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To: [Horn-Olsen, Samantha](#); [Todd, Fred](#)
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Subject: Fw: Request / Bowers project
Date: Saturday, March 10, 2012 12:10:16 AM

In the applicant's submission of 3/9/12 reference was made by Ms. Browne to three bodies of information:

1. James Palmer's "Maine's Experience Evaluating When Scenic Impacts From Wind Energy Development Are Unreasonable (sic) Adverse"
2. "Review of the Pleasant Lake/Mattawamkeag Lake Wind Power Project Intercepts"
3. "Draft Report of OEIS Assessment of Cumulative Visual Impacts from Wind Energy Development (Feb 2, 2012)"

PPDLW as intervener to this application would like to formally request that these works not be allowed as part of the applicant's request as we could not find any reference to them in the official record for this application.

We also ask that while a decision on that request is being made, that the applicant provide all intervener parties with copies of those documents so we can review them if needed.

Respectfully,

Kevin Gurall
President
PPDLW

STATE OF MAINE
LAND USE REGULATION COMMISSION

IN THE MATTER OF DEVELOPMENT)
APPLICATION DP4889)
CHAMPLAIN WIND LLC)
BOWERS MOUNTAIN WIND PROJECT)

INTERVENOR PPDW'S RESPONSE
TO THE APPLICANT'S RESPONSE
TO THE FIFTEENTH PROCEDURAL
ORDER

Summary

The Partnership for the Preservation of the Downeast Lakes Watershed is grateful for this opportunity to respond to Champlain Wind's Response to the Fifteenth Procedural Order.

On December 7th the Commission generously granted the Applicant an additional 90 days to satisfy the criteria for approval. After utilizing the entire 90 days, the Applicant elected to submit no additional evidence. Instead, the Applicant made a business decision to submit nothing more than a repeated request that they be allowed to withdraw the application.

Both the withdrawal request and permit application should be denied because:

1. The Applicant made a business decision not to submit an outline of a modified project.
2. A proper and valid Downeast Lakes User Survey has been completed and is attached as Exhibit A. It shows clearly that neither the proposed or modified Bowers project can meet the scenic impact standard.
3. The Applicant has again distorted the deliberation record and only a denial decision regarding withdrawal of the permit application itself will ensure that the record accurately reflects the Commission's judgment that the project's scenic impact would be unreasonably adverse.
4. The process is to afford fundamental fairness to all parties before the Board not just the Applicant. The Board should not allow the Applicant to unilaterally alter the expectations of those participating in the process based on its own internal business decisions. This is not a listed criterion.

We therefore respectfully ask the Commission to deny the Applicant's request to withdraw its permit application and to instruct LURC staff to resume preparation of the permit denial document for a final vote on May 4th as was the intention of the Board prior to the Applicant's recent delay.

Not Submitting A Modified Project Was A Business Decision

The Applicant submitted its request on the basis that a revised project would be provided if the Commission would grant them 90 more days. The Commission expressed concern about venue shopping and made it clear that a plan was expected.

Project Developer Neil Kiely assuaged the Commission's concern saying "First Wind's track record speaks for itself... We are absolutely committed in good faith... Obviously we have to come back with something that's going to work."¹

Applicant's attorney, Juliet Browne assured the Commission that "...it's not that difficult. We're looking at visual simulations of modified alignments and we've calculated how many turbines we can remove from within three miles of the closest ponds. We're already doing all that which is why we're spending time and resources making the request that we're making because we think we can come back with a project."²

The 90-day time period was not an arbitrary deadline imposed by the Commission on a reluctant Applicant. The Applicant cannot complain that three months was insufficient time to modify their plan because it was the Applicant who proposed the March deadline. This was granted over the objection of Intervenor based on that very representation. Attorney Browne testified, "We don't have a concern with coming back and reporting to the Commission. Probably the timeframe that would be best to do that would be March. At a certain level it's not that difficult."³

After several more assurances and multiple references to the Applicant's "good faith" the Commission tabled the Request to Withdraw and granted the Applicant until March 9th to prepare the modified plan that attorney Browne said they were already working on.

This measure effectively postponed the decision on the Request to Withdraw until April 6th and postponed the final vote on the denial document, if needed, until May 4th. By withholding their Request to Withdraw until the second week of November, they were able to delay the entire proceeding five months. The Applicant purposely steered the negotiation into a two-party matter and through representations that were not honored bought five months' time.

Applicant describes the status of their proposed joint venture with Emera as a reason for their inability to present a modified Bowers plan. We assert that this matter, currently before the Maine Public Utilities Commission (PUC) is irrelevant to the Bowers permit and should receive no consideration. The Intervenor certainly objects to the consideration of the internal business decisions of the Applicant being a basis for procedural changes. Still, attorney Browne attempts to use this uncertainty as legitimate consideration for the Board.⁴

Even if the status of the joint venture were relevant (which it is not), the delay has been the direct result of actions taken by First Wind. On January 13th the PUC Examiner's Report was issued recommending that the First Wind transaction be rejected. Confronted with a denial vote, First Wind responded by filing Exceptions on January 23rd, the last day available for Parties to comment. Even though they had declined to become a party, they injected themselves into the process, inserted new facts into the record and recharacterized the deal being considered. This was clearly prohibited.

¹ Oral transcript, Part 3, LURC meeting 12/07/11 at 00:15.

² Oral transcript, Part 3, LURC meeting 12/07/11 at 01:30.

³ Oral transcript, Part 4, LURC meeting 12/07/11 at 01:30.

⁴ Applicant's Response to the Fifteenth Procedural Order, page 2.

What transpired after the release of the Examiner's Report is described in the Procedural Order issued by the PUC on January 24, 2012:

"On January 23, 2012 both First Wind and Algonquin Power Utilities Corp (APUC), neither of which are parties to this matter, filed exceptions to the Examiner's Report which was issued on January 13, 2012. First Wind's exceptions were accompanied by Motion for Leave to File Exceptions while APUC's were not. Under the provisions of 760-A of the Commission's Rules of Practice and Procedure, both filings are prohibited. Both APUC and First Wind had ample opportunity to intervene in this matter and participate as parties but have chosen not to do so."⁵

In response to First Wind's prohibited filing, the Office of the Public Advocate filed a Motion for Dismissal and Sanctions⁶. Extensions were requested and deliberations had to be postponed while the fallout of First Wind's action is evaluated. The PUC ultimately ruled that First Wind's actions were outside proper practice, created serious substantive and procedural concerns, and may have warranted a dismissal had it been a private litigation.

Clearly, any business uncertainty looming over the Applicant is the direct result of the Applicant's own actions and cannot and should not be considered in this stage of this process. Even though the Applicant's attorney assures the Commission that "...the transaction is not critical to the financing of any particular project in Maine..."⁷ the content of First Wind's improper PUC filing suggests otherwise:

"First Wind is not confident it can aggressively pursue future wind power development in Maine if the First Wind transaction is rejected. At best, a rejection will result in a significant multi-year hiatus in most of First Wind's Northeast development work... If the First Wind transaction is rejected, it will be very difficult for First Wind to find a new source of capital to fund its northeast development plans."⁸

Evaluating Scenic Impact

The Applicant's other excuse for not being able to present a modified plan is that there has been "an evolution in how the Commission was interpreting and applying the visual impact standard -- an inherently subjective standard". This is an Appellate argument not a basis to grant relief to the Applicant at this stage. The Board used the criteria it had in every facet of the application. Many had subjective components. There is no problem with those according to the Applicant because they were not an impediment to their objective.

While we understand the Applicant's desire to eliminate all uncertainty and risk, it is not the Commission's job to eliminate all uncertainty. The Applicant simply failed to meet its burden by not adequately considering the Bowers project's unreasonably adverse scenic impact. They are not victims of what they mischaracterize as an "evolution" of scenic evaluation standards.

⁵ State of Maine Public Utilities Commission Docket #2011-170, Procedural Order, January 24, 2012.

⁶ Attached as Exhibit B

⁷ Applicant's Response to the Fifteenth Procedural Order, page 4.

⁸ PUC Docket #2011170, Exceptions of First Wind Holdings, LLC to Examiner's Report, January 2012, page 23.

Intervenors participated in what is by necessity a fluid process which takes the regulations and applies them to the specific site.

The Applicant chose to site its project on Bowers Mountain and Dill Hill. The Applicant had full knowledge that the project was adjacent to, and would impact four significant scenic resources within three miles and a total of ten within eight miles. The Applicant was intimately familiar with the Wind Law and the Maine Wildlands Lake Assessment. The failure of the Applicant to meet its requisite burden should be accepted by the Applicant. Instead, the Applicant attempts to place its failure with the Board, the regulations and the process.

The Downeast Lakes Watershed presents a challenge from a scenic impact perspective for an industrial project. The resource warrants that it should be. The Applicant has attended all of the LURC meetings where these issues were discussed. From the pre-application conferences all the way to deliberations, the Applicant had ample opportunity to ask questions and refine their approach to scenic impact but chose not to.

If the Applicant argues that the process did not allow them to modify the project, we disagree. On September 29, 2011, in response to concerns expressed at the Public Hearing, Applicant requested the record be reopened to admit additional information into the record regarding the OCAS lighting mitigation technology. The record was reopened and the information was allowed into the record.

Furthermore, if the Applicant can file a Request to Withdraw at the very last minute, AFTER the Commission has fully deliberated and its preliminary decision is known, then what was stopping them from filing the same request earlier in the process? Filing a Request to Withdraw after the public hearings but before deliberations would have been far more efficient than waiting until deliberations are complete and the decision is known.

As the Applicant has alleged, evaluating scenic impact is subjective. What the Applicant refuses to acknowledge is that LURC Commissioners are chosen and appointed for their experience, knowledge, skills and judgment. The Board is supposed to exercise its judgment. It's the Applicant's duty to abide by that judgment.

In particular, the Applicant complains about "an increasing reliance" on user surveys in evaluating scenic impact. In her oral presentation on December 7th attorney Browne stated "The feedback on the role of surveys, intercept surveys, really came for the first time during the Commission's deliberations."⁹ At the same meeting, Project Developer Neil Kiely said "What is the perception of users of the lakes? That is one thing we struggled with."¹⁰

The Applicant is being disingenuous. The Applicant's own words and actions are inconsistent with these statements.

The Applicant can not claim to be confused about the role of user surveys or how to conduct them. The Applicant is the largest wind developer in Maine. The problem they have with the Bowers Wind project is that they know the truth: its scenic impact will have an unreasonably adverse affect on users and they did not need a user survey to tell them that. After all, the Applicant commissioned a user survey in preparing the application for their Bull Hill Wind Power project. In Appendix D of Exhibit 18 to the Bull Hill application, visual impact consultant Terrence J. DeWan & Associates writes:

⁹ Oral transcript, Part 1, LURC meeting 12/07/11 at 06:20.

¹⁰ Oral transcript, Part 2, LURC meeting 12/07/11 at 26:15.

"Since this project may affect the view from Black Mountain and the Donnell Pond Unit, which are designated as scenic resources of state or national significance, the client wished to better understand public opinions of the possible effects of the project on that viewshed."¹¹

The Bull Hill user survey was conducted during October 2010, predating the Bowers project's Application and its associated Visual Impact Assessment, Telephone Survey and Snowmobile Survey. Apparently attorney Browne misspoke when she said user surveys only came up during deliberations and Neil Kiely misspoke when he said that the users' perceptions of lakes is "the one thing we struggle with".

At some point, First Wind decided to take a calculated risk that even without a proper user survey LURC would allow them to erect 27 428' tall turbines within full view of Pleasant Lake, a lake that is rated Outstanding for Scenic Value. They knew full well that a proper survey of the users of the Downeast Lakes would only provide the Commission with a rock solid reason to deny the permit.

On December 7th the attorney Browne wrote that "The Commission's expert has established a de facto requirement for user surveys... The feedback on the role of surveys, intercept surveys, really came for the first time during the Commission's deliberations."¹² That is an absolute contradiction of what she wrote on November 8, 2011, on page three of the Request to Withdraw where she writes "Nonetheless, because (user surveys) have become a de-facto requirement, the Applicant undertook two formal surveys specific to the scenic resources in the study area (the telephone and snowmobiler surveys)." Consider the following facts:

- The telephone and snowmobile surveys were conducted by Portland Research Group during January and February of 2011.
- The Applicant's Visual Impact Assessment is dated January 2011.
- The Applicant's development application is dated March 2011.

If the Phone Survey and Snowmobile Surveys were commissioned by the Applicant "because they have become a de-facto requirement..." then we can only conclude the Applicant was well aware of the importance of user surveys prior to January 2011 and well before submitting the Bowers development application. They can't both be true.

An observation made by Commissioner Laverty at the December 7th meeting bears repeating:

"You talked first about the cumulative impact and about how, somehow the concern about cumulative impact arose within the context of this project. I'd like to take you particularly back, because you were involved in this, to Transcanada's proposal for Kibby II. We wrestled with the idea of cumulative impact at that time. Subsequent to that we had staff develop documents considering how we might put together a guidance document to deal with cumulative impact. We sent out to public comment. You submitted comments on that document. We've addressed cumulative impact on several occasions before the Commission. It's now being considered by a working group to look at cumulative impact. So the issue of cumulative impact, to be fair, is NOT new. It didn't arise within the context of this project... it is not brand new and wasn't thrown at you at the last minute..."

I just want it on the record so this doesn't explode in front of us: With regard to the surveys, the intercept user surveys, whatever we wish to call them, we've dealt with

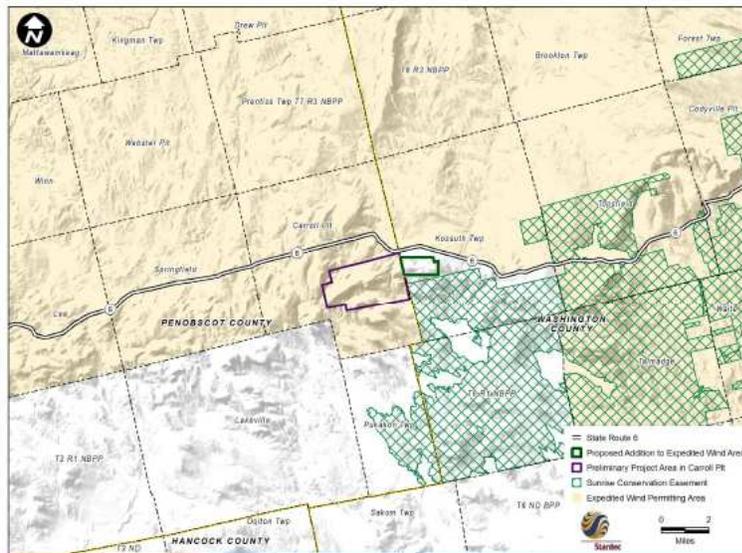
¹¹ Bull Hill Wind Power Project Intercepts Research Report, October 2010, page 1.

