

Summary of Agreement Between Maine Audubon, Natural Resources Council of Maine and the Appalachian Mountain Club, and TransCanada

Background

- TransCanada has an option to acquire the exclusive wind development rights in the following four areas in Skinner, Kibby and Merrill Strip Townships in Franklin County, Maine: Kibby Mountain (the so-called A Series); Kibby Range (the so-called B Series); Caribou Mountain (the so-called C Series); and, an unnamed ridge south of Caribou Mountain (the so-called D Series). A map depicting these areas is attached as Exhibit A.
- TransCanada has proposed development of an approximately 132 megawatt wind development project on the B Series and the southern portion of the A Series, and an associated 115 kV transmission line connecting the wind power facility with the electric transmission grid (collectively the “Kibby Project”).
- TransCanada has been working collaboratively with Maine Audubon, the Natural Resources Council of Maine (“NRCM”) and the Appalachian Mountain Club (“AMC”) for several months to identify a conservation package that fairly and appropriately balances the clean air and other benefits provided by the Kibby Project with the impacts created by the development, including but not limited to rezoning of an area above 2,700 feet.
- Areas above 2,700 feet are afforded special protection under the zoning standards of the Maine Land Use Regulation Commission (“LURC”).
- The parties have reached a formal agreement that has two major parts: 1) a Land Conservation Package; and 2) a Description of Plans for Post Construction Avian and Bat Studies.
- On June 4, 2007, TransCanada amended its application to LURC to reflect the supplemental provisions contained in this agreement.

Conservation Package

- While TransCanada believes its application without the Land Conservation Package satisfies each and every standard under LURC’s D-PD criteria, it also appreciates that areas above 2,700 feet are afforded special protection under LURC’s zoning standards.
- Maine Audubon, AMC and NRCM believe that the conservation package is a necessary component of the Kibby Project satisfying the applicable rezoning criteria.
- As a result of extensive field studies and its ongoing consultation with Maine Audubon, NRCM, and the AMC, TransCanada has agreed to include the following additional measures to protect mountain and other environmental resources in the State:
 1. Forgo using its exclusive rights to develop wind facilities on approximately 1,324 acres of land above 2,700 feet located proximate to the project area.
 - This land includes the northern portion of Kibby Mountain within the A Series, and all of the C and D Series.

- Forgoing development on these ridgelines is particularly beneficial because of their greater ecological value as well as the increased potential for environmental impacts during construction that they would present due to their steep slopes.
 - Avoiding these ridgelines avoids potential impacts to Sub-alpine fir habitat, Bicknell's thrush habitat, daytime avian migration routes, areas of significant raptor crossings as well as the need for additional and specialized road systems.
 - TransCanada's agreement to forgo using its exclusive rights to develop wind facilities on the C and D Series as well as the northern portion of the A series will be memorialized in an agreement that is binding on the successors and assigns of TransCanada, that will be recorded, and which specifically benefits Maine Audubon, NRCM and AMC. The form of that agreement is attached as Exhibit B.
2. Contribute \$500,000 toward the permanent conservation of approximately 750 acres of ecologically significant high elevation habitat and important backcountry recreation lands in Maine's Mahoosuc Mountain range, as part of the Grafton Notch-Stowe Mountain acquisition.
- The conservation lands to be protected through TransCanada's contribution:
 - Are part of an acquisition project that is actively being pursued by the State in partnership with the Trust for Public Land;
 - Will be added to over 31,000 acres of abutting conservation lands;
 - Include approximately 3 miles of a mountain ridgeline;
 - Include a 37-acre exemplary natural community, Crowberry - Bilberry Summit Bald, that is home to rare sub-alpine plants; and
 - Will greatly expand hiking and backpacking opportunities in this spectacular mountain area.
 - TransCanada's financial contribution to the Grafton Notch-Stowe Mountain acquisition has two important benefits:
 - 1) Sensitive high elevation lands and the trail corridor will be fully preserved in their current undisturbed condition because the funds committed by TransCanada will be used to restructure the current purchase agreement to prohibit all timber harvesting on this portion of the property, thereby fully preserving its ecological and recreational values.

- 2) The TransCanada contribution increases the likelihood that the land will be protected prior to the expiration of the current purchase option in June, 2008.
- In the event that the Trust for Public Lands is unable to acquire the designated lands pursuant to the agreed upon restrictions in use, the \$500,000 will be redirected to another project that provides similar ecological and recreational benefits.
 - Under the terms of the escrow agreement, which governs disposition of the funds, Maine Audubon, NRCM and AMC will identify an alternative conservation project that meets agreed upon criteria in the event that the Trust for Public Land is unable to acquire the designated lands by December 31, 2009. The form of that escrow agreement is attached as Exhibit C.
- The conservation package is contingent upon TransCanada (i) obtaining all final and non-appealable regulatory approvals necessary for construction and operation of the Kibby Project, and (ii) exercising its option to acquire the exclusive wind development rights on the A, B, C and D Series. At that time, TransCanada will execute and record its agreement not to develop C, D and the northern portion of the A Series, and will deposit \$500,000 into escrow.

Post Construction Avian and Bat Studies

- TransCanada has met with Maine Department of Inland Fisheries and Wildlife (IF&W) and the US Fish and Wildlife Service (USF&W) to discuss the scope and extent of post-construction avian and bat mortality studies and will develop site-specific protocols for the project.
- Although the scope and extent of the post construction avian and bat studies have not been finalized, TransCanada has agreed that any such studies will include the following elements:
 - a. All such studies will be paid for by TransCanada.
 - b. Protocols will include standardized searches at multiple turbine sites during periods of peak migratory activity.
 - c. Details of the scope will be determined by IF&W in consultation with USFWS and will include details related to searcher efficiency, scavenging rates, and carcass identification/storage/removal.
 - d. As in the past, TransCanada will share the protocol and study details with Maine Audubon and NRCM, who have expressed particular interest in this topic.
 - e. TransCanada will conduct a root cause analysis of significant injuries/fatalities in consultation with IF&W and LURC and according to the timing outlined in Section 2.6.1.3 of its LURC application.