies of the Division of Fish and Wildlife and Environmental Protection Agency confidently report that this proposed project is in an environmentally sensitive area and would require an Environmental Impact Statement in order to determine, in a larger scope, the severity of the damages to the watersheds, ecological effects, the biodiversity of the area, wetlands and the wildlife habitat.
- 2.) Letter, dated April 6, 2009 from Coos County Representatives Evelyn and Scott Merrick request that an Environmental Impact statement be conducted.
- 3.) A majority of Coos residents that have written to the SEC (posted on the Sec's website) regarding their concerns of the effects this proposed project will have on our natural environment have requested an Environmental Impact Statement.
- 4.) A retired wildlife biologist and forester submitted his request to the SEC requesting an Environmental Impact Statement.

**Unreasonable adverse impacts on the natural environment  
Mount Kelsey and Dixville Peak**

**1.) New Hampshire Department of Fish and Game**

- **Testimony of Will Staats and Jill Kelly**, as wildlife biologists, report the project will have an unreasonable adverse effect on the natural environment, in particular the high elevation forest ecosystem and the wildlife that rely on it.

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- They believe that this project will fragment limited and sensitive high elevation habitat, which is a rare component of New Hampshire's forested ecosystem and is critical habitat for American marten, Canadian lynx, Bicknell's thrush and the American three toed woodpecker.
- They feel that in their current condition, Mount Kelsey and Dixville Peak are blocks of relatively undisturbed habitat, which are important both locally and regionally. The biologists stand by this testimony.

**COMMENTS: Although the Department of Fish and Game did sign onto a High Elevation Settlement Agreement with AMC and the Applicant that would yield a net profit of \$2,400,000 to their department these Wildlife Biologist stand by their testimony that the project would have an adverse effect on the natural environment under Chp. 162H-16:IV.**

**2. ) Appalachian Mountain Club (AMC)**

- Testimony of Dr. David Publicover reports that the ridgeline forest of Mount Kelsey possesses all of the characteristics of old growth forest. Given the extreme scarcity of primary old-growth forest in the state and region, and the high level of disturbances to surrounding forests from timber harvesting, Mount Kelsey is an inappropriate area for any type of development.
- Critical wildlife habitat for several of the state's rarest and most vulnerable wildlife species. **As described in the New Hampshire Fish and Game progress report and the applicant's studies, Mount Kelsey provides high-quality habitat for three wildlife species of high conservation concern.**
- Developing wind power projects on mountain ridges with undisturbed spruce-fir or alpine habitats, sometimes referred to as "islands in the sky" is counterproductive to efforts to adapt to climate change.
- The applicant's proposed development in high-elevation areas would seriously degrade the ability of these habitats to provide this critical ecological function and would contradict the New Hampshire Climate Change Task Force's recommendations on adaptation for ecosystems and wildlife.

**COMMENT: Mr. Publicover states, "The project would have an unreasonable adverse impact on the natural environment under Chp 162H-16:IV, specifically Mount Kelsey. Mount Kelsey should not be developed under any circumstances."**



**Update to original testimony of Appalachian Mountain Club (AMC)**

- **Dr. David Publicover revises his original testimony and completely negates his serious concerns of the impacts to high-elevations such as found on Mount Kelsey and Dixville Peak. Compensation has been offered of other high-elevation parcels found away from the project sight with the exception of the lower elevations of Mount Kelsey. His concerns in his original testimony will still be founded with the proposed development.**

**COMMENT: *The mitigation has not determined conclusively that it compensates for wetlands and environmentally sensitive areas to Mount Kelsey/ Dixville Peak and will deter the development of these ridges as expounded by the AMC's Dr. Publicover. It would be difficult for the Committee to make a sound determination that these "traded" lands are comparable with the permanent loss of Mount Kelsey/Dixville Peak.***

**3.) Dr. George M. Mariani, behalf of Public Council**

- **Dr. Mariani explains that the Applicant has not demonstrated that a final design has less environmental impact than a scaled down project or a project that utilizes turbines at locations that are less environmentally sensitive.**
- **It appears the design was driven primarily by wind resources and secondarily by avoidance and minimization of wetland impacts, with little attention paid to impacts on important wildlife habitat. Dr Mariani professes the importance of monitoring programs for water quality, vernal pools and restoration of wildlife habitats.**

**COMMENT: Dr. Mariani's powerful opinion and I quote, "*It appears the design was driven primarily by wind resources and secondarily by avoidance and minimization of wetland impacts, with little attention paid to impacts on important wildlife habitat.*"**

**4.) New Hampshire Audubon Society**

- **New Hampshire Aududon supports appropriately sited wind turbines as one component of New Hampshire's renewable energy portfolio. They consider appropriate siting to include avoidance of substantial impacts to sensitive habitats and species of conservation concern. The turbines on Dixville, northern Owlhead Mountain, and especially Mount Kelsey fail to meet these criteria.**
- **High elevation spruce fir forests occur from approximately 2,500 feet to approximately 3,500 feet elevation in New Hampshire's White Mountains and North Country. Compared to forests at lower elevations, these sites have shallower, more nutrient - poor soils, higher levels of precipitation; stronger winds; colder temperatures; more frequent exposure to ice damage; and shorter growing seasons. These conditions result in low tree species diversity, very low growth rate, and high mortality rates.**

- *In view of this, the society strongly urges the SEC to deny a license for proposed turbines located above 2,700 feet.*

#### 5.) The Nature Conservancy

- The Nature Conservancy's mission is to preserve the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.
- The Nature Conservancy has specific interests in this project that derive from a.) the wildlife biodiversity and significant habitat features documented to occur in the project area, which have been extensively detailed by the Audubon Society of New Hampshire, the Appalachian Mountain Club, New Hampshire Fish and Game, and the applicant; and b) their large ownership of land, the nearby 10,700 acre Vickie Bunnell Preserve.
- Their greatest hope for the project would be to see it move forward, get licenses and permits and produce clean power energy, with adequate mitigation for adverse impacts, but without the eight turbines and associated infrastructure proposed for Mount Kelsey.
- *Absent evidence that the proposed towers on Mount Kelsey are absolutely essential for the project to go forward, we believe that this part of the project proposal would have an unreasonable adverse effect on the natural environment under Chp 162-H:16 (IV).*

