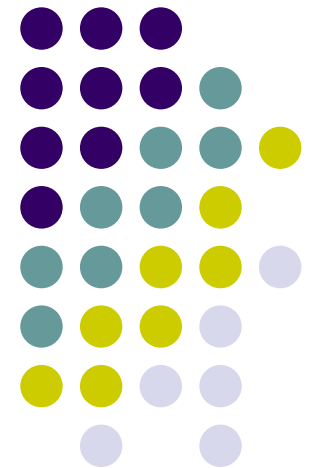


# Review Criteria Rezoning to a Planned Development Subdistrict

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Zoning Petition ZP 702  
Maine Mountain Power, LLC  
Zoning Petition ZP 709  
TransCanada Maine Wind Development, Inc.

January 14, 2008





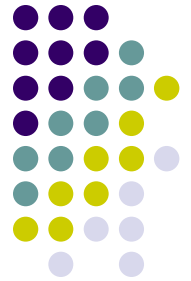
# Overview

- **The Commission's statute, rules and CLUP provide the legal basis for review. See the actual CLUP, statute, and rules for the full applicable text. The following is only to help you access those materials.**
- **Comprehensive Land Use Plan (CLUP)**
- **Statute - 12 M.R.S.A., §§ 685,A(8-A) and 685,B(4)**
- **Chapter 10, § 10.21,G**
- **Chapter 10, §§ 10.25 to 10.27**



## CLUP- Principal Values (p 114)

- **The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest, largely on private lands. This value is based primarily on maintenance of the forest resource and the economic health of the forest products industry. The maintenance of farm lands and the viability of the region's agricultural economy is also an important component of this value.**



## CLUP- Principal Values (p 114)

- **Diverse and abundant recreational opportunities, particularly for primitive pursuits.**
- **Diverse, abundant and unique high-value natural resources and features, including lakes, rivers and other water resources, fish and wildlife resources, ecological values, scenic and cultural resources, coastal islands, and mountain areas and other geologic resources.**
- **Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers.**

# CLUP - Goals and Policies (pp 134 - 143)



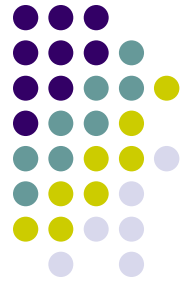
## Broad Goals, page 134

The Commission's policies shall be directed toward the achievement of three broad goals:

- Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
- Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, non-intensive outdoor recreation and fisheries and wildlife habitat.
- Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.

# CLUP – Natural Resources

## Goals and Policies (pp 135 – 140)



- **Air Resources,**  
p. 135
- **Energy Resources,**  
p. 136
- **Forest Resources,**  
p. 136
- **Mountain Resources,**  
p. 137
- **Recreational Resources,**  
p. 138
- **Special Natural Areas,**  
p. 138
- **Water Resources,**  
p. 138
- **Wetland Resources,**  
p. 139
- **Wildlife Resources,**  
p. 139
- **Scenic Resources,**  
p. 139



## CLUP – Development Goals and Policies (pp 140 – 142)

- **Location of Development, p. 140**
- **Economic Development, p. 141**
- **Site Review, p. 141**
- **Infrastructure, p. 142**



## **Statute: 12 M.R.S.A., chapter 206-A**

**§685,A(8-A) - Criteria for adoption or amendment of land use district boundaries: A land use district boundary may not be adopted or amended unless there is substantial evidence that:**

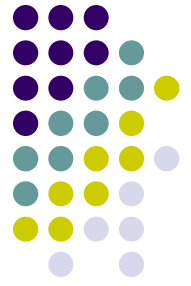
- A. The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of this chapter; and**
- B. The proposed land use district satisfies a demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.**



## **Statute: 12 M.R.S.A., chapter 206-A**

**685,B(4) Criteria for approval of development. In approving applications submitted to it pursuant to this section, the Commission may impose such reasonable terms and conditions as the commission may deem appropriate. The Commission shall approve no application, unless:**

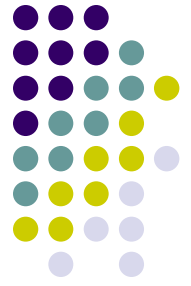
- A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;**
- B. Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods; and**