¹² Oral transcript, Part 1, LURC meeting 12/07/11 at 11:24.

these before on previous projects. Particularly this Applicant has submitted interceptor surveys that have NOT been as controversial as the ones that were submitted in support of this (Bowers) project. The difficulty with these surveys was identified during the public hearing of this project. So the Applicant has been aware of some of the difficulties with these early on. I just want to set the record straight. The idea that somehow these just exploded within the context of this project is a little unfair to us and everybody else who has worked hard on these issues.”¹³

There is an abundance of evidence that the Applicant has not been ignorant of the importance of user opinions. So much so, that it presents a very clear and consistent pattern of downplaying the magnitude and importance of the project’s scenic impact on users at every opportunity. Here are just a few examples:

- From page 50 of the LandWorks Visual Impact Assessment: “This is an area that does not include any high value natural resources”
- At the public hearing that the Commission held at Lee Academy on September 22, 2010 dealing with Applicant’s request that Kossuth be added to the expedited wind permitting area, the maps shown in the Applicant’s PowerPoint presentation had the lakes whited out:



- It was critical to the Applicant’s success that the Commission add Kossuth to the expedited wind permitting area. Had they not, the project would have been held to a fifteen mile scenic standard instead of only eight miles. That extra seven miles would have brought West Grand Lake, the heavily impacted half of West Musquash Lake (rated Outstanding for scenic value) and a half dozen other Lakes into the area of concern. Applicant falsely claimed there was no harm in adding Kossuth to the expedited wind permitting area because all the scenic issues will be dealt with when the project is evaluated as a whole.
- The viewshed maps in the Visual Impact Assessment prepared by LandWorks were deliberately misleading. It was no accident that on the viewshed maps bright red was used to depict areas that have only 1 to 3 turbines visible and green was used to depict areas that have 25 to 27

¹³ Oral transcript, Part 2, LURC meeting 12/07/11 at 12:55.

turbines visible. The overall effect was a pleasing map that is largely green with very little red; less likely to cause alarm. This color scheme is exactly the opposite of what one would expect:

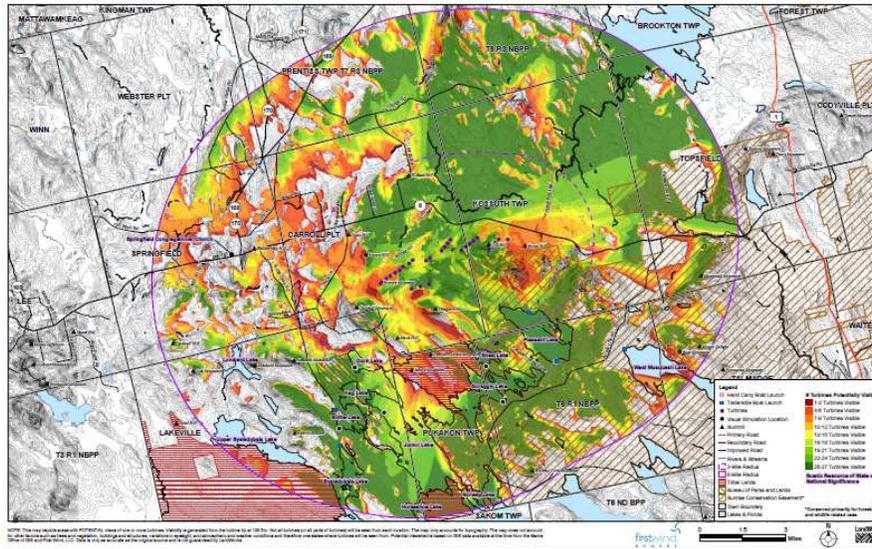


Exhibit 1: VIEWSHED MAP (topography only/from the tip) | Bowers Wind Project

- The Applicant has exerted a lot of effort to describing what impacts the project won't have. For example, the Visual Impact Assessment points out that there are no national parks, no state parks, no national natural landmarks, no federal wilderness areas, no scenic rivers or streams, no scenic viewpoints, no scenic turnouts, no scenic highways and no scenic coastal areas and "only four" great ponds with significant or outstanding scenic quality will have potential visibility of the Project within three miles.¹⁴ As recently as the October 5th deliberations, attorney Browne said "It's important to remember that through siting this particular project the Applicant has avoided the natural resource and human impacts that have been an issue and of concern in other projects."¹⁵
- Throughout the VIA, LandWorks has carefully crafted the text to downplay the project's scenic impact. Endless modifiers obfuscate rather than clarify statements reflecting the project's visual impact. Consider, for example the following statement about the view from the public boat launch on Duck Lake: "there could be potential visibility of 1 to 6 turbines although it's likely that only the blades would be visible if at all."¹⁶ Could be? Potential visibility? 1 to 6? Likely? Only the blades? If at all? It's hard to imagine a more noncommittal statement.
- In its initial site tour proposal, the Applicant did not provide for any views from the water. The only views from lakes were from the far shore of the lake or, in the case of Duck Lake, from a shore with restricted visibility.

¹⁴ Visual Impact Assessment for the Proposed Bowers Wind Project, LandWorks, January 19, 2011, page 1.

¹⁵ Oral transcript, Part 1, LURC meeting 10/05/11 at 12:45.

¹⁶ Visual Impact Assessment, page 25.

During questioning at the December 7th meeting, attorney Browne said “We think we can come back with a project, the one that’s much more difficult to get your arms around are the user surveys, and how you do user surveys, what’s required and how you prevent bias in those user surveys. So it’s a little trickier quite frankly.”¹⁷

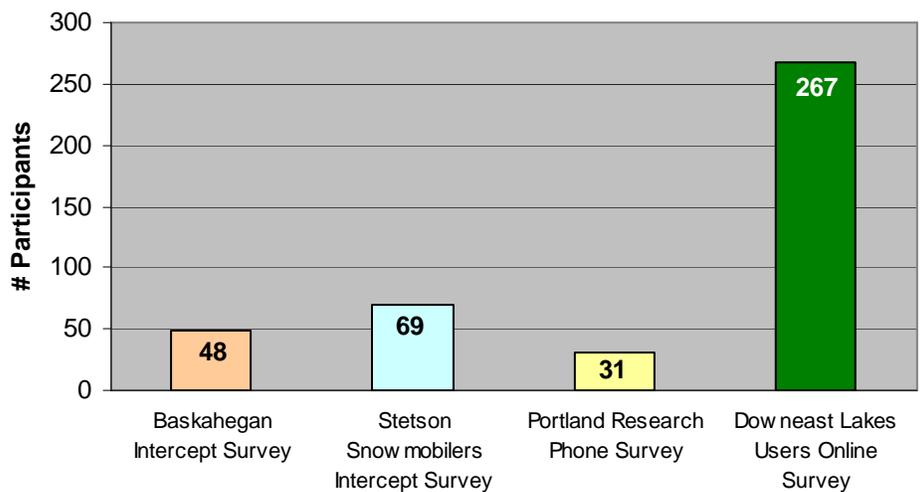
It’s interesting that while the Applicant is anxious to modify the project, they have not offered to conduct any kind of user research.

Downeast Lakes User Survey

PPDLW did not find conducting a user survey tricky at all. Attached as **Exhibit A** is a user survey conducted by PPDLW between February 8 and March 1, 2012. Every respondent is an actual user of these scenic lakes. The objectives and methodology are fully explained in the first four pages of the report. The User Survey shows that:

- The project will significantly diminish user enjoyment of the Lakes.
- After seeing the Applicant’s simulations, 77.7% report that they would be very likely or somewhat likely NOT to return.
- It would be impossible to modify the project enough to satisfy the scenic standard.
- The Lakes themselves are the focal point of most activities.
- People are drawn to the Lakes that are classified as scenic resources.
- 78.8% of the lake users have taken a paddling trip that spanned more than one lake.
- 79.2% have made use of the primitive campsites available on the islands.
- 56.8% are visitors from outside the area, 85% whom come from out of state.
- 94.3% said they have seen a wind project in person.
- Only one respondent said that visiting wind farms is an activity he enjoys.

The Sample. A total of 267 individuals completed the survey. The collected data is representative of the people who actually use these resources. This is a statistically significant sample, particularly when compared to the following surveys presented by Champlain Wind:



¹⁷ Oral transcript, Part 4, LURC meeting 12/07/11 at 02:45.

The Downeast Lakes User Survey also compares very favorably with the intercept survey conducted for the Applicant’s Bull Hill project. The Bull Hill survey polled 81 hikers on only two scenic resources. Market Decisions characterized this as a “high response rate”.¹⁸

Impact on Users. Questions 14 through 27 present the simulation photos of seven key Lakes prepared by LandWorks for the Applicant. Users were asked to study the photos and in each case describe how they characterize the impact the turbines would have on the scenic value of the lake and on their enjoyment of the lake. Each photo was cropped both vertically and horizontally to fit the online survey format. Cropping also provided a sense of being on the lake as opposed to being on the distant shore.

Even with only a fraction of the anticipated visible turbines in the photos, the response from users was overwhelmingly negative. Duck Lake and Pleasant Lake, with only six and eight turbines shown in the simulated photos respectively, still prompted over 92% negative reaction. The following chart tells the story:

| | LandWorks Turbine Count | Palmer Turbine Count | Turbines Depicted in User Survey Photos | They detract somewhat from my enjoyment of the Lake. | They detract a great deal from my enjoyment of the Lake. | Total reporting a negative impact (total of 2 prev columns) |
|------------------|-------------------------|----------------------|-----------------------------------------|------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| within 3 miles | | | | | | |
| Pleasant Lake | 27 | 27 | 8 | 6.8% | 87.1% | 93.9% |
| Shaw Lake | 25 | 27 | 10 | 8.7% | 86.0% | 94.7% |
| Scraggly Lake | 26 | 27 | 16 | 8.0% | 86.4% | 94.4% |
| Junior Lake | 23 | 25 | 13 | 9.8% | 84.5% | 94.3% |
| Duck Lake | 18 | 25 | 6 | 14.8% | 77.7% | 92.5% |
| 3 to 8 miles | | | | | | |
| Keg Lake | 18 | 26 | 13 | 4.5% | 90.2% | 94.7% |
| Sysladobsis Lake | 22 | 13 | 11 | 8.7% | 85.6% | 94.3% |

We can expect there is some amount of bias in that respondents are likely to have stronger reactions to the simulations of lakes with which they are most familiar. This bias is to some extent counterbalanced by the fact that the simulations depict fewer visible turbines than the Applicant plans. This also shows that even if the project were severely reduced in size, the negative impact on users’ enjoyment of the lakes would still be substantial.

Visitors Less Likely To Return. Fully 77.7% of visitors answered that they are either very likely or somewhat likely not to return to the Downeast Lakes Region. Question 28 shows that the local tourism economy will suffer severe damage if the Bowers Mountain Wind Project is built. These sentiments arise in the open-ended comments as well. Several respondents stated that although their plans to visit would not change due to the turbines, they still believe they will detract a great deal from their enjoyment. It’s just that a friend or relative owns property and hosts them for visits. They will continue to visit but they will enjoy it less.

“When fishing and relaxing, I want to be on a pristine lake with beautiful views as much as possible. I do not want to see industrial windmills in my views of the lake. I will definitely go elsewhere in the United States if the view is destroyed by commercial windmills.”

(B.L., Weston, ME)

¹⁸ Bull Wind Power Project Intercepts, Market Decisions, Portland, ME, October 2010, page 2.

"I have enjoyed this area for many years and the proposed industrial look of the area will affect my future plans for visiting Downeast Lakes."

(G.B., Ellsworth, ME)

"I would stop visiting this area and go elsewhere if I had to view these turbines."

(M.A., Orono, ME)

Declining Property Values. The vast majority of property owners, the majority of whom have seen industrial wind energy projects, presumably the Rollins, Stetson I and Stetson II projects, believe that the value of their property will decline 20% or more if the project is built. Reinforcing Question 29, several respondents reported in their comments that they have been told by real estate agents that property in the area has been very difficult to sell since the Bowers project has been pending. They also said that if the project is built, property values will definitely fall.

"A local real estate agent suggested that the real estate values will be negatively impacted by at LEAST 15%. My neighbor had people who would not make an offer on his home unless this project was voted down. The buyers are looking elsewhere."

(M.F., Naples, FL)

"We have first hand knowledge of our property value already decreasing due to the proposal of the wind turbine project. Our property is on the Brown Road, directly across from the Moose Road. We listed the property for sale last August and the sale price which was more than a reasonable however with zero interest we took it off the market in December. The realtor told us we cannot expect to get any return on our investment at this time due the pending nature of this project and if authorized expect to have our land value go down even more."

(C.T., Gardiner, ME)

The Attraction of Remoteness. Many respondents volunteered in their comments that the main reason they are attracted to the Region is its sense of untouched remoteness and that turbines would destroy that. A few examples:

"I have enjoyed this area from the first time I attended a wilderness canoeing camp there in the early 60s. The wilderness that is there has become part of my being. I have sent the children of many of my friends as well as my own daughter to the camp and to that area to affect their ontology and their environmental ethic. One of the unique aspects of this place is that one feels like one is surrounded by what is left of wilderness with none of the trappings and encumberments of our modern electronic society. I have led trips of young people through the woods for weeks in this area where they experienced their lives in a state of simplicity. Looming wind turbines will destroy that wilderness experience."

(L.F., Dix Hills, NY)

"This area is absolutely legendary to me and my family. The scenic viewsheds and wild nature of the Down East Lakes Region is priceless. The Maine guides are the best. This entire area embodies what the true nature of Maine represents. Industrial activities have no place here. They should be banned. Tourism, hunting, fishing and nature based recreation and sustainable forestry are the current economic base as well

as the future salvation of this area. Much has been invested to preserve this region for future generations to discover, explore and come to love the way we have. Keep the wind developers and other industrial development out.”

(P.G., Fort Kent, ME)

“I go to the woods and lakes Down East for an experience in the wild, to leave industrialization and commerce behind for a while, and to connect with nature. Being surrounded with windmills is more like a trip to a theme park than to natural wild lands. I will go to where the wild lands are with minimal development and will spend my time and money there.”

(K.C., Fairfield, ME)

“I travel half way across the United States to enjoy pristine beauty of this chain of lakes, spending days to drive. Eleven months waiting for vacation to come. I come for one reason. Natural, unspoilt beauty. Eagles circling above my head, a diamond mine of stars in the night, fishing and wondering what is over the next hillside. The Bowers project will destroy all of this.”

(T.D, Manhattan, KS)

“These turbines would take away the sense of isolation and remoteness enjoyed when out on the lakes. It would totally wreck the wilderness feel of this region.”

(W.M., Ferrum, VA)

“I visit the region because of what it is. Pristine, peaceful, quiet, natural. Wind farms will destroy all that.”

(J.S., Gilford, NH)

In five weeks and with a very limited budget PPDLW managed to gather and analyze more and better information about the expectations of the typical users who recreate in the Downeast Lakes Region than the Applicant has presented over the past two years.

Setting The Record Straight

Throughout this entire process the Applicant has displayed a tendency to ‘spin’ or distort the facts to their advantage. We believe that only a firm denial decision will ensure that the record clearly shows that the Commission fairly judged the project on its merits and found its scenic impact to be unreasonably adverse.

The Applicant’s agreeing to extend the deadline for a decision on DP4889 and the five month decision delay that they negotiated on December 7th are both strong signs of venue shopping. In fairness, it would be difficult, if not impossible, for the Applicant to prove that their motives for slowing the process are NOT related to venue shopping. All they can do is ask the Commission, Intervenors and public to trust in their good faith.

Because of the Applicant’s incessant reference to “First Wind’s track record” and “good faith” dealings, we feel it’s necessary to highlight just a three of the recent instances when the Applicant did not demonstrate good faith.

1. The Applicant is very anxious to get into the record the myth that "...the Commission deliberated on the Project and determined that the Project satisfied all but one of the applicable review criteria."¹⁹ This statement in various forms has become a boilerplate introduction to the Applicant's written submissions. In November 2012, just after filing the Request to Withdraw, First Wind's Matthew Kearns told the Bangor Daily News that "What we heard from the commission is that the project met 99 out of 100 siting criteria and the one they had issue with was the scenic criteria, which were difficult to evaluate."²⁰

The oral and written record says otherwise. At the start of deliberations the Commissioners, in discussing the deliberation agenda, agreed that the scenic impact criterion would be the most difficult hurdle for the project to clear. In order not to waste time on other criteria which it may satisfy, it was decided that the scenic issue would be addressed first.