#### 6.) United States Department of Interior

##### Division of Fish and Wildlife

- The report points out many areas in which the applicant has fallen short. The site selection and on-site planning activities up to and including layout of the roads, turbine strings and turbine pads were accomplished prior to wetland delineation work being initiated and completed.
- There was no wetlands /waters delineation work presented in the SEC application to support the site selection process which took place in 2006. The high elevation wetland systems on these mountains (Dixville, Kelsey, Owlhead and Fishbrook) warrant special protection and recognition due to their limited occurrence in the region, their fragile nature due to shallow, cold soils, and other harsh environmental conditions, and because they serve as critically important wildlife habitat for species such as the tree-toed woodpecker, Bicknell's thrush, and Pine martin.

- **The proposed turbine strings and access on Kelsey and Dixville ridgelines are overlain on the core of the available breeding habitat for Bicknell's thrush, creating a serious land use conflict. The breeding bird survey transects established by New Hampshire Audubon were laid out and conducted along the Kelsey and Dixville ridgelines at about 2,900 feet in elevation and above. Construction of roads and turbine pads through the core of the Bicknell's breeding habitat would eliminate about 90 acres of high elevation habitat along the ridgelines and cause any remaining adjacent habitat to be less suitable or unsuitable at least for an extended period of time.**
- **Indirect effects caused by these long linear clearings could include change in microclimate that could effect the remaining adjacent spruce-fir and fir habitat by causing more wind throw, greater seedling mortality due to temperature and moisture extremes, and from freezing/frost action in these thin soils. Significantly adverse effects on the breeding life stage of Bicknell's thrush caused death and/or injury in the rotor-swept zone and wind wake are during aerial displays in the breeding season and pre-migratory period may cause these mountaintop sites to shift from stable or recruitment sources to population sinks.**
- **Changes in the hydrologic regime too numerous wetlands and waters due to interception of surface and ground water flow by extensive cuts and fills and blasting to construct access roads and turbine pads in this montane setting.**
- **The structure and function of aquatic ecosystems would be adversely affected by direct loss of habitat due to filling for access roads and turbine pads. Adjacent aquatic systems would be adversely affected due to changes in microclimate (increased wind throw), extremes in temperature and moisture regime) and habitat fragmentation effects such as an increase in edge habitat and generalist species, and a concurrent decrease in the stability of remaining adjacent habitat for forest-interior bird and mammal species dependent on interior habitat.**
- **By way of contrast, the recent Deerfield Wind Project in Searsburg, Vermont was found to require an Environmental Impact Statement (EIS), even though it is a much smaller project (35 MW Vs 100 MW). Deerfield would involve two ridges GRP 4; 5 miles of above-ground and underground transmission line - GRP 30+, 80 acres of land clearing GRP 300 acres, 4 miles of new roads and 1 mile of upgrade GRP 12 new 19 upgrade, and less than 0.10 acre impact to waters/wetlands GRP 14 acres. In addition, Deerfield would not impact old growth habitat of imperiled species.**
- **The Division of Fish and Wildlife do not believe that this application complies with the restrictions on discharge contained in the guidelines. The project fails to comply with both the off-site and on-site alternative analysis and would cause or contribute to significant degradation and moreover, the project would likely have a significant effect on the environment, which triggers the need for an environmental impact statement.**

- *Accordingly, the Division of Fish and Wildlife recommend that an EIS be prepared prior to any decision being made to issue or deny a permit for this project.*

### Road Construction

#### 1. Gary R. Sanford, behalf of Public Council

- In his testimony Dr. Sanford expresses an opinion that the wetland impacts have not been avoided or minimized. The amount and extent of wetland impacts have been underestimated. Insufficient information has been obtained to assess secondary wetland impacts.
- No hydrogeological analysis has been done to assess localized stormwater flow or shallow sub-surface analysis ground water flow diversions.
- NO BLASTING evaluations have been done to assess the potential for bed rock fracture impacts that may effect nearby wetlands.
- No detailed inventory of wetland wildlife habitat characteristics present within proposed project areas has been provided.
- There will be significant loss of wetlands and wetland wildlife habitat (14.8 acres now 13.8 Acres).
- The location and design of replacement vernal pools has yet to be worked out.
- Proposed mitigation does not replace these wetlands or wetland functions.

COMMENT: *In Dr. Sanford's opinion the Applicant's studies and reports have provided insufficient information to assess wetland impacts. His concern for the blasting that will occur in the project site could harm water flow. He indicates that there will be significant loss of wetlands and wetland wildlife habitat. His concerns justify the need for an Environmental Impact Statement.*

Chp. 162H:16-IV-c will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment and public health and safety.

2.) United States Environmental Protection Agency

- Granite Reliable Power (GRP) proposes to fill 14 acres of wetlands, including 8 vernal pools; alter 200 acres of upland; and clear an additional 100 acres of wetland and upland to build a 100 MW wind energy facility in Coos County. The wetland impacts are primarily from expanding existing logging roads (19 miles) and building additional dirt roads (12 miles).
- Impacts would also result from the construction of 33 windmills that would stand 400 feet tall; staging areas; substations; and transmission lines (6 miles). The site resides on 80,000 acres of land owned by three commercial logging companies.
- The largest impacts would be to wildlife habitat and high elevation natural communities, the project could also cause some adverse impacts to recreation and water quality functions.
- Also despite the effort made to replace culverts, the project would add additional sediment to wetlands and streams, mostly from road construction. This would be especially true in high elevation areas in early spring when culverts may be frozen/ blocked by ice, and runoff is rapid.

As EPA staff have said in previous discussions with the Corps, we believe the scale of the project, the extent of road building and effected land area, the extensive impacts to wetlands and vernal pools, and the sensitivity of high altitude habitat are all factors that would support a Corps decision now to prepare an environmental impact statement under the National Environmental Policy Act (NEPA).