## **Statute: 12 M.R.S.A., chapter 206-A**

- C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal.**
  
- D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site.**
  
- E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.**

**The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected. The Commission shall permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.**



# Chapter 10 - §10.21,G,1

## 1. PURPOSE

- The purpose of the D-PD Subdistrict is to allow for large scale, well-planned developments. The Commission's intent is to consider development proposals separated from existing developed areas, provided that they can be shown to be of high quality and not detrimental to other values established in the Comprehensive Land Use Plan, and provided they depend on a particular natural feature or location which is available at the proposed site. A permit will be granted when the Commission is persuaded by a preponderance of all evidence that the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served. Where a D-PD Subdistrict petition is granted, it shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.
- The D-PD subdistricting process is designed to encourage creative and imaginative design and site planning, to promote efficient use of the land, and to afford the applicant reasonable guidance in formulating an acceptable development proposal.

# Chapter 10 - §10.21,G,2

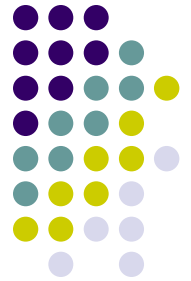


## **2. DESCRIPTION**

**Areas separated from existing development patterns, proposed for residential, recreational, commercial or industrial use or some combination of those uses, for which a comprehensive development plan (which treats the entire parcel as an entity) has been submitted to, and reviewed and approved by the Commission.**

- **A D-PD Subdistrict proposed for predominantly commercial and/or industrial land uses shall include at least 50 contiguous acres and, except wind energy generation facilities, shall contain a minimum of 30,000 square feet of gross building floor area.**

**In any of the above cases, no development, other than access roads and utility lines shall be less than 400 feet from any property line. (This dimension may be increased or decreased, at the Commission's discretion, provided good cause can be shown.) Furthermore, the project shall be reasonably self-contained and self-sufficient and to the extent practicable provide for its own water and sewage services, road maintenance, fire protection, solid waste disposal and police security.**



## **Chapter 10 - §§10.21,G,3 to 5**

### **3. PERMITTED USES**

All uses approved in the Final Development Plan shall be permitted. For metallic mineral mining activities and Level C mineral exploration activities, all uses within the D-PD Subdistrict require a permit in accordance with this chapter and Chapter 13 of Commission's rules. No other use shall be permitted except where the Commission determines that such additional use is consistent with such Plan and with the purposes hereof.

### **4. OWNERSHIP**

An application for the creation of a D-PD Subdistrict may be filed only by the owner or lessee of all lands to which the application pertains.

### **5. BURDEN OF PROOF**

The burden of proof is upon the applicant to show by substantial evidence that his proposal satisfies the criteria established for the creation of D-PD Subdistrict.

# **Chapter 10 - §10.21,G,8,b**



## **Criteria for the Approval of a Preliminary Development Plan**

Within 90 days after the close of the record of the public hearing, the Commission may approve, approve with conditions, or deny the application in writing. In making this decision, the Commission shall ensure that the proposal:

- **Conforms with the objectives and policies of the Comprehensive Land Use Plan and 12 M.R.S.A. §206-A;**
- **Incorporates, where the land proposed for inclusion in the D-PD Subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under such protection subdistrict;**
- **Utilizes the best reasonably available site for the proposed use;**
- **Conserves productive forest and/or farm land;**
- **Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;**
- **Envisions a project that is reasonably self-sufficient in terms of necessary public services;**
- **Provides for safe and efficient traffic circulation; and**
- **Utilizes the best practical technology to reduce pollution, waste and energy consumption.**

## **Chapter 10 - §10.21,G,8,c**



### **Approval or Denial of Preliminary Development Plan**

- **If, after weighing all the evidence, the Commission approves the Preliminary Development Plan application, the D-PD subdistrict shall be designated on the official district map and recorded in accordance with the provisions of Section 10.04. Simultaneously with such approval, a preliminary development permit will be issued. The preliminary development permit may contain such reasonable conditions as the Commission deems appropriate and will specify the conditions for approval of the Final Development Plan. The terms of the preliminary development permit will be in writing and shall be deemed to be incorporated in the D-PD subdistrict.**
- **If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the application shall be denied and the reasons for the denial shall be stated in writing.**



