

1. *What is the main purpose of the study?*

Docket No. 2012-01

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data.

4. The Applicant objected to all of the requests to retain experts and to the motion to compel. The Applicant, while not contesting Counsel for the Public's right to see most of the business and financial data, and notwithstanding the Chairman's indications from the bench that she would grant the protective orders, insisted upon a protective order before doing so.

3. Nearly a month after the motion requesting it, on July 11, 2012, the Committee overruled the Applicant's objections and granted the motions to retain experts.

4. After the deadline for testimony had passed, the Applicant filed an amendment to the Application with 17 attachments, followed by additional testimonies with additional addenda to the application. The Applicant also provided a 10 mile view shed map after testimony was filed.

5. On August 22, 2012, (the day before the last technical session) the Committee granted the motions for protective orders and scheduled a hearing on the Applicant's request that the Committee approve a subdivision.

6. After the order, the Applicant began to provide the information previously withheld to Deloitte. Deloitte has informed Counsel for the Public, however, that it will not be prepared to deliver its report before the hearing now scheduled for the week of September 10, 2012. Counsel for the Public, and other parties will need time after the report is finished to review it and question the Applicant about it indicating that an additional technical session may be in order.

7. Mr. Tocci will not be able to complete two weeks of background sound monitoring at Willard Pond and Gregg Lake cottages before the hearing. He could prepare supplemental testimony by September 5th but it will have only a limited amount of data and

therefore not nearly as useful as it might be had he sufficient time. Again, the other parties will want time to review his report and testimony, question him about it and deal with it while preparing their respective cases.

8. Upon information and belief, the Applicant is preparing an eagle study that will not be available before the hearing. Mr. Lloyd -Evans will want to review the eagle study results and comment on it. Ms. Foss's testimony suggests that such a study could mean that the Applicant will need an eagle take permit from US Fish & Wildlife, a key fact for this body's consideration.

9. Under RSA 162-H:6-a, IX, the Committee may suspend its consideration of an application and extend the deadline to make a decision if it is in the public interest to do so.

10. The public interest requires a full and fair opportunity for Counsel for the Public to present his witnesses and reports and to develop that evidence in a meaningful way. In addition, the public interest requires that other parties have a meaningful opportunity to examine that evidence and conduct discovery with respect thereto and with sufficient time to prepare responses and rebuttals and conduct their own independent research before the hearing on the merits.

11. Delays in the development of the evidence caused by process and the necessary resort to motions practice, together with the distraction of preparing memoranda of law on the subdivision issue, have resulted in a loss of much of the order built into the original schedule for the preparation and presentation of witnesses in the discovery phase of the case.

12. In addition, there remains uncertainty about how the case will proceed if the Applicant is not successful at obtaining approval for a subdivision from the Committee. It

appears that the project cannot be built without the subdivision approval. In response to a data request, the Applicant stated its intention to litigate should the subdivision approval not be forthcoming from the Committee. The Committee scheduled the hearing on the subdivision issue the day after final supplemental testimony is due and only one business day before the hearing on the merits is scheduled to begin, affording little time to prepare for any of them.

13. All parties were consulted for their assent. No party who responded opposed. The Applicant assented upon the conditions expressed in the email of Susan Geiger, Esq. to the parties, dated August 27, 2012. Movant does not object to any of the conditions. Two intervenors indicated that they could not be available for a hearing before October 22, 2012.

Wherefore, Counsel for the Public prays that the Committee enter an order postponing the hearing until at least October 15, 2012,¹ and extending the deadline by which a final decision must be reached, and in addition, scheduling an additional structuring conference to address scheduling adjustments that may be necessary, and granting such other and further relief as may be just.

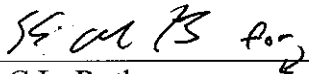
¹ Ms. Vissering is out of the country until the 13th.

Respectfully submitted this 28th day of August, 2012,

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Certificate of Service

I, Peter C.L. Roth, do hereby certify that I caused the foregoing to be served upon each of the parties named in the Service List of this Docket.

Dated: August 28, 2012



Peter C.L. Roth