2.) Stephen M. LaFrance, P.E.-Horizons Engineering Consultants  
Engineering Consultant for GRP

The Applicant's *chosen* engineering consultant, Stephen M. LaFrance, P.E., retained to compile critical engineering data and over see the construction of roadways, has proven to be unprofessional, unethical and dishonorable in his conduct (See document filed with SEC on March 22, 2009).

**COMMENT: This construction will be a very complex and challenging project. It will require experienced professionals to navigate the difficult terrain at high elevations. The wetland involved, blasting and high elevation fragile soils will make this a complex task. The current Engineer does not have the necessary knowledge to undertake such an enormous, highly sensitive environmental project.**

**Birds and bats**

**1.) New Hampshire Audubon Society**

- In addition, to highly sensitive habitat, the high elevation forests on Dixville Peak and Mount Kelsey support several species of conservation concern in the state and region, including American martin, Bicknell's thrush, and possibly American Tree-toed Woodpecker. Turbine placement above 2,700 feet will result in direct habitat loss and additional habitat degradation for these species.
- High elevation spruce-fir forests of northeastern North America provide the only breeding habitat to the Bicknell's thrush, which has the smallest breeding range of any North American bird. For this reason, habitat loss has more significant implications for this bird than for more widely distributed species. While this thrush spends most of its time foraging below the forest canopy, the males perform evening courtship flights which would take them into the rotor-swept zone and increase the risk of mortality.

**2.) Testimony of Lisa Linowes, Industrial Wind Action Group**

- Lisa Linowes' testimony describes this proposed project as possibly having a **High Risk** to nocturnal migratory birds. Stantac's seasonal surveys were inadequate for the reasons listed below:
  - a.) The radar surveys were selective in the days and hours sampled.
  - b.) The surveys were conducted for only two fall seasons, 2006 and 2007, but the numbers of days and hours were not consistent.

c.) Failure to report important weather information and adequate volume of air space makes it impossible to verify Stantec's assertions about patterns of migration.

She also describes the insufficient studies that were conducted by the applicant to determine risk to bats. Bats were detected by Stantec consultants within the project area and within two miles of each detection. Pointing out that the USFWS indicated that bat caves may exist on the west side of Mount Kelsey between Wells and Watkinson Brooks. This should be confirmed and surveyed if the caves are used as den sites or hibernacula sites and learn which species use these areas or caves.

- Ms. Linowes indicates some of the consequences of forest habitat fragmentation at the project site. The importance of the loss of 20 acres for each turbine in this project site and how these forests are very rare in the northern reaches of New Hampshire. And last, but certainly important, she defines the magnitude of this project and the capacity for generating electricity only stands at 35%.

**COMMENT:** Ms. Linowes has described in her testimony the importance of pre-construction studies to determine the impact to birds and bats. *Her testimony, cross examinations of the consultants has brought out the inadequate studies that have been conducted by the Applicant's consultants. Public Council's consultant Trevor Lloyd-Evans testifies in cross-examination that he concurs with Ms. Linowes that the Applicant has not conducted enough pre-construction studies.*

### 3.) Trevor Lloyd -Evans, behalf of Public Council

The testimony of Mr. Llyod-Evans expresses an opinion that the most significant impact of this project from the perspective of avian populations is the proposed removal of any montane spruce/fir habitat. The best practice would be to site wind towers, roads and power lines below this habitat.

**COMMENT:** Mr. Lloyd-Evans brings to light an important and profound statement concerning this project. He states, *"The best practice would be to site wind towers,*

**roads and power lines below this habitat.” No amount of misguided mitigation will ever replace this lost habitat or its wildlife.**

**4.) Appalachian Mountain Club (AMC)**

Bicknell’s thrush is perhaps the rarest migratory songbird in the northeast and is endemic to and critically dependent on high-elevation spruce-fir stands. New Hampshire Audubon’s breeding bird surveys documented the highest occurrence of this species on Mount Kelsey and noted the restricted breeding range and limited extent of its specialized habitat making it one of the most vulnerable bird species breeding in the project area.

**Finances**

**1.) James Sunstrom, behalf of Public Council**

Mr. Sunstrom, based on his experience in the alternative energy finance market and reviewer of materials pertaining to GRP and Noble, it is his opinion that there is no financing plan for the project and the Sponsor does not have the capability to fund the project on its balance sheet.

**COMMENT: Noble Environmental Power, Inc., parent company to Granite Reliable Power, Inc. is currently under investigation by New York Attorney General Cuomo for improper dealings with public officials. They currently have liens against them in several New York Counties for non-payment of debts incurred by them to Union Workers and electrical supply companies and others (Documents of liens filed with the SEC by Lisa Linowes, March ,2009). The current mechanic liens recorded in these counties total over \$8,000,000. Having not signed a confidentiality agreement, I will not delve deeply into this**



subject. It seems to me that their track record does not warrant a welcome mat being placed out by the Coos County residents.

**The High Elevation Mitigation Settlement**

1.) The following departments, organizations and intervenors listed below took part in discussions of a settlement agreement:

New Hampshire Fish and Game (many employees) including regional wildlife biologists Will Staats, Jill Kelly and Steve Weber; Granite Reliable Power, LLC-represented by Mark Lyons, Douglas Patch, Council, Pip Decker, Project Manager, Adam Gravel and Steve Pelletier, Stantec Consultants; Peter Roth, Public Council; Lisa Linowes, IWAG; Dr. David Publicover and Kenneth Kimball, Appalachian Mountain Club; Richard Roach, Army Corps. of Engineers; Robert Keene, Intervenor; Kathlyn Keene, Intervenor, Mark Zankel, The Nature Conservancy; Carol Foss, Audubon Society.

The Fish and Game and the Appalachian Mountain Club were the only parties left in agreement to sign on to a high elevation mitigation settlement.