## **Chapter 10 - §10.25**

- **10.25 – Development Standards**
  - **10.25,C – Technical and Financial Capacity**
  - **10.25,D – Vehicular Circulation, Access and Parking**
  - **10.25,E – Scenic Character, Natural and Historic features**
  - **10.25,F – Noise and Lighting**
  - **10.25,G – Soil Suitability**
  - **10.25,H – Solid Waste Disposal**
  - **10.25,L – Phosphorus Control**
  - **10.25,M – Erosion and Sedimentation Control**
  - **10.25,P – Wetland Alterations**





## Chapter 10 - §10.26

- **10.26,D,2,a and b – Minimum Setbacks**
- **10.26,F,3 – Maximum Building Height**
- **10.26,G,2 – Exceptions to Dimensional Requirements: The dimensional requirements applicable to D-PD Subdistricts shall be established by the Commission pursuant to the provisions of Section 10.21,G, provided that the shoreline setback requirements hereof shall not be reduced.**
- **10.26,G,4, 11, and 13**



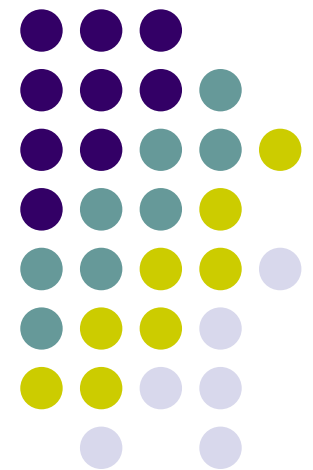
## Chapter 10 - §10.27

- **10.27,B – Vegetation Clearing**
- **10.27,C – Mineral Exploration and Extraction**
- **10.27,D - Roads and Water Crossings**
- **10.27,F – Filling and Grading**
- **10.27,J - Signs**

# Zoning Petition ZP 702

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Maine Mountain Power, LLC  
Redington Twp, Franklin County





# Proposal

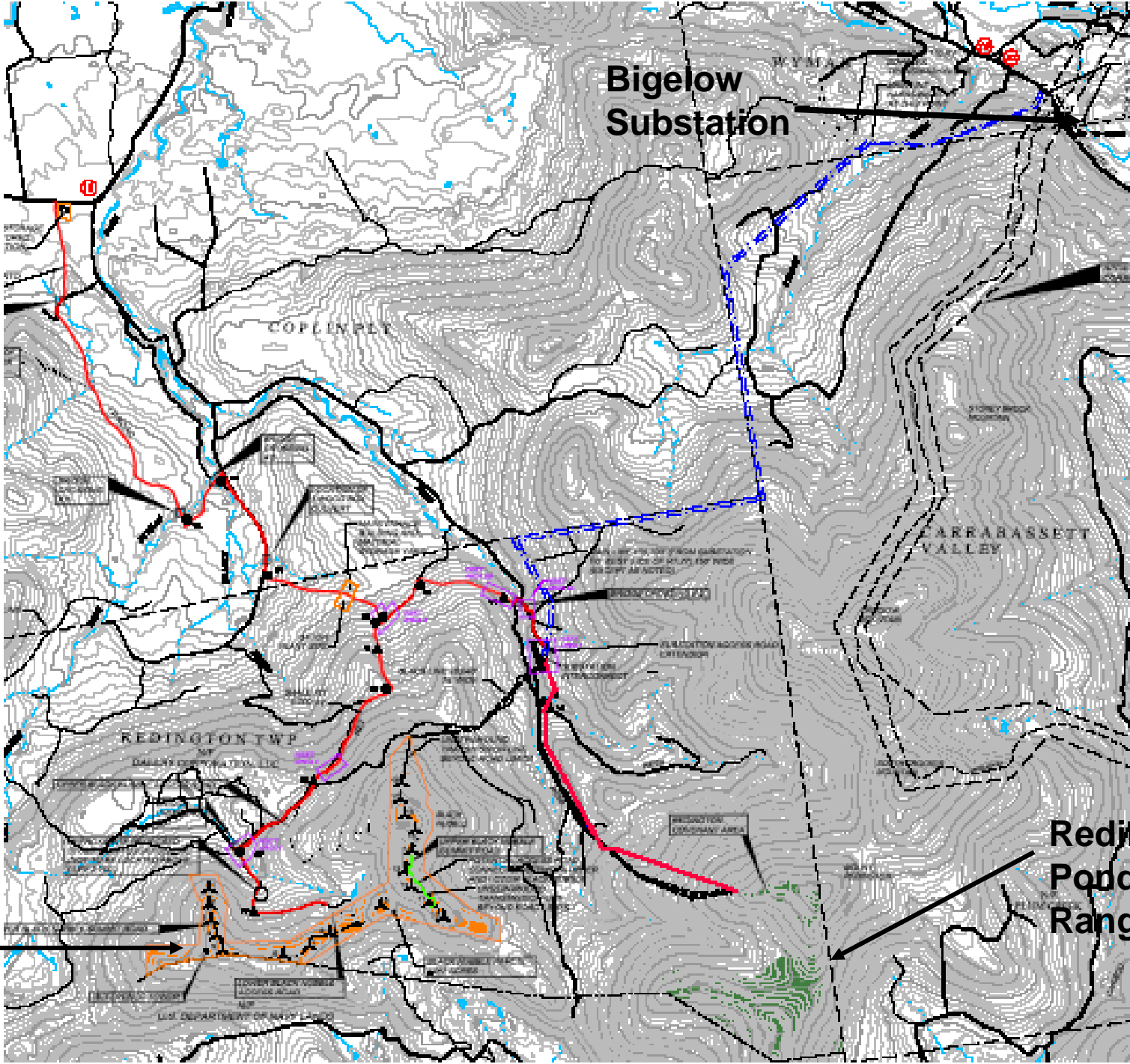
- **Rezone 487 acres on Black Nubble Mountain**
  - **From Mountain Area Protection Subdistrict and Soil and Geology Protection Subdistrict to Planned Development Subdistrict**
  - **For 54 MW Black Nubble Wind Farm**
  - **Clearing above 2,700 ft elevation**
    - **63 acres for construction**
    - **30 acres remains un-vegetated**
- **Public hearing: September 19-21, 2007**
  - **Record closed October 9, 2007**