This is confirmed in the Deliberations Notebook. The last scenic issue, Question 4, reads:

"...do the impacts to the scenic lakes create an unreasonable adverse effect on scenic character and use related to scenic character? If yes, then the Commission should deny the application. If no, then the Commission can proceed to the other criteria."²¹

The October 5th meeting opened with a presentation by Fred Todd of the deliberation process. He described where the Commission was in that process and what remains to be addressed. He said:

"The deliberations on this issue, on visual impact, actually began a month ago at the Commission's September 7th meeting... we will continue those deliberations today based on the notebook that I sent to each of the Commission members and the Parties. The plan now is to continue (i.e. defer) deliberations on other subject matters, not visual, but other subject matter, whether it's wildlife, decommissioning or whatever, to the November meeting with a decision at the December meeting."²²

The fact that the non-scenic criteria had yet to be addressed was also referenced by Commissioner Hammond at the October 5th meeting. After more than two hours of deliberation on the scenic impact issue, he said:

"There's a lot more to this whole process than this one issue. With the time constraint and what we have to deal with, I think sometimes we have to get out of the weeds and get a little higher elevation. I think this discussion could go on for a long time but having said that, there's a lot more info we need to deal with and I think it's time."²³

¹⁹ Applicant's Response to the Fifteenth Procedural Order, page 1.

²⁰ See article at: <http://bangordailynews.com/2011/11/16/news/penobscot/first-wind-wants-to-pull-bowers-mountain-wind-project-for-now/?ref=latest>

²¹ LURC Deliberation Document, DP4889, Bowers Visual Impacts Part I, page 30 of 30.

²² Oral transcript, Part 1, LURC meeting 10/05/11 at 04:33.

²³ Oral transcript, Part 4, LURC meeting 10/05/11 at 27:33.

Despite the Applicant's repeated statements to the contrary, other criteria, such as the Community Benefits Packages, Decommissioning, Wildlife and so on were never formally approved by the Commission.

2. Another deliberate attempt to spin key facts appears on page one of the Applicant's Response to the Fifteenth Procedural Order. In describing the outcome of the Commission's October 17th meeting, when the straw vote was taken, the Applicant writes that "...several Commissioners expressed concern that the Project would have an unreasonable adverse effect on the scenic character or existing uses..."²⁴ This is misleading. An accurate statement would have been that the Commissioners voted unanimously that the project would have an unreasonable adverse effect and therefore failed the scenic impact criterion.
3. At the Public Hearing many members of the public expressed concern about having a phalanx of flashing red strobe lights on the horizon. At the June 28th Technical Session, both Neil Kiely and Matthew Kearns were asked about the Applicant's "willingness to consider retrofitting" the project with lighting mitigation technology. Consider the following exchanges:²⁵

Commissioner Laverty: "Would the Applicant be willing to consider when that technology becomes available – when and if that technology becomes available to perhaps consider retrofitting this project with that technology?"

Neil Kiely: "I think, you know, we would be willing to consider... I'm not prepared to answer that in terms of retrofitting... There's also, as I understand it, substantial financial costs... we'll get back to you... we typically don't go back and, you know, contemplate making that kind of retrofit."

Commissioner Laverty: "I understand your hesitance to make a commitment... But it would seem to me that as a gesture at least of goodwill it might be really important to say that, yes, we certainly would consider any alternative that would diminish the visual impact of lighting..."

Neil Kiely: "Again... I'm not prepared to kind of answer on what would be a policy question..."

Commissioner Hammond: "If we have a meeting in July... what kind of commitment... you might or may not be willing to make regarding mitigating night lighting?"

Matthew Kearns: "you know, the notion of making changes later is very – that's very difficult for us. We would commit to evaluating all available technology today and come back and present that to you."

Eventually the Commission decided that it would make the retrofit a condition of any approval, assuming the technology received FAA approval. The Applicant had no say in the matter. Still, despite all the Applicant's verbal dodging, attorney Browne points to this issue as proof of the Applicant's "willingness" and "good faith". On page five of the Applicant's Request to Withdraw she writes:

²⁴ Champlain Wind LLC, Response to the Fifteenth Procedural Order, page 1.

²⁵ Technical Session Transcript, pages 46 and 57.

"The applicant voluntarily agreed to retrofit the Project to incorporate new lighting technology that will effectively eliminate nighttime lighting impacts"

Those are just three examples of how the Applicant misrepresents facts and spins the truth for the record. A thorough review of the written and oral record reveals countless other examples. We are concerned that when the Applicant submits a new application for a project on this site, the record of these deliberations will be referenced and will have influence. For this reason we believe the ultimate denial document must be very detailed, clear and forceful.

CONCLUSION

It was the Applicant that proposed the March deadline after rejecting shorter timeframes proposed by the Commission. More than one Commissioner expressed concern that if the withdrawal request was tabled, they need some assurance from the Applicant that it is worthwhile and not just a delay tactic. Attorney Browne assured the Commission "we can come back with a project". Neil Kiely said "we've always operated with good faith".

The Chair generously extended the deadline for making a final decision five months, from December 7, 2011 to May 4, 2012. This extension was based on an understanding that the Applicant will come back with "a written description of its plans for reconfiguring the Bowers Wind Project to address the concerns expressed by the Commission during this proceeding and at the Commission's deliberations on the visual impacts of this Project in September and October of 2011."²⁶ The Applicant, by its own admission, has failed to comply.

Those facts alone should be sufficient to deny the Applicant's request to withdraw and proceed with the denial vote on May 4th.

The Applicant continues to blame everyone but themselves whenever something doesn't go their way. According to Champlain Wind, nothing is their fault, First Wind's record stands for itself and they always operate in good faith. The Applicant has wasted its opportunity to respond to the Fifteenth Procedural Order and wasted the valuable time and resources of the Commissioners, LURC staff, the Intervenors and the public. Not only does its response fall pathetically short of what the Commission was promised, but they use it as yet another opportunity to provide new evidentiary documents and present additional arguments in support of their withdrawal request.

There is still the issue of venue shopping. The Applicant's Response to the Fifteenth Procedural Order closes with a request to be allowed to withdraw the application but offers nothing in return. No guarantees, no suggested timeframe. The issue of venue shopping becomes more crucial with each day that passes and will be a major issue with any decision other than a prompt denial of the withdrawal and denial of the project. On July 9, 2012 the makeup of the Commission will change dramatically as the terms of both Commissioner Farrand and Commissioner Hammond will expire.

During the December 7th meeting, Commissioner Laverty said:

"Getting back to this notion of convincing someone like me that I ought to support a good faith effort by this Applicant to redesign this project, how can we be assured that

²⁶ Fifteenth Procedural Order, November 15, 2011, page two.

this project in fact can be redesigned, that there is going to be a real yeoman's effort to get this thing redesigned? How can we be assured this is going to be done within a reasonable timeframe given the fact that conditioning this motion is not going to have major force and effect?"²⁷

The Applicant's attorney responded:

"Yeah, I mean, I think, you're right. It may not have major legal force and effect. But it has effect. And I, you know, think ultimately at some point you have to take into account the good faith of the Applicant. And it may not be possible to fully address the Commission's concerns, and we may not come back with an application in which case, you know, the opponents are right where they want to be. Which is: there is no project."²⁸

For the foregoing reasons, PPDLW respectfully asks that the Commission move immediately to deny the Applicant's request to withdraw and request that the Commission instruct the staff to finalize a denial document. We further request that the denial be made with prejudice and that it come to a final vote at the May 4th meeting.

Dated: March 23, 2012

Kevin Gurall
President
Partnership for the Preservation
of the Downeast Lakes Watershed

²⁷ Oral transcript, Part 2, LURC meeting 12/07/11 at 18:35.

²⁸ Oral transcript, Part 2, LURC meeting 12/07/11 at 19:15.

EXHIBIT A

Downeast Lakes User Survey



OBJECTIVES

Champlain Wind LLC is in the process of seeking approvals to erect a grid-scale wind energy facility on Bowers Mountain in Carroll Plt, Dill Hill in Kossuth Twp and additional ridges and hills in the area. The project's 27 turbines will be visible from numerous lakes in the region, including nine lakes within eight miles that the Maine Wildlands Lake Assessment has deemed to be Scenic Resources of State or National Significance by virtue of their significant or outstanding scenic value. Of those nine lakes, four of them are within three miles of the project, including one that has been rated "outstanding". The Partnership for the Preservation of the Downeast Lakes Watershed (PPDLW) opposes this project on the grounds that 1) it will result in "unreasonable scenic impact" that will negatively affect users' enjoyment of the lakes, and 2) it will do serious damage to the already delicate local economy which is almost entirely dependent upon "escape" tourism.

Because the relevance of the surveys provided by Champlain Wind LLC has been widely questioned, PPDLW commissioned a survey of the users of these lakes in order to help the permitting authority better understand who the users are, what their expectations are and how the presence of the Bowers Mountain Wind Project will impact their continued enjoyment of the resources.

The survey was designed by PPDLW, then refined, hosted and conducted by SurveyMonkey, the world's leading provider of web-based survey solutions. A total of 267 individual users of the Downeast Lakes completed the survey between February 8 and March 1, 2012.

The survey host, SurveyMonkey, employed three tools to prevent duplicate survey responses:

1. In the introduction to the survey users were informed that only one survey would be accepted per computer. This simple notice is sufficient to prevent most would-be 'ballot stuffers'.
2. A cookie was placed on each respondent's computer identifying that computer as having submitted an entry. No additional surveys would be accepted from this computer. On attempting to open the survey a second time, the user received a notice explaining that if a spouse wanted to take the survey and a second computer is not available, that person can contact SurveyMonkey for a separate URL and unique password to take the survey.
3. In case a respondent was able to identify and disabled the cookie on his computer, IP addresses were tracked without the respondent's knowledge.

There were nine cases of spouses requesting the secondary URL and unique password in order to take the survey. In analyzing the entries, we did not find any duplicate IP addresses. We are therefore confident that there are no duplicate responses in the resulting sample.

METHODOLOGY

The survey used in this research was developed by PPD/LW. It was designed to be administered over the web via SurveyMonkey's secure SSL connection. A web-based survey presents numerous advantages over a human administered intercept survey. For example:

- With a traditional intercept survey, the subject is often anxious to get back to what he/she was doing.
- Respondents can take a web-based survey when it is convenient for them.
- Respondents can take as long as they like to study photographs and answer the questions.

- Accurate and detailed survey instructions can be provided; they need not be condensed into a sentence or two.
- Greater accuracy is achieved because possible speaking, hearing and writing errors are eliminated.
- Greater accuracy is achieved because it eliminates the possibility of influence by others in the subject's party.
- A web-based survey is not dependent on the season or the weather.
- Without a human administer a web-based survey eliminates the possibility of a subject being influenced by the administrator's facial expression, body language and vocal inflection.

After providing name and residence respondents were asked whether they reside or own property within the area. Subjects are asked how frequently they have visited the Downeast Lakes. Those who have not visited the area were immediately disqualified. At this point the survey process "piped" or split along two paths, one for those who reside or own property, the other for those who recreate in the area as visitors. The latter group was asked questions specific to frequency of visit, length of typical visit, number in party, money spent and the likelihood of their returning should the Bowers Mountain Wind project be built. Those who reside or own property in the area were asked fewer questions overall but were asked how they expect the Bowers Mountain Wind Project will affect their property value.

In questions 14 through 27, all respondents were presented with several simulated photos of the project. The simulations presented were those provided in the Visual Impact Assessment prepared by LandWorks for Champlain Wind and made part of the project application. They were cropped to 648x333 pixels or approximately 8" x 4½" and presented at 72dpi which is the standard for viewing on a monitor. Respondents were asked to study each photo and rate how they felt the presence of turbines impact the scenic value of the subject lake and how they believe the turbines would impact their enjoyment of that lake. Once a survey was submitted, it could no longer be changed or accessed.

Because the survey is specifically intended to understand users of these resources, it is not, and can not be, a random sample except to the extent that it is a random sample of users. The respondents represent a blend of local

property owners and visitors, people from near and far, families and individuals, who make varied uses across all seasons. The availability of the survey was announced to the following groups:

- PPDLW membership
- Those who own property on the lakes
- Owners of sporting camps on the lakes
- Licensed Guides who work the area

In addition, PPDLW members and local property owners were asked to share the survey with anyone else they know to have used the Lakes. Similarly, sporting camp owners and guides were asked to share the survey with their guests and clients to the extent they feel comfortable doing so.

* * * * *

Note: Unless labeled otherwise all questions were asked of all participants. Those which were directed specifically at visitors or property owners are clearly labeled as such.





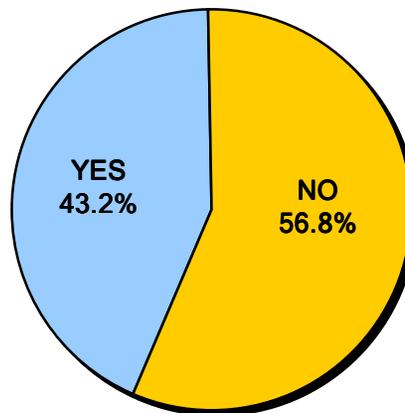
QUESTION 3

This question refers to the map on the previous page.

Do you reside or own property within the shaded area on the map shown on the previous page?

| Answer Options | Response Percent | Response Count |
|--------------------|------------------|----------------|
| Yes | 43.2% | 115 |
| No | 56.8% | 151 |
| answered question: | | 266 |
| skipped question: | | 1 |

Do you reside or own property within the shaded area on the map shown on the previous page?





| Residence | Total | | Downeast Lakes Property Owners | | | Visitors to the Downeast Lakes | | |
|----------------|------------|---------------|--------------------------------|--------------|---------------|--------------------------------|--------------|---------------|
| | | | Number | % of Total | % of Owners | Number | % of Total | % of Visitors |
| ME | 138 | 51.7% | 68 | 25.5% | 59.1% | 70 | 26.2% | 46.1% |
| MA | 19 | 7.1% | 6 | 2.2% | 5.2% | 13 | 4.9% | 8.6% |
| CT | 17 | 6.4% | 5 | 1.9% | 4.3% | 12 | 4.5% | 7.9% |
| NY | 13 | 4.9% | 5 | 1.9% | 4.3% | 8 | 3.0% | 5.3% |
| NH | 12 | 4.5% | 5 | 1.9% | 4.3% | 7 | 2.6% | 4.6% |
| FL | 7 | 2.6% | 4 | 1.5% | 3.5% | 3 | 1.1% | 2.0% |
| PA | 7 | 2.6% | 5 | 1.9% | 4.3% | 2 | 0.7% | 1.3% |
| CA | 5 | 1.9% | 3 | 1.1% | 2.6% | 2 | 0.7% | 1.3% |
| GA | 6 | 2.2% | 2 | 0.7% | 1.7% | 4 | 1.5% | 2.6% |
| VT | 6 | 2.2% | 1 | 0.4% | 0.9% | 5 | 1.9% | 3.3% |
| MN | 5 | 1.9% | 0 | 0.0% | 0.0% | 5 | 1.9% | 3.3% |
| VA | 5 | 1.9% | 1 | 0.4% | 0.9% | 4 | 1.5% | 2.6% |
| NC | 4 | 1.5% | 0 | 0.0% | 0.0% | 4 | 1.5% | 2.6% |
| CO | 3 | 1.1% | 1 | 0.4% | 0.9% | 2 | 0.7% | 1.3% |
| KS | 3 | 1.1% | 3 | 1.1% | 2.6% | 0 | 0.0% | 0.0% |
| NJ | 3 | 1.1% | 1 | 0.4% | 0.9% | 2 | 0.7% | 1.3% |
| TX | 3 | 1.1% | 0 | 0.0% | 0.0% | 3 | 1.1% | 2.0% |
| AZ | 2 | 0.7% | 2 | 0.7% | 1.7% | 0 | 0.0% | 0.0% |
| OH | 2 | 0.7% | 1 | 0.4% | 0.9% | 1 | 0.4% | 0.7% |
| IL | 1 | 0.4% | 1 | 0.4% | 0.9% | 0 | 0.0% | 0.0% |
| MD | 1 | 0.4% | 1 | 0.4% | 0.9% | 0 | 0.0% | 0.0% |
| MI | 1 | 0.4% | 0 | 0.0% | 0.0% | 1 | 0.4% | 0.7% |
| OR | 1 | 0.4% | 0 | 0.0% | 0.0% | 1 | 0.4% | 0.7% |
| anon. | 3 | 1.1% | 0 | 0.0% | 0.0% | 3 | 1.1% | 2.0% |
| TOTALS: | 267 | 100.0% | 115 | 43.1% | 100.0% | 152 | 56.9% | 100.0% |