- The agreement does not trade comparable land to offset the loss of fragile, unfragmented high elevation forests on Mount Kelsey, Dixville Notch and Owlhead Mountain.
- The mitigated parcels encompass land masses up to elevations of 3,000 feet. The summits of the mitigated mountains (Baldhead, Long and Muisse Mtns) are not included because they are state owned land. This does not help the region in securing unfragmented forests contiguous to the Presidential Range. Wildlife travel corridors are located in these forests that encompass this large unfragmented area. There is nothing in our state statues that protect these state summits located on Baldhead, Long and Muisse Mountains from turbine development.

- **The mitigated land located on Baldhead Mountain, Long Mountain and Muise Mountain are located on the east side of the mountain. Summits and west side of mountain ridges are where wind developers are looking to site their wind turbines. These locations are where the prevailing winds blow. East side would be no interest to the developers.**
- **This mitigation settlement was to locate “comparable land” to offset the devastating environmental impacts this development will have on fragile high elevation land on Mount Kelsey and Dixville Peaks. The mitigated lands do not encompass comparable high elevation land that will be lost by this proposed project.**
- **What this agreement stops is minimal logging operations in parts of these mitigated parcels. As it has been substantiated in cross-examination--logging does NO PERMANENT DAMAGE to lands. This agreement does not compensate for high elevation loss, wetland loss, watershed loss and wildlife habitat at high elevations.**
- **This mitigation agreement does not save the Bicknell’s thrush habitat or high elevations on the two peaks of Mount Kelsey. Nor does it find parcels that will match this loss.**
- **This agreement was devised to COMPENSATE FOR PERMANENT LOSS of fragile, unfragmented high elevation land. It has defeated its own purpose. This is why so many had to pull away and not sign on to this agreement.**
- **This is another example of the Fish and Game department and the AMC cowtailing to the Applicant’s desires as our County Commissioners have in this whole process. This is not protecting the County. This is just another slap in the face of Coos County by our state officials.**
- **I ask that the Committee not take Exhibit 48 (High Elevation Mitigation Settlement) as a viable agreement that compensates our grave environmental losses on high elevation habitat and watersheds.**
- **What has been mitigated? A few acres from being logged as they have over the last 100 years.**

*Decline in Property Values*

- It is my opinion as a retired Realtor and Assessor for more than 25 years that this wind facility will have a major negative impact on our economy and how we would be able to market our area in the future. Because we are the only area left in New Hampshire with open, unspoiled land, more and more people will continue to seek refuge here to get away from our more populated areas.
- Potential second home buyers are looking for clean water, fresh air, quietness and solitude. Ninety percent of my former clients were from out of State or southern New Hampshire looking for real estate.
- Vacation/second homes help defray costs of important and costly services, such as schools, fire and police.
- As a Realtor (now retired) in the area, I saw the decline in property values that occurred in Berlin, New Hampshire when the prisons were built in the area. They said it would create jobs for the area. The sad truth is it outsourced most of its employees. Now there is a great increase in crime, drugs, fires, absent landlords and a major decline in property values and sales. Similar economic decline will happen to our second home property sales in the northern reaches of Coos County if this project is allowed to be constructed.

*Public Health and Safety*

*Fire Protection*

Research by Jon Odell, Intervenor

- According to Google Earth, if we were to use Colebrook Fire Department as the starting point for a fire on Owlhead, Mount Kelsey or Dixville Peak, (which according to Pip Decker testified he had been in contact with after hearing about the collapse and fire at the Altona wind farm on March 6, 2009; his testimony took place on the following Monday, March 9, 2009), the distance to Errol is 22 miles. Continuing south through 13 Mile Woods plus an additional 5 miles to the entrance of the Dummer Pond Road, the total distance is about 40 miles. From this point to the northern peaks, all of the roads are dirt and the distance from road entrance to peaks ranges from 15 to 20 miles. The total distance to a fire would be from 55 to over 60 miles.

- These roads should not be compared to Route 11 in upstate New York, where the March 6th collapse occurred. These northern New Hampshire “dirt roads” , especially around early March, would probably be glare ice and extremely dangerous. Furthermore, several miles of these roads would be over 2, 700 feet high and would be accessed through sections of switchback roads, so the total distance to Dixville Peak could approach 70 miles.
- If these mostly local volunteer fire fighters were able to reach these peaks, they would find no water so it would be necessary for tankers to make this arduous and dangerous journey, as well. We must remember that the Applicant’s Consultants testified that they would bring back the roads to the peaks to 12 feet wide.
- Lisa Linowes, in her cross-examination (Day 2- March 10th; 255-258) of the Lyons, Pelletier, Gravel panel, exposed problems at the road construction site on Kibby Mountain in Maine where wind turbines are being constructed. (Refer to: Exhibit # IWA-X-23a and b; Kibby Mountain, Maine) This project is smaller but similar in summit heights as Mount Kelsey. Ms. Linowes also showed the picture of the mud slide that occurred on Kibby Mountain while excavating and cutting into the bedrock for road construction.
- This only substantiates the fact that mountain ridges are not conducive to excavation of roadways. Mudslides are an apparent danger.

*Orderly Development of the Area*  
*Tourism Coos County’s Economic Standing*

*1.) Kathlyn J. Keene, Intervenor*

- Coos Economic Development Organizations raise valid concerns about the lack of available studies showing the impacts these wind turbines will have on the tourism sector of our ravaged economy.
- After three years of intensive research, the final Coos County Branding initiative was presented to the public (touched on in my cross examination). Roger Brooks of Destination Development , who has been working with the state and local tourism officials and business owners in the region to develop an identity that will draw visitors and encourage economic development.
- The focus, as I mentioned in my testimony and cross-examination, is the Grand Resorts and Grand Adventures.

- In my testimony, I mentioned a progress report directed to Thomas Burack, Chairman of the SEC and written by Tara Bamford, Planning Director of the North Country Council, dated November 14, 2008. Her concerns touched on our economic way of life. She says, “There is increased awareness in the North Country that the resource base known as the “working landscape” is both a source of marketable resources, such as wood and energy, and the foundation of the quality of life upon which other economic sectors, such as the knowledge and tourism economies, are based.”
- The average daily traffic volume as reported by the New Hampshire Department of Transportation on Route 26 and 16 is 1,000. Subtracting the daily residents and industrial and commercial traffic you are left with approximately 700. There is great interest in wilderness adventure.