# Preliminary Development Plan



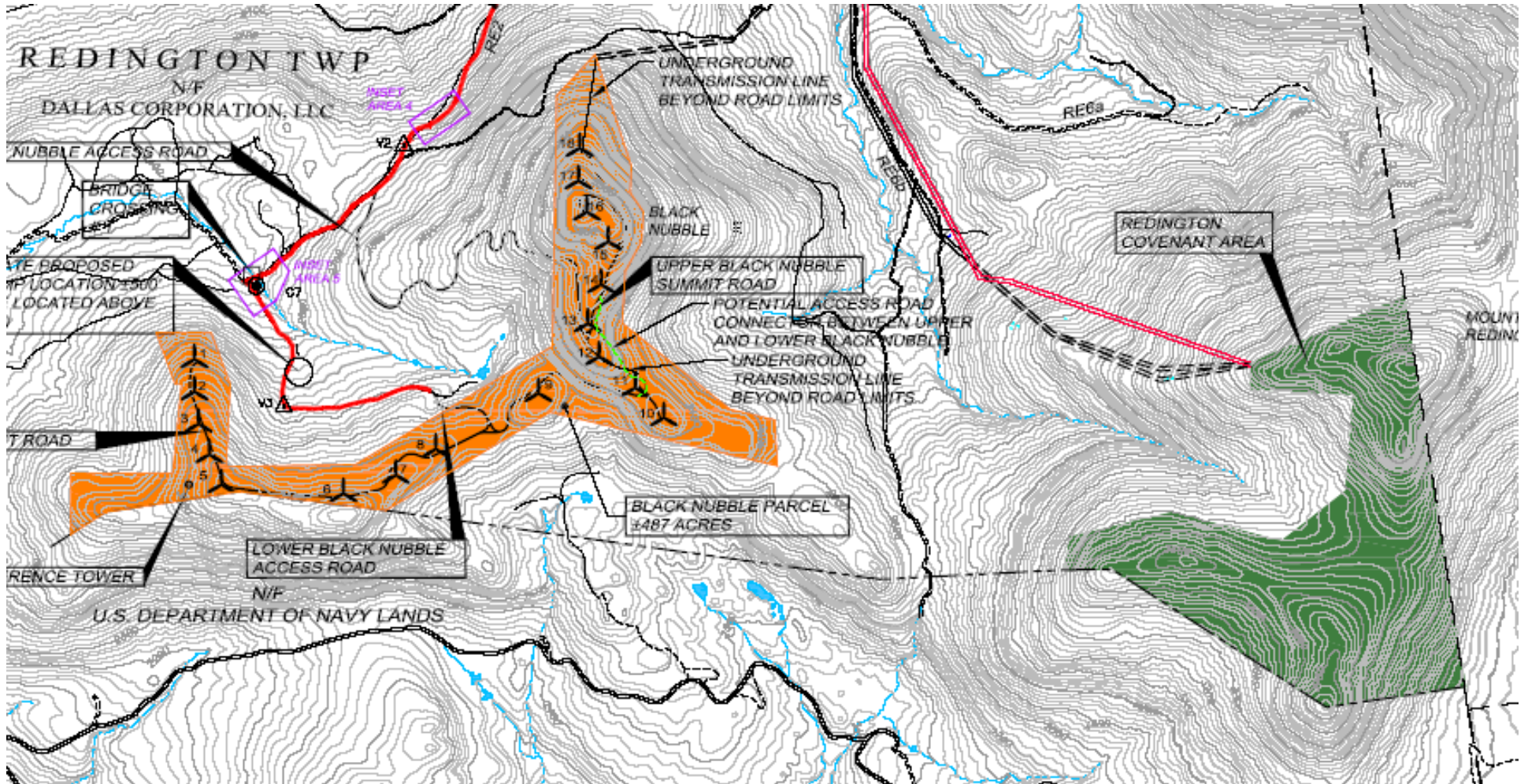
- **Turbines**
  - 18 – 3MW Vestas V90
  - Towers 263 ft tall: 410 ft at the tip of the blade
  - All above 2,700 ft elevation
- **Roads**
  - 6.5 miles new gravel access and ridgeline road
  - 9.8 miles upgrade existing land management roads
- **Transmission lines**
  - 1.1 miles - 34.5 kV transmission line from turbines to new Nash Stream substation
  - 7.2 miles - 115 kV transmission line from Nash Stream substation to Bigelow Substation in Carrabassett Valley
- **Support**
  - Maintenance and operations building (5,000 sf)
  - Temporary
    - Gravel pits and rock crusher
    - Concrete batch plant
    - Lay-down and storage areas

**Bigelow Substation**



**Black Nubble**

**Redington Pond Range**



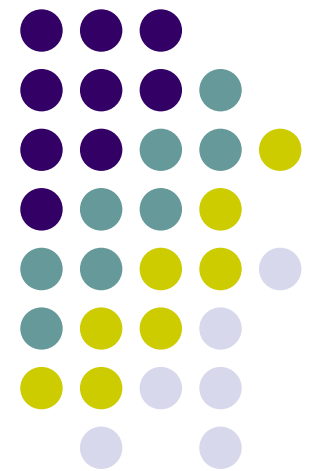
**Black Nubble Mtn.**

**Redington Pond Range**

# Zoning Petition ZP 709

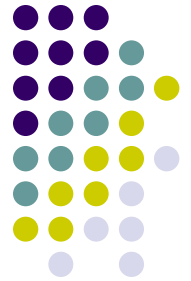
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**TransCanada Maine Wind  
Development, Inc.  
Kibby Twp and Skinner Twp  
Franklin County**





# Proposal



- **Rezone 2,908 acres in 2 parcels located on Kibby Range (Series B) and the southern portion of Kibby Mountain (Series A)**
  - **From Mountain Area Protection Subdistrict and General Management Subdistrict to Planned Development Subdistrict**
- **For 132 MW Kibby Wind Power Project**
  - **Cleared above 2,700 ft elevation**
    - 234 acres for construction
    - 30 acres remains un-vegetated
- **Public hearing: October 3-4, 2007**
  - **Record closed October 22, 2007**