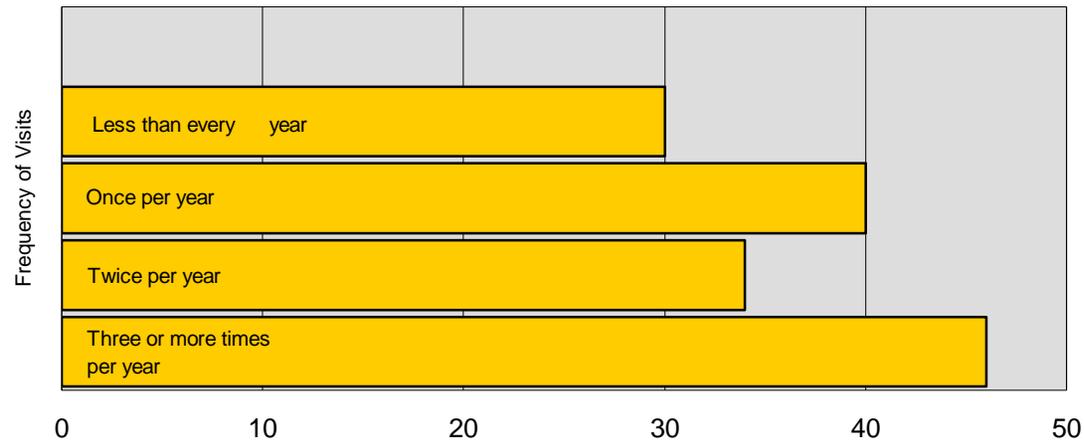
QUESTION 4

(asked of visitors only)

How frequently do you visit the Downeast Lakes Region?

| Answer Options | Response Percent | Response Count |
|------------------------------------------------|-------------------------|-----------------------|
| I have never visited the Downeast Lakes Region | 0.0% | 0 |
| Less than every year | 20.0% | 30 |
| Once per year | 26.7% | 40 |
| Twice per year | 22.7% | 34 |
| Three or more times per year | 30.7% | 46 |
| answered question: | | 150 |
| skipped question: | | 1 |

How frequently do you visit the Downeast Lakes Region?





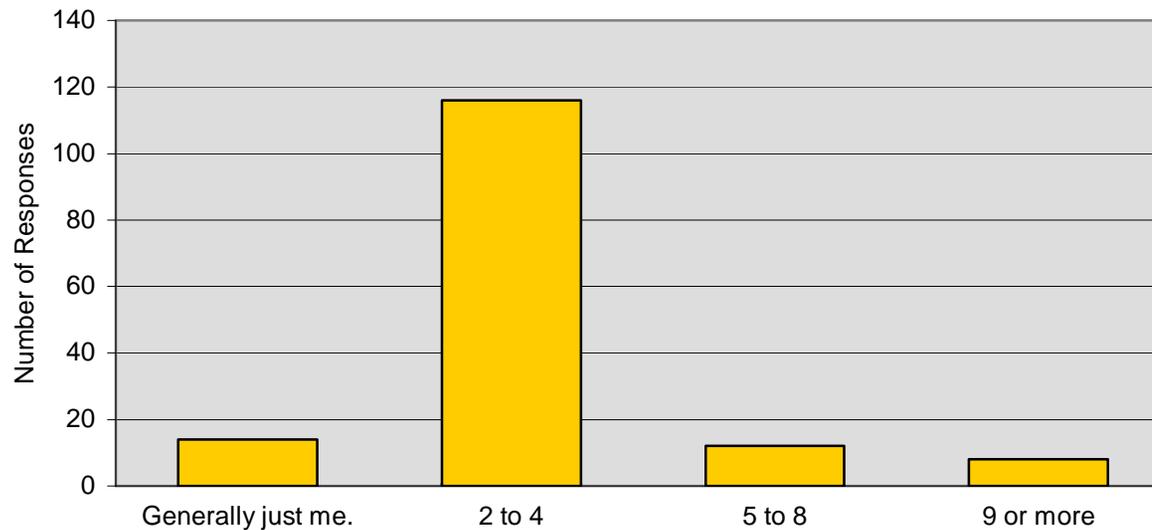
QUESTION 5

(asked of visitors only)

When you visit the Downeast Lakes Region do you generally come with a group? If so, how many are typically in your group?

| Answer Options | Response Percent | Response Count |
|-----------------------|---------------------------|-----------------------|
| Generally just me. | 9.3% | 14 |
| 2 to 4 | 77.3% | 116 |
| 5 to 8 | 8.0% | 12 |
| 9 or more | 5.3% | 8 |
| | answered question: | 150 |
| | skipped question: | 1 |

When you visit the Downeast Lakes Region do you generally come with a group? If so, how many are typically in your party?



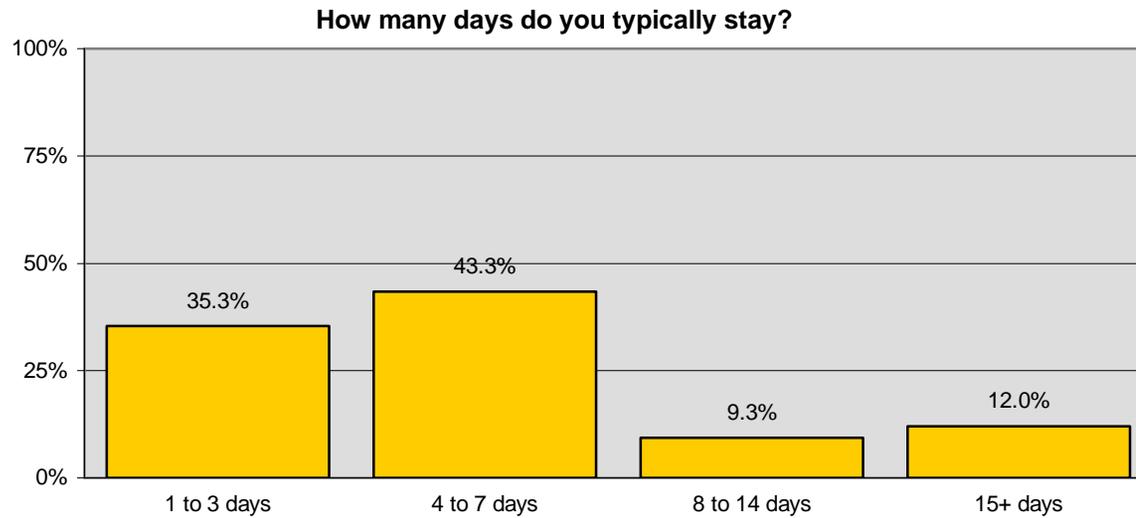


QUESTION 6

(asked of visitors only)

How many days do you typically stay?

| Answer Options | Response Percent | Response Count |
|---------------------------|-------------------------|-----------------------|
| 1 to 3 days | 35.3% | 53 |
| 4 to 7 days | 43.3% | 65 |
| 8 to 14 days | 9.3% | 14 |
| 15+ days | 12.0% | 18 |
| answered question: | | 150 |
| skipped question: | | 1 |





QUESTION 7

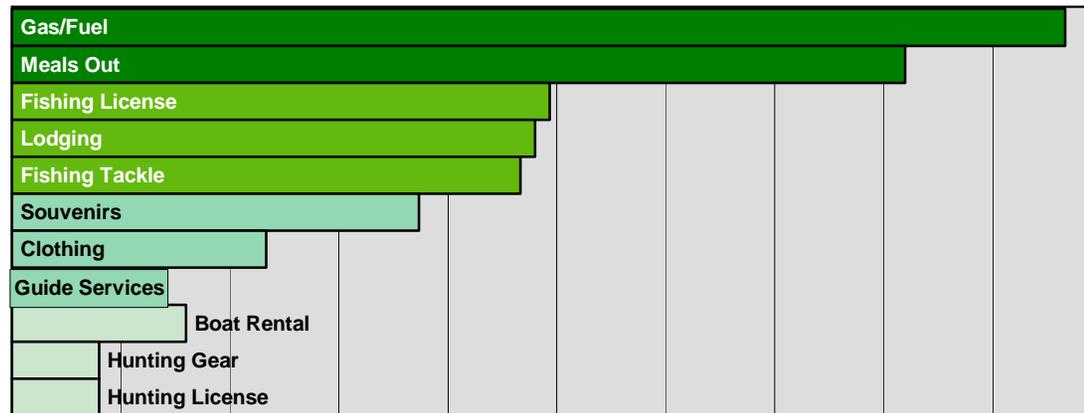
(asked of visitors only)

What sort of expenses do you incur when visiting the Downeast Lakes Region? (check all that apply)

| Answer Options | Response Percent | Response Count |
|---------------------------|-------------------------|-----------------------|
| Gas / Fuel | 96.7% | 145 |
| Meals Out | 82.0% | 123 |
| Fishing License | 49.3% | 74 |
| Lodging | 48.0% | 72 |
| Fishing Tackle | 46.7% | 70 |
| Souvenirs | 37.3% | 56 |
| Clothing | 23.3% | 35 |
| Guide Service | 20.7% | 31 |
| Boat Rental | 16.0% | 24 |
| Hunting Gear | 8.0% | 12 |
| Hunting License | 8.0% | 12 |
| Other (please specify)* | 10.7% | 16 |
| answered question: | | 150 |
| skipped question: | | 1 |

* Under "Other" people mentioned spending on Groceries, Car Rentals, Beer, Cosmetics and Entertainment.

What sort of expenses do you incur when visiting the Downeast Lakes Region?





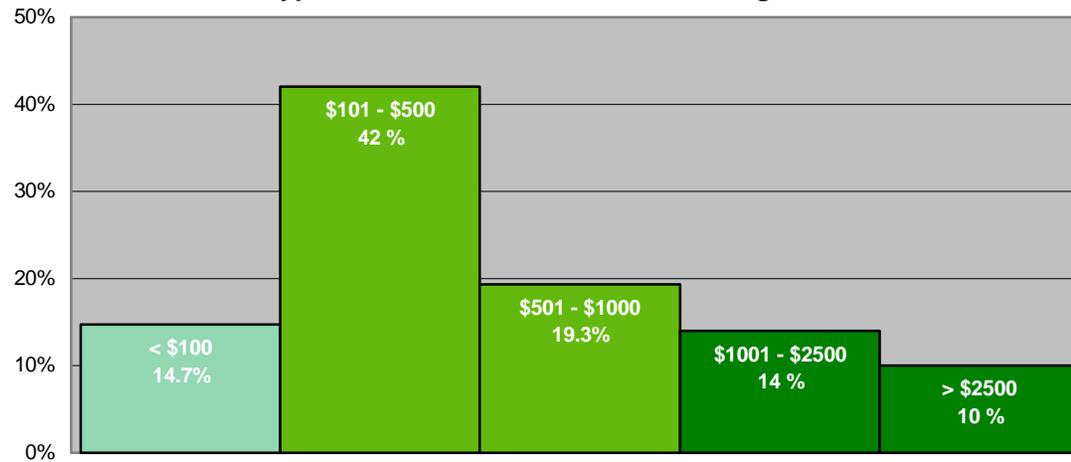
QUESTION 8

(asked of visitors only)

Approximately how much money do you spend in Maine on your typical visit to the Downeast Lakes Region?

| Answer Options | Response Percent | Response Count |
|---------------------------|-------------------------|-----------------------|
| < \$100 | 14.7% | 22 |
| \$101-\$500 | 42.0% | 63 |
| \$501-\$1000 | 19.3% | 29 |
| \$1001-\$2500 | 14.0% | 21 |
| > \$2500 | 10.0% | 15 |
| answered question: | | 150 |
| skipped question: | | 1 |

Approximately how much money do you spend in Maine on your typical visit to the Downeast Lakes Region?





QUESTION 9

Which of the following Downeast Lakes have you used (visited, paddled, hiked, fished, etc)? (please check all that apply)

| Answer Options | Response Percent | Response Count |
|-------------------------|---------------------------|-----------------------|
| Junior Lake | 74.3% | 197 |
| West Grand Lake | 70.9% | 188 |
| Bottle Lake | 56.6% | 150 |
| Scraggly Lake | 55.1% | 146 |
| Sysladobsis Lake | 49.8% | 132 |
| Duck Lake | 40.0% | 106 |
| Keg Lake | 38.5% | 102 |
| Pleasant Lake | 34.0% | 90 |
| Pocumcus Lake | 33.6% | 89 |
| Upper Sysladobsis Lake | 28.7% | 76 |
| The Machias Lakes | 28.3% | 75 |
| Horseshoe Lake | 26.4% | 70 |
| West Musquash Lake | 24.9% | 66 |
| The Chain Lakes | 24.5% | 65 |
| Upper & Lower Pug Lakes | 23.4% | 62 |
| Norway Lake | 23.0% | 61 |
| Mill Privilege Lake | 20.8% | 55 |
| Wabassus Lake | 18.9% | 50 |
| Shaw Lake | 15.1% | 40 |
| Pork Barrel Lake | 11.3% | 30 |
| The Oxbrook Lakes | 10.9% | 29 |
| Lombard Lake | 10.9% | 29 |
| Trout Pond | 7.9% | 21 |
| None of them | 0.8% | 2 |
| Other | 8.3% | 22 |
| | answered question: | 265 |
| | skipped question: | 2 |



QUESTION 10

What recreational activities do you enjoy in the Downeast Lakes Region? (please check all that apply)

| Answer Options | Response Percent | Response Count |
|----------------------------|-------------------------|-----------------------|
| Fishing | 81.1% | 215 |
| Wildlife Viewing | 79.6% | 211 |
| Boating | 72.5% | 192 |
| Swimming | 71.3% | 189 |
| Canoeing | 69.4% | 184 |
| Night Sky Viewing | 68.7% | 182 |
| Hiking | 61.1% | 162 |
| Berry Picking | 57.4% | 152 |
| Nature Photography | 55.8% | 148 |
| Kayaking | 51.7% | 137 |
| Camping | 51.3% | 136 |
| Bird Watching | 48.7% | 129 |
| ATVing | 32.5% | 86 |
| Ice Fishing | 32.1% | 85 |
| GLS Folk Art Festival | 29.4% | 78 |
| The Springfield Fair | 27.9% | 74 |
| Hunting | 26.0% | 69 |
| Snowmobiling | 25.7% | 68 |
| Conservation Activities | 23.8% | 63 |
| Shopping | 23.0% | 61 |
| Antiquing | 21.5% | 57 |
| Land Trust Activities | 19.2% | 51 |
| Cross Country Skiing | 17.7% | 47 |
| Mushrooming | 16.2% | 43 |
| Bicycle Touring | 15.8% | 42 |
| Museums | 11.7% | 31 |
| Grand Lake Canoe Race | 10.2% | 27 |
| Painting / Sketching | 7.9% | 21 |
| Native American Activities | 7.5% | 20 |
| Fishing Derbies | 6.4% | 17 |
| Rock Climbing | 5.3% | 14 |
| Visiting Wind Farms | 0.4% | 1 |
| Other (please specify) | 5.7% | 15 |
| answered question: | | 265 |
| skipped question: | | 2 |

* Under "Other" people mentioned enjoying the solitude, dog sledding, backwoods trout fishing, canoe camping with portages and trapping.