## 2. Unites States Environmental Protection Agency

- The wind towers would be visible on one of New Hampshire’s highest ridges. It is one of the largest remaining open space areas, including the 100-mile Cohos Trail.
- We encourage the Corps to work with others more knowledgeable in visual impacts to judge the extent of this effect.

## Code of Conduct and Ethics

### Kathlyn J. Keene, Intervenor

- My testimony included newspaper articles discussing Noble Environmental Power, LLC improper dealings with public officials in upper state New York. Later substantiated by John (Jack) Sullivan of Malone, NY letter to the SEC where he details the unethical behavior of Noble, dated January 19, 2009.
- A copy of a Code of Conduct Agreement signed by Noble Environmental Power, LLC and the New York Attorney General’s office was included in my testimony. This agreement was brought forward by the New York Attorney General’s office after receiving multiple complaints concerning improper dealing with public officials.
- Given light of the circumstances that surround the Granite Reliable Power, LLC, such as the power that our County officials have bestowed upon this Company, such as, drafting all the agreements (payment in lieu of taxes, protecting property values and decommissioning) it is imperative to have such agreements reviewed by a third party.

- The Applicant's employees and consultants have proven to engage themselves in less than truthful statements and unethical behavior that would result in compromising Coos County's stability in tourism, financially and future development of our area.
- The Applicant has proven to have a weak financial standing and the usage of "uncommon" financial practices as compared to their competitors.

**COMMENT: It is imperative that the New Hampshire Attorney General's staff be given the power to review and comment on any potential agreements signed, if the certificate is granted.**

### **Possible Conflicts of Interest**

#### **Introduction**

Since the inception of Governor Lynch declaring the need to go "Green" by 2025, this has hit our Coos County by storm. The Governor, I assume, was looking out for the residents of New Hampshire to assure that we have adequate electricity for our future needs. In fact this proposed project does the exact opposite -- it takes our excess capacity (100 Megawatts) gulps it up for this project. The corporation gets to realize profits by selling electricity to open markets in New England to transmit electricity to Massachusetts, Connecticut, etc.

#### **History of renewable energy**

- It all began with the Legislature forming a State Energy Policy Commission under HB 1146, Chp. 257, 2006 and SB140, Chp. 364, 2007. Some of the Gubernatorial Appointments included Thomas Getz, Robert Scott and Amy Ignatius.
- Commercial Wind Siting: Mr. Scott (Chair) - This sub-committee was established in October, 2006. Several meetings were held from 2006-2007. At the suggestion of Mr. Scott, the sub-committee asked a group of stakeholders with interest in wind energy if they would be willing to meet and see if they could reach consensus on general guidelines for the siting of commercial wind energy facilities.

- This ad-hoc group was not an official part of the sub-committee. After several meetings, on November 15, 2007 the Wind-siting sub-committee held its final meeting. At this meeting they voted to forward a draft document to the full Commission for its consideration. The document was titled “Proposed Wind Siting Guidelines” .
- The State Energy Commission came out with their report in December, 2008. The guidelines were not considered for adoption. The State was more interested in streamlining the procedures for Applicant’s applying for Renewable Energy Projects. If you go on their website part of their report is a copy of a study done in Massachusetts. It has nothing to do with New Hampshire.
- Jeffrey Meyers, Attorney from Manchester and husband of Amy Ignatius, becomes an Intervenor for the Granite Reliable Power, LLC representing Clean Power Development. Clean Power Development has a vested interest in this wind project to go through because it will put them in a position in the ISO slot if Laidlaw cannot build its bio-mass plant in Berlin.
- Jeffrey Meyers excuses himself as an Intervenor to this project and becomes Attorney for the State Senate. Bill Gabler, Clean Power Development becomes the Intervenor to replace him.
- Mark Lyons, Attorney employed by Noble Environmental Power, joins a sub-committee of a Steering Committee in Coos County to help encourage development of their wind power facility. Mark Lyons and Pip Decker become an integral part of persuading the Coos County Commissioners and Unincorporated Planning Board to promote their project and restructure the Unincorporated zoning ordinance to allow wind facilities.
- Douglas Patch, Attorney for the Applicant, becomes a Lobbyist for Noble Environmental Power, LLC to help legislation pass that would advance Noble’s energy causes. Especially the Upgrade of the Coos County Grid. Mr. Patch was a former Vice Chairman of the Site Evaluation Committee and employed by the Department of Public Utilities. Ms. Geiger is also a former employee of the PUC.

Discussion bullet points

- Mark Lyons, Attorney employed by Noble Environmental Power, LLC, was appointed to be on a sub-committee of a Steering Committee for the Coos EAS. Here he was instrumental in forming alliances to many Coos County officials. They gave him and Pip Decker, GRP’s project manager, power to compile what has been and will be introduced to the County officials concerning wind energy including unincorporated wind energy zoning ordinances.

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- The public was only graced with one public meeting held by the Steering Committee held in the afternoon while the residents worked. This steering committee pitched its beliefs for Coos County in all segments of the economic realm including renewal energy.
- Mr. Stephen M. LaFrance, Engineer Consultant for GRP, has conducted himself in an unprofessional manner in the past as the agreement filed with the Site Evaluation Committee shows. As an expert, with a professional engineer license, giving filed testimony and a participant of the cross-examination process, his conduct should diminish his participation. He knowingly and admittedly was disciplined for professional, unethical or dishonorable conduct by the licensing board. The Committee should not trust his submitted plans or sworn testimony in this process. He used his personal financial interests as the Order evidences, renders uncertainty if he will do the same in this project.
- I personally, have been subjected to harassment by Mr. LaFrance in the hopes of keeping me from further comment on this subject. Not the kind of “professional” people that I want in my County.
- Glenn Normandeau (Fish and Game) member of the Site Evaluation Committee should recuse himself from the decision making process since his department will have a monetary gain from the outcome.
- Noble Environmental Power, Inc., parent company to Granite Reliable Power, Inc. is currently under investigation by New York Attorney General Cuomo for improper dealings with public officials. They currently have liens against them in several New York Counties for non-payment of debts incurred by them to Union Workers and electrical supply companies and others. The current mechanic liens recorded in these counties total over \$8,000,000.