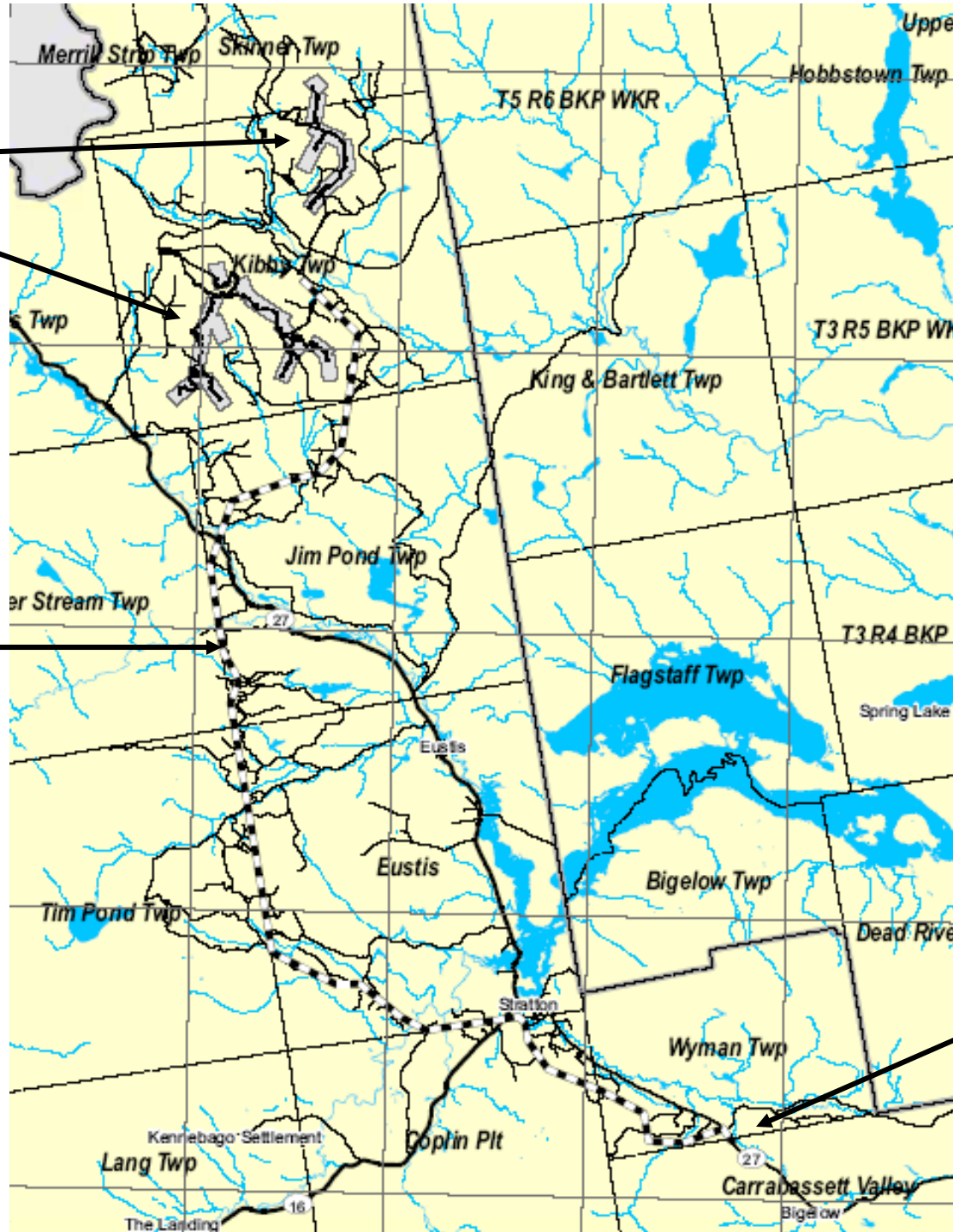
# Preliminary Development Plan



- **Turbines**
  - 44 – 3MW Vestas V90
  - Towers 263 ft tall, 410 ft at the tip of the blade
  - 34 turbines above 2,700 ft, 12 below 2,700 ft.
- **Roads**
  - 17.4 miles new gravel access and ridgeline road
  - 19 miles upgrade existing land management roads
- **Transmission lines**
  - 3.9 miles - 34.5 kV transmission line from turbines to new Kibby Substation
  - 27.7 miles - 115 kV transmission line from Kibby Substation to Bigelow Substation in Carrabassett Valley
- **Support**
  - Maintenance and operations building (3,600 sf)
  - Temporary
    - Gravel pits and rock crusher
    - Concrete batch plant
    - Lay-down and storage areas