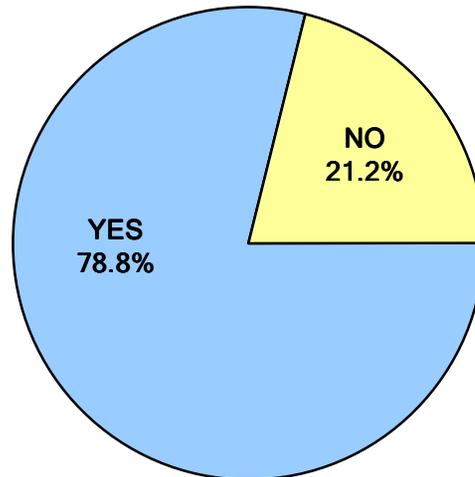


QUESTION 11

Have you ever taken a paddling trip in either a canoe or kayak during which you visited more than one lake?

| Answer Options | Response Percent | Response Count |
|--------------------|------------------|----------------|
| Yes | 78.8% | 208 |
| No | 21.2% | 56 |
| answered question: | | 264 |
| skipped question: | | 3 |

Have you ever taken a paddling trip in either a canoe or kayak during which you visited more than one lake?



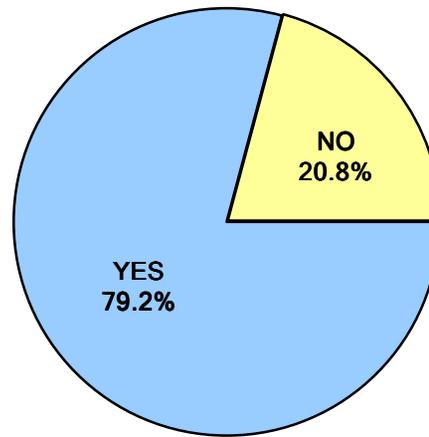


QUESTION 12

Have you ever used (camping, picnicking, shore-lunching, etc.) of any of the primitive campsites available free to the public in the Downeast Lakes?

| Answer Options | Response Percent | Response Count |
|--------------------|------------------|----------------|
| Yes | 79.2% | 209 |
| No | 20.8% | 55 |
| answered question: | | 264 |
| skipped question: | | 3 |

Have you ever used (camping, picnicking, shore-lunching, etc.) any of the primitive campsites available free to the public in the Downeast Lakes?



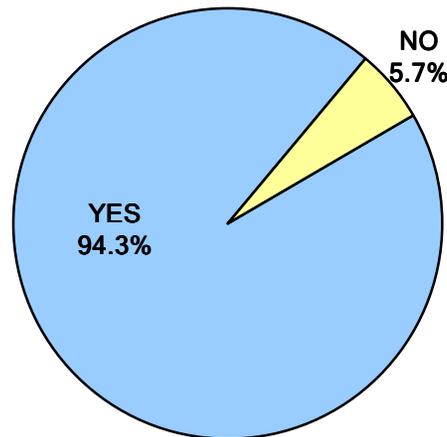


QUESTION 13

Have you ever seen a wind project in person, either in Maine or elsewhere?

| Answer Options | Response Percent | Response Count |
|--------------------|------------------|----------------|
| Yes, I have. | 94.3% | 249 |
| No, I haven't. | 5.7% | 15 |
| answered question: | | 264 |
| skipped question: | | 3 |

Have you ever seen a wind project in person,
either in Maine or elsewhere?





Developer's Simulation -- Pleasant Lake Direction of View: NW



QUESTION 14

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Pleasant Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-----------------------------|---------------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.4% | 1 |
| They have no impact on the Lake's scenic value. | 3.4% | 9 |
| They detract somewhat from the Lake's scenic value. | 5.7% | 15 |
| They detract a great deal from the Lake's scenic value. | 90.2% | 238 |
| answered question: | | 264 |
| skipped question: | | 3 |



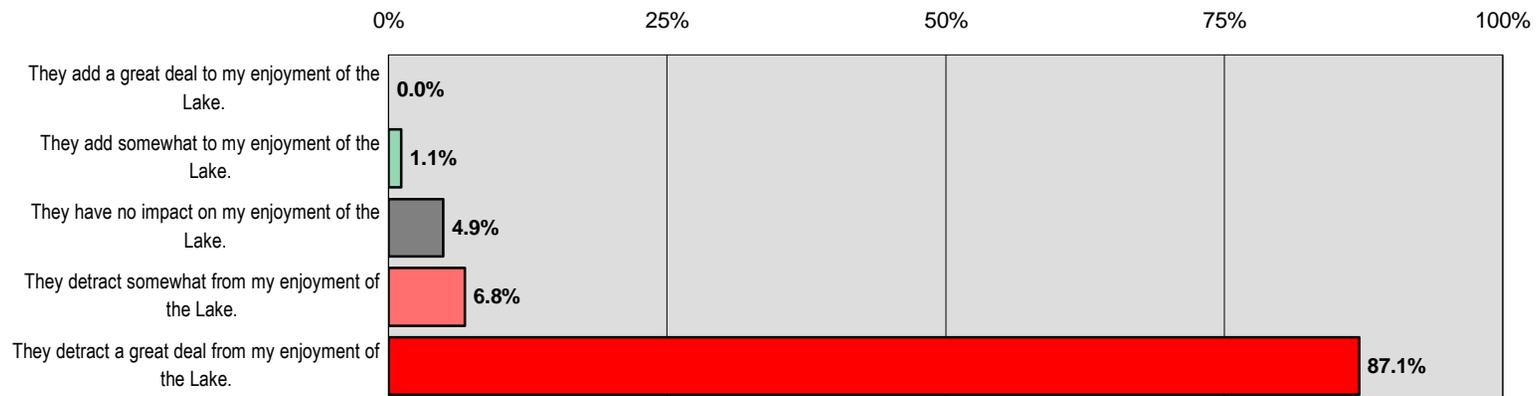
This question refers to the photo simulation of Pleasant Lake on the previous page.

QUESTION 15

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Pleasant Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.0% | 0 |
| They add somewhat to my enjoyment of the Lake. | 1.1% | 3 |
| They have no impact on my enjoyment of the Lake. | 4.9% | 13 |
| They detract somewhat from my enjoyment of the Lake. | 6.8% | 18 |
| They detract a great deal from my enjoyment of the Lake. | 87.1% | 230 |
| answered question: | | 264 |
| skipped question: | | 3 |

How will the presence of wind turbines affect your enjoyment of Pleasant Lake?





Developer's Simulation -- Scraggly Lake Direction of View: NNW



QUESTION 16

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Scraggly Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|---------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.8% | 2 |
| They add somewhat to the Lake's scenic value. | 0.4% | 1 |
| They have no impact on the Lake's scenic value. | 4.2% | 11 |
| They detract somewhat from the Lake's scenic value. | 8.7% | 23 |
| They detract a great deal from the Lake's scenic value. | 86.0% | 227 |
| | answered question: | 264 |
| | skipped question: | 3 |

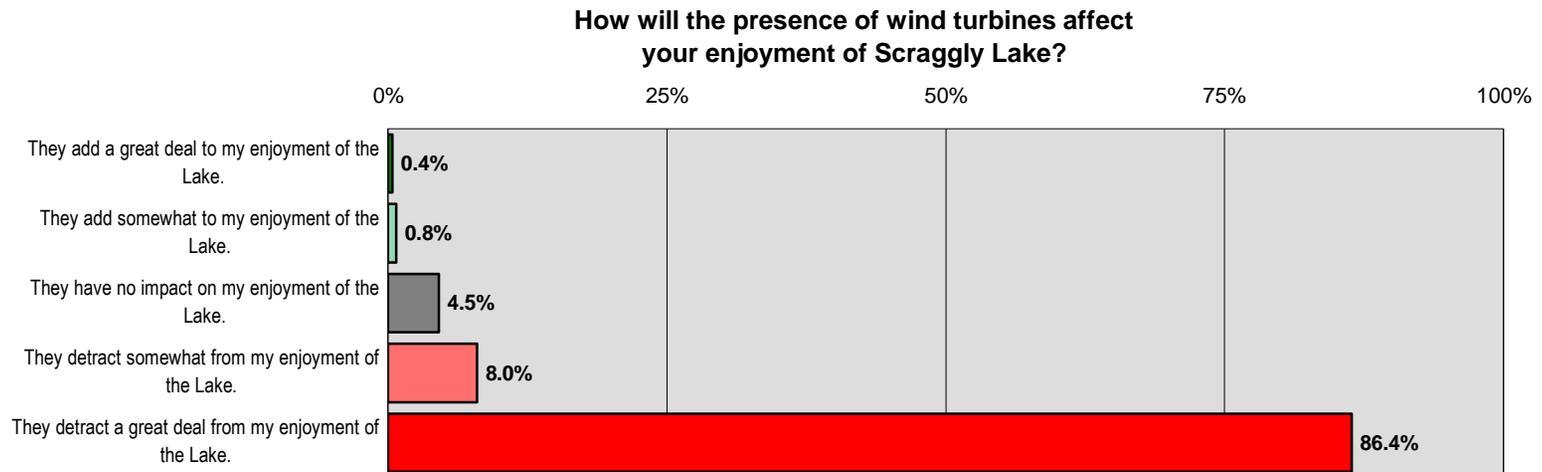


This question refers to the photo simulation of Scraggly Lake on the previous page.

QUESTION 17

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Scraggly Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 0.8% | 2 |
| They have no impact on my enjoyment of the Lake. | 4.5% | 12 |
| They detract somewhat from my enjoyment of the Lake. | 8.0% | 21 |
| They detract a great deal from my enjoyment of the Lake. | 86.4% | 228 |
| answered question: | | 264 |
| skipped question: | | 3 |





Developer's Simulation -- Shaw Lake Direction of View: NNW



QUESTION 18

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Shaw Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.4% | 1 |
| They have no impact on the Lake's scenic value. | 4.5% | 12 |
| They detract somewhat from the Lake's scenic value. | 8.7% | 23 |
| They detract a great deal from the Lake's scenic value. | 86.0% | 227 |
| answered question: | | 264 |
| skipped question: | | 3 |



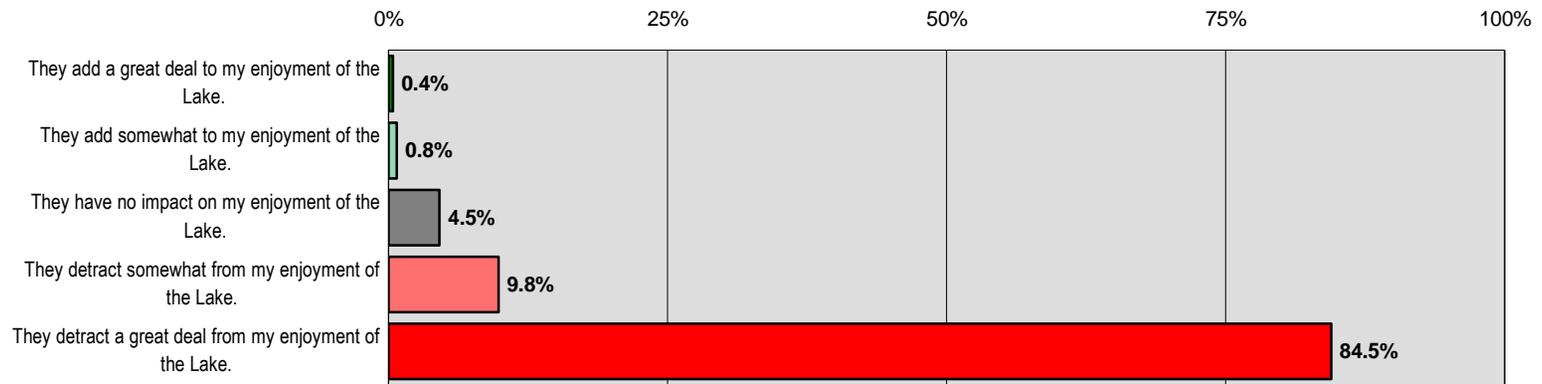
This question refers to the photo simulation of Shaw Lake on the previous page.

QUESTION 19

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Shaw Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 0.8% | 2 |
| They have no impact on my enjoyment of the Lake. | 4.5% | 12 |
| They detract somewhat from my enjoyment of the Lake. | 9.8% | 26 |
| They detract a great deal from my enjoyment of the Lake. | 84.5% | 223 |
| answered question: | | 264 |
| skipped question: | | 3 |

How will the presence of wind turbines affect your enjoyment of Shaw Lake?





Developer's Simulation -- Junior Lake Direction of View: NNE



QUESTION 20

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Junior Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.8% | 2 |
| They have no impact on the Lake's scenic value. | 3.0% | 8 |
| They detract somewhat from the Lake's scenic value. | 4.2% | 11 |
| They detract a great deal from the Lake's scenic value. | 91.7% | 242 |
| answered question: | | 264 |
| skipped question: | | 3 |

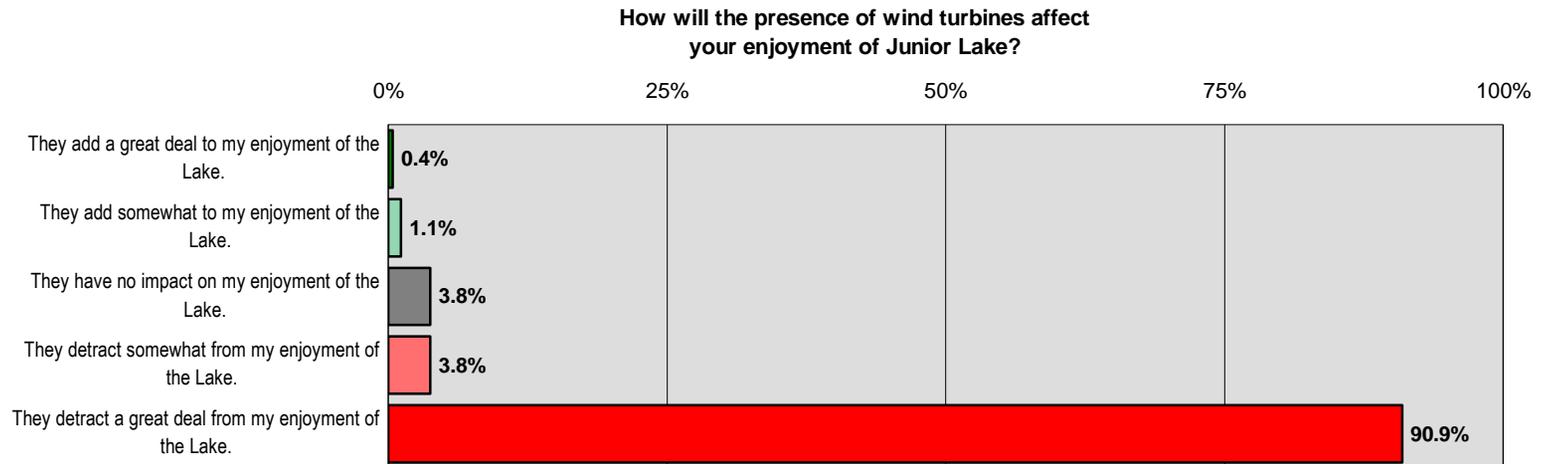


This question refers to the photo simulation of Junior Lake on the previous page.