Chp 162-H :1-II asserts that “the legislature finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for electric generating facilities and the identification of a state position with respect to each proposed site.” The spirit of Chapter 162-H is to make sure that the STATE OF NEW HAMPSHIRE has adequate electricity to meet NEW HAMPSHIRE’S electricity needs

One of the most important tools (Proposed Wind Siting Guidelines) to do that was not



considered by the Commission. Siting is the most important element in a proposed wind facility. How are these decisions helping Coos County residents?

Now we are faced with a wind project that will take our excess electrical capacity and send it to other States. This only helps the Governor in his plight to be accepted by his neighboring states. This does not conform to Chapter 162-H or meet the future electricity demand in New Hampshire by 2025. State officials want to sell out Coos County for an environmentally destructive project that will not benefit New Hampshire.

Coos County Master Plan for Unincorporated areas as relating to wind power.

In the Coos County's Master plan for Unincorporated areas, it is very clear, its intention is to protect what the area has and not let growth diminish the economy that has worked for so many years in the North Country such as tourism.

It also asserts that it encourages the develop of wind power projects and other alternative energy resources where these can be undertaken in an environmentally sound manner.

Our County officials have failed to follow their Master plan and Zoning ordinances for the unincorporated areas by writing a letter of support for this project that causes irreparable harm to the environment.

Chp. 162-H:16-IV-b states the project will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.

**CLOSING STATEMENTS**

**Public Council, Peter C. L. Roth**

- **Public Council, Peter C.L. Roth stated in his closing statements that the Applicant, Granite Reliable Power, LLC has neither the financial resources nor necessary capability- no loans lined up or money in bank and no power purchase agreement- to undertake a project estimated to cost \$275,000,000.**
- **The draft decommissioning agreement also has holes in it and should be under the state's aegis and under the county commissioner's umbrella. He indicated that Keene's closing statements pointed out the expert consultants had all come to the same conclusion--that Mount Kelsey has significant importance to the environment and wildlife habitat. He pointed out that the AMC, The Nature Conservancy and the Audubon Society of New Hampshire concur that no construction should happen on Mount Kelsey, Dixville Peak, while not as significant, holds similar concerns.**
- **The Bicknell's thrush , a threatened species, is mentioned in most of the reports and testimony as being put in grave danger by this project...Eight turbines are still proposed when all experts say it should never be developed.**
- **He concurred with Ms. Linowes that GRP had hurried in doing its work to meet the SEC's nine month decision deadline, rather than waiting to submit its formal application after the studies and groundwork had been completed. Even today's marketplace does not call for this kind of haste, noting that the Renewable Energy Certificate (REC) market is down.**
- **This project would not serve to support the orderly development of the region. He points out that building four turbine strings with 33 turbines, each of which would be 410 feet tall from the base to blade tip, could hurt tourism, block bio-mass plant construction by taking up all available capacity in the existing Coos Loop transmission line, provide only a very limited number of jobs, put red blinking lights atop ridgelines, adversely affect view sheds from Lake Umbagog to Colebrook and also disturb hiking trails.**
- **The drive through 13-Mile Woods along the Androsgoggin River is New Hampshire's Yellowstone National Park.**
- **Local engineering firm, Horizons Engineering of Littleton, has never undertaken such a large project, and the project team, does not have the required technical or managerial skills. GRP is not quite ready for the major league.**

**Lisa Linowes, IWAG**

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- Ms. Linowes pointed out in her closing arguments that the experts hired by GRP had not done complete and thorough work as they looked into myriad aspects, from road-building to wetland delineation, of the proposed project, but rather, appeared to have cut corners, not completed all needed studies, or did their analysis hurriedly.
- The decision by the SEC may be tempered by the recent calls by the US Fish and Wildlife Service and the US Environmental Protection Agency, for an Environmental Impact Statement but that doesn't relieve you of your decision -making responsibilities.
- The people of New Hampshire have an expectation that you are the experts and that the SEC will be grounded in the facts--not on the politics.
- I believe, however, that Noble and GRP expect you to look past the holes in their application and decide on the politics. Ms. Linowes urges the SEC not to lower the state's standards to Noble's standards.

*Appalachian Mountain Club (AMC)*

- The first and foremost significant issue is the proposed turbine string on Mount Kelsey and Dixville Peak. AMC did not and does not oppose the other two proposed turbines stings on Fishbrook or Owlhead 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:
  - a.) The proposed development would eliminate primary old-growth forest that provides high quality habitat for several species of high conservation concern, primarily American martin, Bicknell's thrush, and three-toed woodpecker.
  - b.) 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.
  - c.) 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 as the climate cooled in the

- recent years. Today the region's lower elevations are experiencing warming again, and these mountain tops may again be the refugia for this forest area.

**High Elevation road construction:**

- 1.) Though paid by the Applicant , the Monitor should directly report, and be responsible to, DES, not 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 adhered to.

**Decommissioning:**

- 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.

**Kathlyn Keene, Intervenor**

- After many months of digesting the application, documents, testimonies, reports and cross-examination statements, impacts to the environment stood front and center. My concern for the environment grew as information was presented by the experts including those at the federal level. It became increasingly apparent that the public notice, SEC application and other documents lacked essential information.
- I do not oppose wind energy facilities when they are appropriately sited.
- As the US Division of Fish and Wildlife reported , “we do not believe that this application complies with the restrictions on discharge contained in the guidelines. The project fails to comply with both the off-site and on-site alternative analysis and would cause or contribute to significant degradation and moreover, the project would likely have a significant effect on the environment, which triggers the need for an environmental impact statement. Accordingly, we recommend that an EIS be prepared prior to any decision being made to issue or deny a permit for this project.”
- The excerpts from the expert's testimony have common threads throughout. The New Hampshire Fish and Game wildlife biologists Will Staats and Jill Kelly asserted their

concerns on the habitat and wildlife on sensitive high elevation areas. The mitigation settlement does not address their original concerns and they stand by their original testimony.