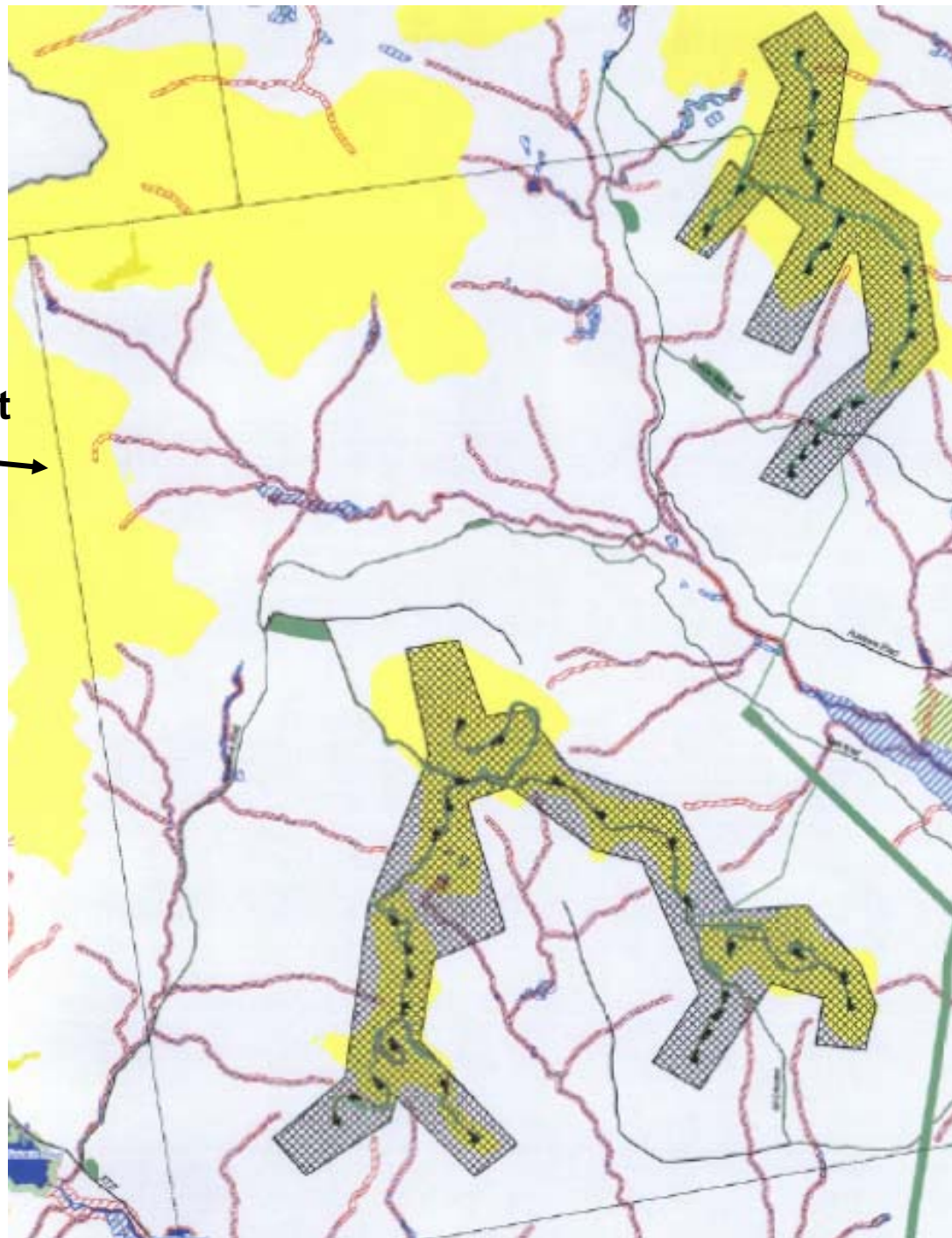
**Kibby Mtn  
(Series A)  
Kibby Range  
(Series B)**

**115 kV  
Transmission  
Line**



**Bigelow  
Substation**

**P-MA Subdistrict  
in yellow**



**Kibby Mountain  
(Series A)**

**Kibby Range  
(Series B)**