QUESTION 21

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Junior Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 1.1% | 3 |
| They have no impact on my enjoyment of the Lake. | 3.8% | 10 |
| They detract somewhat from my enjoyment of the Lake. | 3.8% | 10 |
| They detract a great deal from my enjoyment of the Lake. | 90.9% | 240 |
| answered question: | | 264 |
| skipped question: | | 3 |





Developer's Simulation -- Keg Lake Direction of View: NNE



QUESTION 22

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Keg Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.8% | 2 |
| They have no impact on the Lake's scenic value. | 3.0% | 8 |
| They detract somewhat from the Lake's scenic value. | 3.8% | 10 |
| They detract a great deal from the Lake's scenic value. | 92.0% | 243 |
| answered question: | | 264 |
| skipped question: | | 3 |



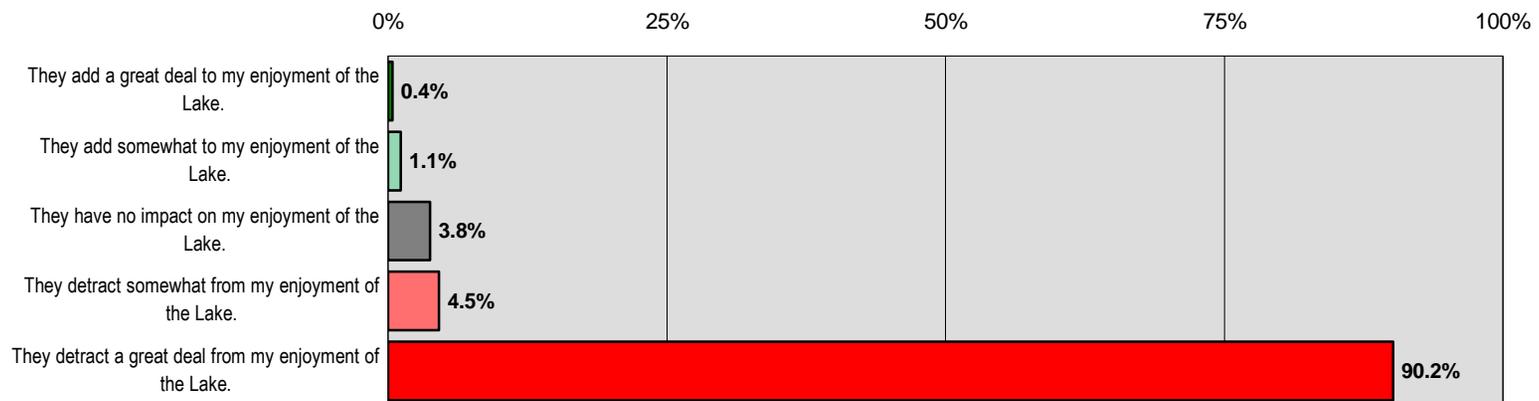
This question refers to the photo simulation of Keg Lake on the previous page.

QUESTION 23

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Keg Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 1.1% | 3 |
| They have no impact on my enjoyment of the Lake. | 3.8% | 10 |
| They detract somewhat from my enjoyment of the Lake. | 4.5% | 12 |
| They detract a great deal from my enjoyment of the Lake. | 90.2% | 238 |
| answered question: | | 264 |
| skipped question: | | 3 |

How will the presence of wind turbines affect your enjoyment of Keg Lake?





Developer's Simulation -- Duck Lake Direction of View: NE



QUESTION 24

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Duck Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.8% | 2 |
| They have no impact on the Lake's scenic value. | 4.2% | 11 |
| They detract somewhat from the Lake's scenic value. | 17.8% | 47 |
| They detract a great deal from the Lake's scenic value. | 76.9% | 203 |
| answered question: | | 264 |
| skipped question: | | 3 |



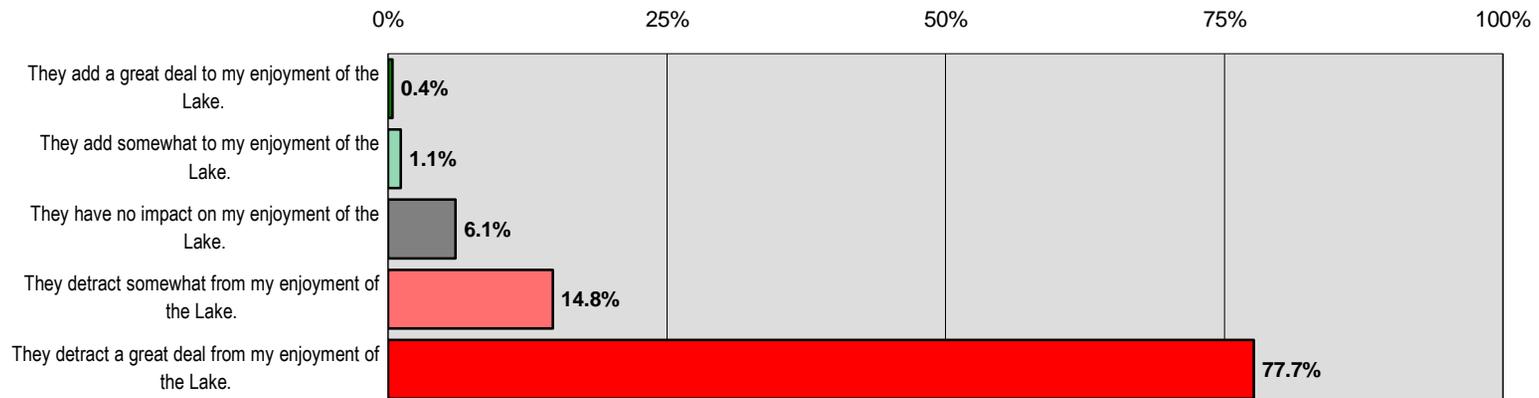
This question refers to the photo simulation of Duck Lake on the previous page.

QUESTION 25

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Duck Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 1.1% | 3 |
| They have no impact on my enjoyment of the Lake. | 6.1% | 16 |
| They detract somewhat from my enjoyment of the Lake. | 14.8% | 39 |
| They detract a great deal from my enjoyment of the Lake. | 77.7% | 205 |
| answered question: | | 264 |
| skipped question: | | 3 |

How will the presence of wind turbines affect your enjoyment of Duck Lake?





Developer's Simulation -- Sysladobsis Lake Direction of View: NNE



QUESTION 26

Based on this simulated photo, how would you characterize the impact the wind turbines have on the scenic value of Sysladobsis Lake?

| Answer Options | Response Percent | Response Count |
|---------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to the Lake's scenic value. | 0.4% | 1 |
| They add somewhat to the Lake's scenic value. | 0.8% | 2 |
| They have no impact on the Lake's scenic value. | 3.4% | 9 |
| They detract somewhat from the Lake's scenic value. | 10.2% | 27 |
| They detract a great deal from the Lake's scenic value. | 85.2% | 225 |
| answered question: | | 264 |
| skipped question: | | 3 |



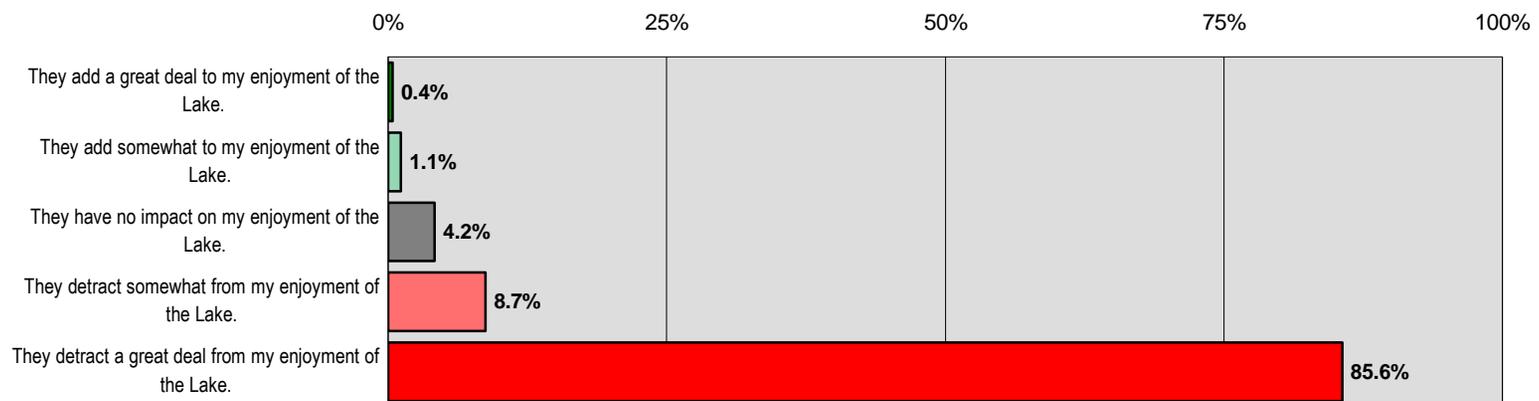
This question refers to the photo simulation of Sysladobsis Lake on the previous page.

QUESTION 27

Imagine yourself paddling, snowmobiling, fishing or camping on this Lake both before and after the Bowers Mountain Wind project is built. How does the presence of wind turbines affect your enjoyment of Sysladobsis Lake?

| Answer Options | Response Percent | Response Count |
|----------------------------------------------------------|-------------------------|-----------------------|
| They add a great deal to my enjoyment of the Lake. | 0.4% | 1 |
| They add somewhat to my enjoyment of the Lake. | 1.1% | 3 |
| They have no impact on my enjoyment of the Lake. | 4.2% | 11 |
| They detract somewhat from my enjoyment of the Lake. | 8.7% | 23 |
| They detract a great deal from my enjoyment of the Lake. | 85.6% | 226 |
| answered question: | | 264 |
| skipped question: | | 3 |

How will the presence of wind turbines affect your enjoyment of Sysladobsis Lake?





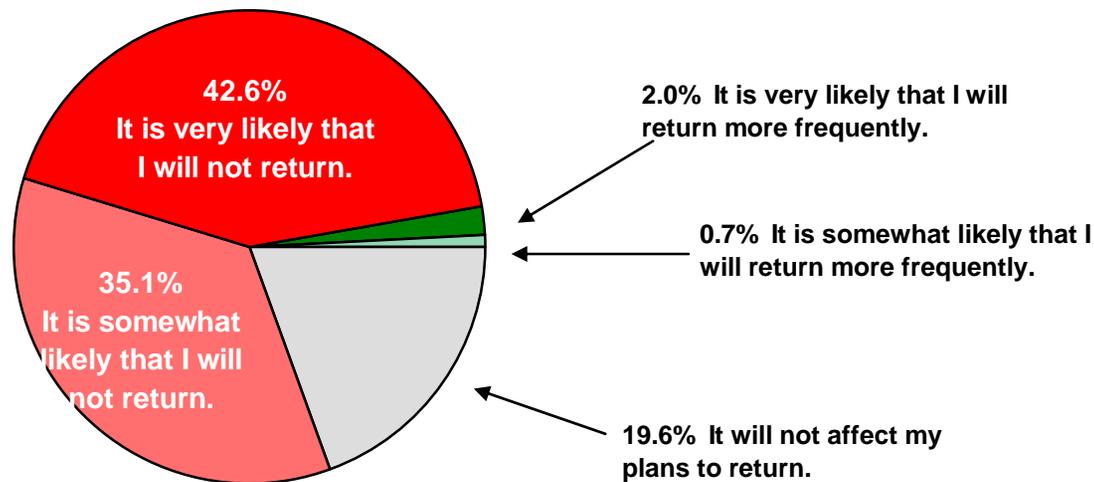
QUESTION 28

(asked of visitors only)

As a visitor to the Downeast Lakes Region, how will the presence of the Bowers Mountain Wind project affect the likelihood of your returning to the Region to recreate?

| Answer Options | Response Percent | Response Count |
|-----------------------------------------------------------------|------------------|----------------|
| It is very likely that I <u>will</u> return more frequently. | 2.0% | 3 |
| It is somewhat likely that I <u>will</u> return more frequently | 0.7% | 1 |
| It will not affect my plans to return. | 19.6% | 29 |
| It is somewhat likely that I <u>will not</u> return. | 35.1% | 52 |
| It is very likely that I <u>will not</u> return. | 42.6% | 63 |
| answered question: | | 148 |
| skipped question: | | 3 |

As a visitor to the Downeast Lakes Region, how will the presence of the Bowers Mountain Wind project affect the likelihood of your returning to the Region to recreate?





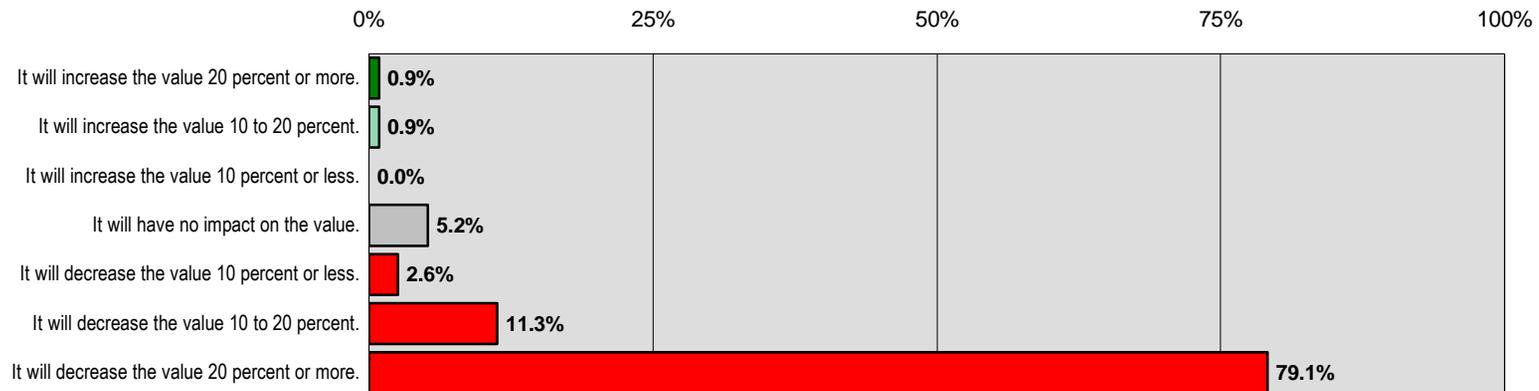
QUESTION 29

(asked of property owners only)

As a property owner in the Downeast Lakes Region, how do you expect the presence of the Bowers Mountain Wind project will affect the value of your property?

| Answer Options | Response Percent | Response Count |
|------------------------------------------------|------------------|----------------|
| It will increase the value 20 percent or more. | 0.9% | 1 |
| It will increase the value 10 to 20 percent. | 0.9% | 1 |
| It will increase the value 10 percent or less. | 0.0% | 0 |
| It will have no impact on the value. | 5.2% | 6 |
| It will decrease the value 10 percent or less. | 2.6% | 3 |
| It will decrease the value 10 to 20 percent. | 11.3% | 13 |
| It will decrease the value 20 percent or more. | 79.1% | 91 |
| answered question: | | 115 |
| skipped question: | | 0 |

As a property owner in the Downeast Lakes Region, how do you expect the presence of the Bowers Mountain Wind project will affect the value of your property?





QUESTION 30

You've reached the end of the survey. Thank you for your time. If you have any comments you'd like to share, please enter them here:

| | Response Count |
|-------------------|----------------|
| answered question | 188 |
| skipped question | 79 |

Following are all the comments received from respondents. None have been omitted. They have not been edited or changed in any way.

After years of not traveling to Maine because of the distance, I went and fell in love with the pristine wilderness of it. What a sin it would be to mar the beauty of these lakes.