- The AMC, The Nature Conservancy, The Audubon Society of New Hampshire and the Department of Fish and Game believe that Mount Kelsey should not be developed.

*The Intervenor*

My roots in New Hampshire date back to the late 1600's. The Peaslee family moved to an area of New Hampshire that is commonly known today as Rye, New Hampshire. My ancestors were an intricate part of business development and the forming of townships. A more famous ancestor in Rye was John Greenleaf Whittier whose grandmother was a Peaslee. He wrote many great poems that reflected his experiences of living in this great State. One of my favorite is "Snowbound". There is a great deal of documentation for my family which has been pleasing to read. They truly cared for their State and its people. As Quakers, they were gentle people and were humble with their living. Today they rest in small graves throughout New Hampshire and rest with no marker with their names. This was the Quaker belief. As the generations lived and died off many records were kept of their experiences. The common thread throughout the generations was to protect this granite State with all its beauty. After all these years, I am proud to say that our family holds to that tradition and hope our future generations will do the same. So here I am, trying to do what I believe my ancestors would want me to do, protect the land for our future generations to enjoy. These parcels were about to be protected by a forest legacy easement when this firm, a crude corporate bunch, came with promises to Coos County officials, a

**crude political bunch, of great prosperity and promises they cannot keep. This defeats the purpose of many residents working arduous hours trying to secure these parcels for perpetuity.**

**Definition**

**This definition is key in this testimony as it holds a true understanding of the type of landscape at the proposed project site and its potential losses.**

**Wilderness**

Wilderness exists where large areas are characterized by the dominance of natural processes, the presence of the full complement of plant and animal communities characteristic of the region, and the absence of human constraints on nature.

**Values of Wilderness**

**Intrinsic Value** - Wilderness, including all life and natural processes, has its own inherent value that is independent of its usefulness to humans.

**Social Value** - Wilderness areas provide recreation opportunities, solitude, and a refuge from the stress and noise of everyday life. The scenic beauty enhances the enjoyment of outdoor recreation. Wilderness areas are valued for science, education, and sometimes associated with meditation, spiritual renewal and personal growth.

**Biophysical Value** - Wilderness exists where large areas are characterized by the dominance of natural processes, the presence of the full complement of plant and animal communities characteristic of the region, and absence of human constraints on nature.

**Characteristics of Wilderness**

**Ecological Integrity** is the capability of an ecosystem to maintain natural processes and the

diversity of native species over time.

**Biodiversity** is the variety of life, and includes genetic diversity, species diversity, and community/ecosystem diversity. Biodiversity is both spatially and temporally variable and depends on biogeographic and evolutionary context. In true wilderness, species distribution and abundance should be consistent with natural patterns characteristic of the region.

**Naturalness** refers to the absence of human disturbance. Many human activities are incompatible with wilderness and can diminish its essential qualities.

**Large**, undisturbed areas are required to provide for the long-term maintenance of wilderness. Small, fragmented areas cannot support viable ecosystems, species and genetic diversity, or landscape-scale natural disturbances.

### **Restoration of Wilderness**

For practical purposes, the definition of wilderness must be broadened as a consequence of the degree of human modification of most landscapes. As a last resort, when land-use planning has failed and pristine wilderness does not exist, consideration must be given to areas with the potential for restoration to wilderness state, and those that maintain some, but not all, characteristics of wilderness. For example, small patches of unmodified landscape may not be large enough to qualify as wilderness, however, within a highly modified landscape, these areas may be the last natural areas available, and may provide many of the values associated with wilderness.

## **Recommendations**

**This industrial wind facility will have a significant impact on the environment, tourism and the unnatural development of the region. I believe that the Site Evaluation Committee has enough evidence to prove this certificate should not be issued. Each expert**

consultant presented its findings on high elevation environmental destruction to the summits of Mount Kelsey and Dixville Peaks. The mitigation cannot stop the opinions of the expert consultants that say it should never be developed. It has been proven beyond a reasonable doubt that this project will have an adverse effect on the natural environment.

This Applicant has shown to have inadequate experience to undertake a \$250,000,000 project. Their Engineering Consultant has proven to be unprofessional and unethical. This Engineering firm, Horizons Engineering, has been put in charge of a development that far exceeds their capabilities and expertise.

The Applicant has shown signs of misconduct in the state of New York leaving in its wake debts of over \$8,000,000. This applicant did not conduct their studies before they filed the application and has haphazardly run threw this application process. The enormity of this project constitutes an obligation to the Commission members to protect the Coos County residents even when our County Officials have not.

Thank you for allowing a layperson to comment and be a part of this process. I hope that this report will give some insight into the lives of Coos County residents and their great respect for the wilderness and wildlife that live in it. I ask only that the Committee read through this report and visit the site on a clear and sunny day. Ponder at what you've read and seen before rendering a decision. I am sure you will discover the magic of this area and what will be lost by constructing this proposed project.

Respectfully submitted,  
*/s/ Kathlyn J. Keene*  
Kathlyn J. Keene, Intervenor

APPENDIX A - Kathlyn Keene, Intervenor



## Proposed Conditions

**Environmental Impact Statement should be requested by the Site Evaluation Committee before making a decision this Application.**

### **High Elevation Mitigation**

- 1.) The Site Evaluation Committee (SEC) shall not render a decision on this application until such time as an answer is received from the Governor and Council that may disapprove the funds and land being transferred to the New Hampshire Fish and Game. Should the Governor and Council decide that the state of New Hampshire must acquire the land and funds then this proposed project should be denied on the basis that the Governor wants control over the land and money to generate electricity for the NEW ENGLAND states and not NEW HAMPSHIRE.**
- 2.) GRP or subsequent owners shall secure an agreement between the land owner and the state of New Hampshire that will prohibit ANY wind turbines from being constructed on any lands, now or in the future, on properties owned by the state of New Hampshire ( Nash Stream State land), or the Bayroot parcel, and Phillip's Brook parcel.**
- 3.) GRP, or subsequent owners, shall provide recordable surveys of the lands to be transferred, whether it be to the state of New Hampshire or New Hampshire Department of Fish and Game, including marked boundaries, acreage, and elevation heights.**
- 4.) GRP, or subsequent owners, shall provide recordable copies of topographical maps delineating all wetlands and existing logging roads on the parcels being conveyed in this mitigation settlement. Construction will not commence until such time as all land is transferred and duly recorded.**
- 5.) GRP, or subsequent owners, shall provide an agreement that states that only the lands where the turbines will be constructed ( surveyor's acre) be disturbed by construction. Post construction spruce fir saplings should be planted in accordance with the New Hampshire Department of Fish and Game recommendations. The 500 foot buffer will not be disturbed by the removal of trees and filling in wetlands.**
- 6.) GRP, or subsequent owners, shall not commence construction until all payments in the settlement agreement have been secured and put in a fund for disbursement to the New Hampshire Department of Fish and Game.**
- 7.) The Site Evaluation Committee (SEC) shall include the High Elevation Settlement**

## Appendix A

Agreement (Exhibit 48) as conditions on the site and facility certificate that there MAY be issues.

8.) The High Elevation Settlement Agreement, should not deter any post-construction studies for birds and bats monitoring.

### Construction of roads

- 1.) GRP, or subsequent owners, shall fund a hydrologist to conduct a hydrogeological analysis to assess localized stormwater flow and ground water flow diversions.
- 2.) GRP, or subsequent owners, shall conduct pre-construction blasting evaluations to assess the potential for bed rock fracture impacts that may effect nearby wetlands.
- 3.) GRP, or subsequent owners, shall use a “Rock Sandwich” formula wherever needed to maintain groundwater flow under the proposed road to down gradient wetlands.

### Delivery and Placement of the Wind Turbines

GRP, or subsequent owners, will deliver and place the wind turbines by helicopter at any elevation of above 2,000 feet. This will reduce the impact to the wetlands, sensitive high elevations forest, by eliminating the need for a 150 foot wide road being constructed to accommodate the equipment and trucks traveling through the project site to the summits.

### Penalty Clauses

#### Birds, mammals and bat mortalities

GRP, or subsequent owners, and/or land owners shall agree to pay levied fines for each carcass (bats, birds, and mammals found indigenous to this area) found within the turbine zone. The fine amounts should not be less than \$10,000 a carcass. However, the New Hampshire Department of Fish and Game should present their recommendations for dollar amounts depending on the rarity of the species. These funds be put into an account that will be under the direction of the New Hampshire Department of Fish and Game. The funds collected will pay for studies and implementing procedures that will stop the mortality rate of the effected species. It should also be stated in the agreement that it could be a real possibility that to avoid mortality of rare species the turbines would have to be shut down permanently and disassembled and the area restored to its original form.

## Appendix A

### Wildlife habitat

GRP, or subsequent owners and/or land owners, shall sign an agreement to pay levied fines for any destruction that is done on sensitive wildlife high elevation, and wetlands. The fine amounts should not be less than \$30,000 for each violation that occurs. This would be a separate levy from any state agencies that may levy fines. The purpose would be to establish a perpetual fund for the New Hampshire Department of Fish and Wildlife to expend to implement and carrying out restoration procedures to the effected areas.

### Wind turbine shut down

Bicknell's thrush is perhaps the rarest migratory songbird in the northeast and is endemic to and critically dependent on high-elevation spruce-fir stands. New Hampshire Audubon's breeding bird surveys documented the highest occurrence of this species on Mount Kelsey and Dixville Peak. The Bicknell's thrush males perform evening courtship flights which would take them into the rotor-swept zone and increase the risk of mortality.

Therefore, GRP, or subsequent owners, shall sign an agreement that the turbines located on Mount Kelsey and Dixville Peak will be shut down during the thrush's breeding seasons. The agreement should be compiled by the Audubon Society of New Hampshire at the cost of the Applicant.

### Fire Protection

GRP, or subsequent owners, shall deliver to the Site Evaluation Committee, a proposal and funding that will protect the public safety against fire, oil spills and turbine collapses. There is nothing to protect the public against any catastrophe that should take place. It has been substantiated that there are no existing fire departments, within a reasonable distance, that have the man power or equipment to do just that. High elevation catastrophes will be a great challenge. This should not be overlooked.

### Real Property Value Protection

The Site Evaluation Committee (SEC) should assure that real property owners are protected from the decline of their property values caused by the proposed development. A sample of an agreement was included in my pre-filed testimony for consideration. I would recommend that the footprint for this project to extend to 10 or more miles in a radius. Noise travels for long distances from mountain summits. Also, being a great tourist destination there is a very good possibility that businesses and residences will lose there livelihood from this proposed project. This protection is important and necessary. The agreement should be done by a third party attorney not connected in any way to Coos County or the Applicant.

## Appendix A

### Payment in Lieu of Taxes

A clause should be added to allow for an “annual” renegotiation of this payment. The County Commissioners were remiss in negotiating a figure that could be substantially higher than the current amount. Unfortunately the Coos County Commissioners do not realize the profit margin by the applicant and a third party, with the expertise, should do the negotiating for Coos County.

### System Impact Study

#### (Transmission lines)

The information received in Exhibit 45 (a) is void of two critical pieces of the information. First, the projected energy loss on each leg of the loop (in KVA) and, second the current and projected electromagnetic (EMF) and electrostatic radiation levels within the transmission line easement, after the various modifications are applied, appear to not be reported.

The Site Evaluation Committee should give ample time for the public to review the final System Impact Study (SIS) before a final decision is made on this application.

### Decommissioning

The decommissioning fund should be fully established before construction begins. The amount should be negotiated by a third party that has the expertise in this associated field.

**Note:** These conditions are proposed to the Committee if a certificate is issued due to political pressure. It is hoped that a sound decision is made on this application and GRP will not be given the opportunity to desecrate this beautiful region.