A.V., Camden, CT

Maine is known for it's natural scenic beauty, it should not be jeopardized for many reasons but most especially for wind turbines that have not proved effectual and/or cost effective in other installations.

J.O., Carroll Plt, ME

Please stop First Wind and their windfarm from destroying the downeast lakes.

D.W., Carroll Plt, ME

While I'm not opposed to wind power in general, placing large turbines in this region will surely detract from its scenic beauty and make it much less attractive as a recreational destination.

M.P., Somerville, MA

The Downeast Lakes region is one of the most beautiful places we have ever visited and a place that represents not only one of the last sites in northern United States to experience nature's glorious bounty but is also the signature calling card of the great state of Maine. The "natural state" found in the Downeast Lakes region with majestic ecosystems combining land, trees, water, wildlife, into vistas that are breathtaking are unique, very important ecologically to both Maine and to the nation at large and are rapidly disappearing across the United States. A visit to the Downeast Lakes region gave us the golden opportunity to introduce this unspoiled nature to our son and provided a restful escape from the uncivilized barrage of everyday life like no other trip we have ever taken. Any intrusion by this or any other wind turbine project (regardless of claims of energy benefit which we do not believe to be true) into this incredibly wondrous area would be a crime to nature and humanity that cannot be allowed to proceed, lest another one of our nation's national (and natural) treasures be lost forever to today's and future generations.

S.W., Brooklyn, NY

Are you kidding me? Aren't there better places you can put windmills where it's already developed? This area is too beautiful to be scarred with windmills!

M.G. Colorado Springs, CO

In Texas we have wind farms (Abilene, Permian Basin, South Texas) that cover thousands of acres, which include hundreds of turbines on each project. It's one thing to see them out on the prairie, where there's no one to disturb but cattle; but in some of the most scenic countryside in America? I'm generally a big supporter of wind power and have worked on several large projects in Texas, but the lakes of Maine are NOT the proper place for these. Face it - breathtaking scenery is the greatest asset Maine has. Don't mess it up!

D.R., McKinney, TX

There will be prettier places to visit if these turbines are put up, and that's where we will go. We like to vacation in a pristine natural setting and so far Downeast Lakes area has provided me and my family with that experience.

S.F., Ellsworth, ME

First Wind needs to be prevented from destroying the Downeast Lakes Watershed!

L.W., Carroll Plt, ME

Each year a group of us lug our canoes and camping gear these lakes. We love the feeling of getting away from civilization, the wildness and the wildlife. Canoeing and camping from island to island, lake to lake, without a schedule is incredibly wonderful. I'm from New Hampshire and we don't have anything like this. If someone can build a windfarm here, then where will we go for this kind of experience? I'm all for renewable energy but we have to draw the line somewhere!

T.N., Manchester, NH

I camp on the islands in Junior and Scraggly with friends. I work construction and I worked on a windfarm in NY. We need the jobs but I don't think these lakes are the right place.

John Doe, ME

My family will probably continue to visit Maine. We love it. We like the feeling of unspoiled wilderness. I want my three daughters to learn to appreciate wilderness. We're from Colorado where we have some of that but almost everywhere you look there are signs of man. Maine is a very special place and I hope you understand how lucky you are that you haven't developed every last inch of it. I support a diversified portfolio of energy sources but I also recognize that there are places that simply ought not be developed. It's the untouched scenery that makes it special. Please don't destroy that. Build the windfarms closer to the population centers that consume the energy. These places already have industrial development.

T.G., Colorado Springs, CO

The visual intrusion of wind turbines/towers upon the Maine landscape is horrendous, as it is in any natural landscape.- spoken as a Landscape Architect just returned from Hawaii where I saw wind towers on beautiful tropical islands. And, from an electrical production standpoint, they are ridiculous, not economical, not useful, don't fit the grid, etc.

D.W., Tolland, CT

I (we) came for nature, not industry. If I wanted to see windmills, I could have stayed in Boston. If they would produce a lot of reliable electricity - used right here - one would have to reconsider. But they don't! The only means of survival in that area is nature tourism. This no longer exists in the southern part of the state. Let us protect it, not destroy it!

G.E., Lincoln, ME

The main reason I go to that area is because I can canoe and fish several lakes without hardly seeing any signs of people. I used to fish on Folsom and Upper Pond in Lincoln, but now they are ruined with windmills. Pretty soon there won't be anywhere you can go to get away from them. PLEASE do the right thing and prohibit windmills from this rare and beautiful lake area.

R.T., Bangor, ME

Putting windmills in the proposed areas is sheer insanity. They will destroy the scenic beauty of the lakes and have a negative effect on the economy of the area.

R.B., Waldoboro, ME

When we visit there is nothing so amazing as to sit in total darkness and stare up at the stars. It is so unaffected by artificial light and you can almost touch the stars. These structures are a blight on the natural landscape and should not be considered in these lake regions. It will affect the tourist trade and thus money spent in the region.

M.R., Suwanee, GA

It's possible I would return but certainly not as often. I would try to find somewhere else that is unspoiled I believe in wind. I do not believe it belongs on ridgetops next to a spectacular public resource. Junior, Keg, Scraggly and Keg in particular are such gems. If these turbines go up, I might as well go paddle in Boston harbor. Lakeville will no longer be an escape from the world. It will be an industrial landscape. And for what? temporary jobs? These lakes are a resource that should be preserved for future generations.

J.D., Augusta, ME

The effect of the simulated turbine photos indicate a FAR MORE detrimental impact than I ever imagined! PLEASE protect this valuable recreational asset for all people who seek a retreat into Gods Country!

D.M., Orono, ME

I can't believe that picture of Scraggly Lake with the turbines. It's ugly! The whole reason I go there is because it's so peaceful and wild. It seems there are windmills popping up everywhere but I absolutely can't believe anyone would put them up on the mountains around these lakes. It is the height of selfishness.

K.W. Groton, MA

It would be a tragedy to change the scenic beauty of this area with wind turbines. This whole area depends upon its unique, pristine beauty to attract people who want to enjoy life in a much simpler way. What a huge loss if these turbines are installed and we lose the most magnificent night sky and will undoubtedly lose countless other visitors who will travel to other areas because this area will be marred by these turbines.

M.G., Manchester, MA

The towers are completely out of place in the context of this near wilderness area.

N.A. Marietta, GA

When fishing and relaxing, I want to be on a pristine lake with beautiful views as much as possible. I do not want to see industrial windmills in my views of the lake. I will definitely go elsewhere in the United States if the view is destroyed by commercial windmills.

B.L., Weston, ME

I have enjoyed this area from the first time I attended a wilderness canoeing camp there in the early 60s. The wilderness that is there has become part of my being and I have sent the children of many of my friends as well as my own daughter to the camp and to that area to affect their ontology and their environmental ethic. One of the unique aspects of this place is that one feels like one is surrounded by what is left of wilderness with none of the trappings and encumberments of our modern electronic society. I have led trips of young people through the woods for weeks in this area where they experienced their lives in a state of simplicity. Looming wind turbines will destroy that wilderness experience, that immersion experience.

L.F., Dix Hills, NY

I like to visit places that provide me with an experience of unspoiled nature. Downeast Lakes area is one place that still affords this opportunity to me and to my friends and family who live elsewhere and vacation here. It is our destination of choice! Downeast Lakes region is a jewel and should not be despoiled by these industrial turbines. It is hard to believe that this extensive wind installation is even being considered for this wild place.

P.J., Eastbrook, ME

The ability to visit rural areas like the Downeast Lakes Region is very important. People need to be able to get away from areas that are industrialized in order to recreate, relax, and re-charge their spirits before they return to their hectic work lives. The presence of wind turbines only serves to "industrialize" the Downeast Lakes - the very thing visitors are trying to get away from. If I knew that this project were going to be built, I would never return, but seek solace in other areas of the state. These wind turbines are the largest industrial machines we have on our planet. They have no business being located in pristine wilderness areas.

G.P. Holden, ME

I am the Executive Director of a not for profit wilderness canoe trip camp for children that depends on the wilderness scenic value of these lakes to attract clients from all over the US and the world. The construction of the Bowers Mountain would irreparably damage our ability to sustain our operations in the area and to continue to offer the recreational and educational services we provide. This in turn would have a significant economic impact on the many local vendors and business upon whom we depend.

A.B., Boones Mill, VA

I am a Passamaquoddy Tribal member and believe that we should take care of Mother Earth and not exploit it for greed and saying it is best for the environment because it is not best for the environment. If you take a realistic look at wind power there are far more environmental damages done than getting a few cents worth of electricity by greedy wind developers who use us to foot the bill in many ways.

B.A., Pleasant Point, ME

Putting towers on Bowers Mtn & Dill Hill will take away the feeling of wilderness/ isolation on the lake. Yes there are houses on the shores - but at least in Junior lake- most are 150 ft from the shore line and not obtrusive. Some of the older houses on the other lakes are closer;; most grandfathered in --- and still allow for a rustic/ camp like feel when boating, skiing or snowmobiling on the lakes. The day time impact is bad enough - worse yet - is the impact those FLASHING RED LIGHTS will have on the skies at night. There are few places in the NE where the absence of light pollution from nearby cities allows for such dark skies and such great enjoyment of the night sky. The flashing red lights would not only be distracting but would also take away from the opportunity to sit back in your boat, or on the ice, and enjoy such a spectacular display of stars, planets and meteors.

T.A., Mineral Bluff, GA

I visit friends on Sysiladosis Lake. If they move I won't be returning. If they stay, I probably will keep visiting even though one thing I love about that lake is you can't see any development.

K.V., Oak Hill, VA

I would stop visiting this area and go elsewhere if I had to view these turbines.

M.A., Orono, ME

I go to the woods and lakes Down East for an experience in the wild, to leave industrialization and commerce behind for awhile, and to connect with nature. Being surrounded with windmills is more like a trip to a theme park than to natural wild lands. I will go to where the wild lands are with minimal development and will spend my time and money there. Put windmills elsewhere.... like off shore.

K.C., Fairfield, ME

We would consider selling our property if the Bowers Project goes through. It would be very detrimental to the region.

G&T.C., Raymond, ME

I personally enjoy the area, I also work seasonally at a wilderness trip and canoe camp and this will put an end to my visiting and any chances that anyone would want to come to the area to enjoy its pleasant nature. It should be a crime to even consider this.

B.K., Bangor, ME

What I seek as a getaway is a pristine environment where nature dominates the skyline and shoreline.

P.R., Lewiston, ME

I have spent the last 24 years enjoying the beautiful scenery and wildlife that Duck Lake has to offer. If all of these wind turbines are built I will NOT enjoy my time on Duck Lake.

K.L., Portland, ME

I know no one likes change and the sight of turbines does make a change to the landscape in the area. Something must be done to create energy though. In the "big picture" I'm not quite sure how much this will hurt the area. I have been coming to the GLS area since 1964 and it has changed a lot in that time. To me, it's not an easy choice, knowing we need clean energy that is renewable and knowing it will be seen for miles around. I don't think the environmental impact will be much after the roads are in (look at how logging has made so many roads). I believe it's the matter of it not looking as it has in the past that has so many people against it.

B.H., Mohnton, PA

Industrial wind development has little value and great consequences to existing businesses and recreationists. It adds no value to Maine and destroys some of our greatest resources.

D.R., Cushing, ME

The damage to wildlife, cold water sources, and the habitat is tremendous and uncalled for. Maine does not need any of the power generated, We currently produce more power than we need, the excess is shipped out of state. So my question to you is "why should what God has created be defaced and ruined forever?". This area as well as the western mountain region of Maine is the last stronghold in the eastern United States of large forestland. It is unacceptable that it be destroyed because of some politically connected individuals greed and at a great loss of tax dollars that we don't have. Much of this is driven by organizations, people, and cooperation's from out side of this country. The adverse affects to nature and our precious resources are horrific. The bottom line is that the destruction of Maine's natural resources for this bogus scam is sickening.

D.M., Lexington, ME

This project will destroy the character of this region that is so cherished by those who live and visit here. Allowing this monstrosity to be built is contrary to the values that the public holds dear for places as special as this. It will demoralize the locals and collapse a fragile economy.

D.D., Chandler, AZ

People who visit this Downeast Region are in awe of it's beauty and can't imagine what it's like for us to actually live here and make our living here. As Town Clerk/Tax Collector, I enjoy getting phone calls from camp owners and chatting about the weather or what fish are biting or, most recently, the condition of the newly paved road to our little village. Windmills would mar the beauty and simplicity of this piece of paradise.

J.T., Grand Lake Stream, ME

One of the greatest spots in Maine for recreation, getting away from technology, industry, etc. This must be saved! Fishermen do care for views! Fishing is not equal to catching fish! It is zen! It is to feel nature, to become part of nature. I don't want to become part of an industrial complex!

R.E., Lincoln, ME

If the wind project is permitted then I and my family will vacation elsewhere so we can still enjoy the solitude and natural untarnished beauty that nature has to offer.

M.M., Middletown, CT

Industrial wind turbines have no place along the amazing, unprecedented and pristine mountainous landscapes that we know of anywhere in Maine, or near lakes and watersheds especially as scenically beautiful, unique, and historical as these landscapes presently are in their natural state. Every simulated photo in this survey made me want to cry. Thank you.

K.B., Salem Twp, ME

The wind turbines that have already been built, such as Stetson Mountain, completely ruin the sense of wilderness that this part of Maine used to have, They make what was a wild fishing OR HUNTING experience feel like recreation next to an urban power plant. And the destruction to wildlife habitat is unforgivable, since this does absolutely NOTHING to reduce our dependence on foreign oil. It attacks everything required for deer, birds, black bears. And the negative affect on people's health from the noise and shadow flicker is well documented. WIND POWER IS A HUGE MISTAKE FOR MAINE.

J.G., Lakeville, ME

I hear regularly from folks from out of state who are considering vacationing or retiring in Maine. The one question that the constantly ask is: What the hell is going on up in Maine with wind turbines? If the madness does not stop, they tell me that they will not be visiting or retiring in Maine!

J.T., Montville, ME

When we fish, we like to start on Junior and move into Pocumcus and down into West Grand, sometimes from Junior into Scraggly. That also makes for a great canoe paddle and the campsites (forest service) are a welcome rest stop along the way. This area is like the North Woods without the long travel time. It needs to be preserved and not trashed by the windsprawl industry.

M.D., Lincoln, ME

Please do not destroy the natural beauty of the area.

R.B., Middletown, CT

This wind project will destroy my enjoyment of these lakes. I will no longer visit this area because of the wind turbines. I will no longer need to employ local tradespeople to work on my property, guides to help me fish nor will I purchase groceries, gas, meals from local stores and restaurants. I travel half way across the United States to enjoy pristine beauty of this chain of lakes, spending days to drive. Eleven months waiting for vacation to come. I come for one reason. Natural, unspoiled beauty. Eagles circling above my head, a diamond mine of stars in the night, fishing and wondering what is over the next hillside. The Bowers project will destroy all of this.

T.D., Manhattan, KS

I used to hunt deer on Stetson Mountain where turbine 32 now sits. Since the completion of the Stetson project, I have seen a total of one deer, three moose, and less than ten grouse. This used to be a hunters paradise. Now it is a barren wasteland. I, for the life of me, cannot understand how these people call themselves "stewards of the land". I have a friend with a camp on the Stud Mill Road near Clifford Lake. When the pipeline went through there, the DEP and EPA rode herd every inch of the way. Wetlands were protected and when the project was done, you could not find so much as a cigarette butt or gum wrapper left behind. The area was replanted and returned to natural usage. All First Wind has done is to strip cut Stetson Mountain and create an environmental disaster with the transmission lines. They need to be stopped, or at least get the same environmental scrutiny applied to other utilities and projects.

M.A., Hallowell, ME

We have seen these turbines in the mountains of PA. It offers a very erie feeling, (so much that we had to find a campsite out of view), and greatly takes away from the NATURAL scenery that we seek out. This would be a great disappointment to the beautiful views of the area, that we have been visiting for over 50 years!

B.C., Douglassville, PA

I understand and support the need for alternate energy development, but I can't understand why this project is even being given serious consideration given it's impact on one of our most precious natural resources.

R.C., Summerfield, FL

When a pristine view is interrupted by one or twenty seven structures it is no longer pristine. When this view exist from an area as large as the Downeast lakes watershed to alter to eliminate it is unthinkable. To eliminate this view for a project as unsound and misrepresented as the Bowers MT project, is a crime.

W.M., Veazie, ME

Please do not build these...they GREATLY detract from the scenic beauty of the area. We will not vacation in this area if these are built.

C.M., Atlanta, GA

After years of not traveling to Maine because of the distance, I went and fell in love with the pristine wilderness of it. What a sin it would be to mar the beauty of the lakes.

A.J., Hamden, CT

My husband, son and I were lucky enough to have visited Junior Lake in the Downeast Lakes Region during the past two years, spending time with wonderful friends who introduced us to the area. The Downeast Lakes region is one of the most beautiful places we have ever visited and a place that represents not only one of the last sites in northern United States to experience nature's glorious bounty but is also the signature calling card of the great state of Maine. The "natural state" found in the Downeast Lakes region with majestic ecosystems combining land, trees, water, wildlife, into vistas that are breathtaking are unique, very important ecologically to both Maine and to the nation at large and are rapidly disappearing across the United States. A visit to the Downeast Lakes region gave us the golden opportunity to introduce this unspoiled nature to our son and provided a restful escape from the uncivilized barrage of everyday life like no other trip we have ever taken. Any intrusion by this or any other wind turbine project (regardless of claims of energy benefit which we do not believe to be true) into this incredibly wondrous area would be a crime to nature and humanity that cannot be allowed to proceed, lest another one of our nation's national (and natural) treasures be lost forever to today's and future generations.

S.W., Brooklyn, NY

We have visitors from all over the U.S. They come to the Downeast Lakes to get AWAY from industrial development. They come back year after year because they know they will find total escape from development here. These turbines would ruin the 'wilderness feel' of the lake chain and would severely damage the tourist industry and the enjoyment of these special and highly-rated lakes.

K.C., Hingham, MA

We have first hand knowledge of our property value already decreasing due to the proposal of the wind turbine project. Our property is on the Brown Road, directly across from the Moose Road. We listed the property for sale last August and the sale price which was more than a reasonable however with zero interest we took it off the market in December. The realtor told us we cannot expect to get any return on our investment at this time due the pending nature of this project and if authorized expect to have our land value go down even more.

C.T., Gardiner, ME

We bought property on Keg Lake 27 years ago specifically to enjoy the overwhelming scenic beauty, the pitch black nights for star gazing, the feeling of going back in time to the days when Native Americans gently used this land. We feel rejuvenated every time we go for a long paddle in our kayaks, every morning as we watch the loons, eagles, ducks and hummingbirds from our porch sipping that first cup of coffee, the rainy days spent reading, the evenings by the campfires. We DO NOT want to feel invaded by huge wind towers marching across the ridgeline, flashing lights at us at night. We bring visitors to our camp every summer and none of them want to see the wind towers either. Both sets of parents camped, fished, boated and hunted on these lakes. They would be appalled by this proposal. There are so many other better, more viable, less destructive forms of energy available. Why destroy the beauty of this wilderness with a technology that's already becoming outdated, has an efficiency rate of less than 25%, harms birds and bats, destroys wetlands (in order to be built), etc. And when the monetary incentives for this form of energy dries up and the wind companies have greedily sucked every last cent, they will close their doors, go out of business and leave a man-made mess rotting on our pristine landscape. Please do not let this happen!

K.P., Vernon, CT

Each wind turbine has a blinking red light on top. They light up the sky with chaos as they all blink at different intervals. It's almost maddening. I am against the wind farms in the state of Maine.

Z.R., McKinney, TX

I am against the wind farms in the state of Maine.

D.N., Camden, ME

The proposed wind towers would be an unforgiveable deformation of a scenic beauty that could never be replaced.

B.P., Vernon, CT

Stop the wind farms!

D.B., Middletown, CT

A local real estate agent suggested that the real estate values will be negatively impacted by at LEAST 15%. My neighbor had people who would not make an offer on his home unless this project was voted down. The buyers are looking elsewhere. At the present rate of wind expansion there will be nowhere in this area to go without a view of wind towers.

M.F., Naples, FL

wind power should be junked because it is junk and does not nor ever will benefit the people of maine. all it does is detract from and ruin our beautiful state.

J.D., Abbot, ME

These industrial sites are not compatible with tourism and nearly any outdoor experience.

N.K., Carrying Place Town Twp, ME

Nature does not include Wind Turbines. I love the natural values of the DownEast area and I would not like to see it spoiled. I am willing to pay more for my electricity so that I can enjoy "Life the way it should be", in Maine.

V.B., Lexington, ME

I am not in favor of wind turbines.

H.W., Horsham, PA

My family has lived in Maine for generations, and to me it is very demoralizing that we now cannot rely on the officials we have entrusted to protect our beautiful state to do their jobs. Maine people have, for the most part, been careful stewards of our priceless resources. It is unconscionable that a few people on the LURC commission can forever ruin what many many people have cherished all their lives. I know my family and many others who's lives revolve around their trips into the wilds of Maine. It makes me sick at heart and very angry that the hard working people of Maine are rendered virtually helpless to save this state from senseless exploitation. Contrary to what First Wind and Champlain say, these lakes ARE very special. Many of us who dare to find out the truth, know that these wind projects are not cost effective business propositions. You would not find investors if the state was not taking taxpayers money and using it as start-up money for these projects. I can only hope that the LURC commissioners will find the courage to do their job and uphold the Recreational, Scenic and Water Resources Standards of the Comprehensive Plan and not cave in to powerful interests that only want to exploit us.

R.E., Cushing, ME

PUT THEM OFFSHORE (BEYOND THE 3 MILE LIMIT!)

R.D., Tarrytown, NY

It's not just the sight of the wind mills, it's the destruction of the land that will never be able to return to it's natural self after the towers are decommissioned or just not maintained after the companies have used up all the tax payers money and they have made their profits from us. Our electric bills will continue to rise, for the power goes out of state.

R.H., Fairfield, ME

I worry about the noise as well as the view. They appear to be very close to the shores of the lakes so I suspect the thumping noise (yes, I've experienced it) will carry further over the water. I think there must be better places to build a windfarm. This area is so beautiful as it is.

W.C., Novato, CA

It is interesting that the government is talking about stopping the tax incentives for these wind projects. There will be a rush to complete as many as possible in the 2012 year and then what? There is little data to show the life expectancy of these behemoth structures and so far the electricity produced is not enough to warrant the scarring of the beautiful environment in which they would be placed. The consumers of the electricity would not be the people impacted by these structures.

D.S., Glenview, IL

This is definitely not a good place to build this industrial energy project. It doesn't fit with the landscape at all.

M.G., Lakeville, ME

I am not against anything that will produce power but these turbines destroy the look of the landscape. Liberals and people who love green energy are very hypocritical. Just because this is green energy doesn't mean it doesn't destroy the natural beauty of the area. These wind turbines are ugly. They absolutely destroy the natural beauty of this part of Maine. I don't come here to look at wind mills. Try putting an oil rig or a natural gas well on these locations if the resource was available. Every liberal on earth would be having heart attacks. Try putting a wind mill in front of the Kennedy compound in Hyannis. You'll see hypocrisy at its worst.

J.D., Cape Coral, FL

Short term benefit should not replace long term injury. Maine is unique. Every effort should be made to insure that such status is appreciated and preserved.

R.L., Hendersonville, NC

All projects must be maintained by local dollars. They do not produce enough to carry costs. They become a burden to the community.

P.P., Forest City Twp, ME

LEAVE THE NATURAL LOOK THE WAY IT IS..THAT IS ONE OF THE REASONS I LOVE MAINE.

R.W., Wappingers Falls, NY

Honestly, how can anyone look at those photos and not think it doesn't detract from the view and scenery and the whole experience, Geeze!
S.W., Ramsay, MN

I prefer cheap energy for everyone..... to 'scenic beauty' for the priviledged.
H.B., Gloucester, MA

PLEASE DO NOT SPOIL THE PRISTINE BEAUTY OF THE
DOWNEAST LAKES WATERSHED WITH WIND TURBINES!
S.G., Tuxedo, NY

I do not come to this region of Maine to view wind farms. I have come here with my family since 1972 first and foremost to experience the unspoiled lands and waters and vistas that do not have industrial development right in a setting where it most certainly does not belong. I come here to escape that very thing, as do the folks who also come to spend time with me for fishing and hunting.
J.G., Forest City, ME

These wind turbines are a total farse and in 25 years time the only one to benefit from them will be the original ones that built them and the folks that made money off from them. It is a total shame that the uneducated folks in the area don't put a stop to this RIGHT NOW!
E.B., Brookton, ME

In no way do the wind towers enhance the beauty and pristine qualities of this beautiful area. These wind towers disparage much of the work done over several years by the Downeast Land Trust.
W.B., Forest City, ME

The intrusion of turbines in this pristine region is an insult to its residents, the visitors who spend hard earned recreational dollars to get away from their already transformed congested and over built urban environment will come no more, and the very pristine nature of this County will be impacted forever.
A.W., Forest City, ME

I have fished these lakes for many years and wind mills have no place along the sky line.....The natural beauty of this area is its greatest asset and this project will only ruin this for future generations to come.
S.W., Lunenburg, MA

This is special country, because it shows little evidence of humanity. The wind project suggests one is near Boston. That is not why people come to the north Maine woods.
D.W., Forest City, ME

Don't mess up a great natural place for hunting and fishing.
G.L., Ellsworth, ME

This system, if installed, will significantly and adversely effect human visual enjoyment of the area. An impact of such massive impact should be permitted only if there is a valid need and only if it meets the strictest criteria. The actual, not the theoretical, yield of KWH must be used in the value estimation. The actual value for KWH generation must be based on the yield of existing turbine projects in the region. Liability for remediation of environmental impact must be accepted in perpetuity and in writing by the turbine manufacturer(s), installer(s), or operator(s). In addition, an environmental impact statement from the petitioner must be independently reviewed and conclude that timber cutting, erosion and other turbine-related activities which are known to diminish high value habitats and kill wildlife, e.g. trout streams, nesting/breeding areas, migratory flyways, raptor habitat and behaviors, etc. will have a de minimis impact. If these criteria are not met then the proposed project should be rejected.
R.C., Lansdale, PA

Find other areas in the state for wind farms. We have them in Texas, but they are sited on the plains, not in areas dependent on tourist dollars. Leave Maine wild, please!!
R.C., Austin, TX

We go to the lake for peace and quiet so we can enjoy the unmarred beauty of the area. If we have to look at these it detracts greatly from the scenery as our place faces them.
R.W., Gorham, ME

Over the years I have seen several examples of these hideous wind farms: they dot the plains of central Illinois, they mar the horizon off the coast of Denmark near Copenhagen. They whirl and emit stroboscopic red flashes in the breadbasket of Austria. Among the early adopters, many European nations are now abandoning or scaling back these projects as ugly eyesores, which are net negative in terms of energy output as compared to the energy needed to construct, maintain, then decommission obsolete towers over their lifespans. No benefit inures to the citizens of Washington County, who will not be hooked up to this grid; but, rather will see their unique pristine wilderness environment degraded by the presence of these gangly behemoths.

S.S., Talmadge, ME

I've made my living from the natural resources of this region my entire adult life. To change this for myself and others, trying to scratch out a living in this region would be a travesty.

D.T., Grand Lake Stream, ME

This project is an economic disaster and a travesty for those of us who travel these lakes regularly, who appreciate remote scenery and a sense of serenity. Please don't destroy the viewshed of this magnificent watershed.

E.W., Grand Lake Stream, ME

Do not allow First Wind to ruin the pristine wilderness of this area.

E.T., Dedham, ME

Please make the windmills go away.

K.G., Hampden, ME

I feel that they could construct these wind projects in a way where they wouldn't upset the pristine look of our most beautiful areas. Thank You.

M.C., Lakeville, ME

The night time sky with the red lights on the wind towers was very disturbing.

I.C., Cushing, ME

I live within a few miles of the wind project in Unity, New Hampshire. When we moved to the area, the Greater Lake Sunapee Area, we were entranced by its unspoiled beauty. Having grown up in Aroostook County without any real mountains, the hilly areas around the Sunapee Lakes area were areas where one could recreate and enjoy nature's blessings. Now that the wind farm is up, it is difficult to drive south from Grantham into Newport without being distracted by the large turbines which despoil the distant hills and mountains. It not only disturbs the scenery; it disturbs the senses. The unspoiled beauty of the Sunapee Lakes area is no longer intact, and that is especially a shame in the summer and autumn. I have inquired of friends in the towns of Unity/Goshen/Newport to see if they know of any of the locals who are employed by the company who owns the turbines. Nobody seems to know of anyone currently employed, and few residents were involved in the erection of the turbines. Many of my college friends who visit us and had visited the area prior to the completion of the wind farm are as saddened as we are by the disturbing outcroppings that the turbines cause to the rolling hills. Owing to the proximity to Concord/Manchester, and the Dartmouth College/Dartmouth Hitchcock Medical Center, it would be very difficult to assess the impact of the wind farm on this particular area. However, the impact upon the pristine environs of Maine's Downeast Lakes Watershed by the erection of this proposed Wind Farm would be catastrophic. Maine can no longer claim to be an agricultural stronghold. Its fishing industry is under siege. To deal a blow like this to the tourist/sportsmans industry would be catastrophic. Find an area like Mars Hill where you've already screwed up the landscape (and from years of having travelled through the town) and haven't contributed anything to the growth of the town to add more turbines. I can almost hear the residents saying, "Okay! Cha-Ching, Cha-Ching!! HA!!

J.B., Grantham, NH

West Grand Lake is one of the few remaining areas one can get away from these turbines. Let's keep it that way.

P.C., Grand Lake Stream, ME

Maine's "quality of place" is our most precious resource--it is what calls people here "from away" and the reason many native Mainers stay. Wind turbine facilities in Maine's rural regions will absolutely detract from Maine's brand. To allow such large-scale industrial changes to our landscape--especially when Maine does not need the low-value power produced--seems incredibly foolhardy in a state which relies on the \$10Billion/year tourism industry.

K.P., Lexington Twp, ME

I'm so in love with the wilderness of this area please do not harm it!
especially on Sysiladobsis lake.. I wish i could spell that word!

C.C., Waltham, MA

I spend a great deal of time on a relative's property on Junior Lake. I went to the University of Maine, I have resided in Maine and I love being in the quiet woods of Maine. Therefore, I would prefer it if there were no giant wind turbines to ruin the beautiful landscape I so enjoy.

R.C., Guilford, CT

I have enjoyed this area for many years and the proposed industrial look of the area will affect my future plans for visiting Downeast Lakes.

G.B., Ellsworth, ME

It's my understanding that there will be a limited amount of power generated by the turbines in this location. The project would get a better return of power by placing them off the coast. This will cost the company more, and they don't want to spend the extra money. Their intent isn't to make money off the electricity the towers generate, but to get money from incentive programs offered by the Government. By placing them on Bowers they'll destroy property values in the area, wildlife will be harmed, and the scenic value of this area degraded. This makes no sense to me, when they can find a better location off the coast that generates more electricity.

B.M., Chandler, AZ

These turbines would take away the sense of isolation and remoteness enjoyed when out on the lakes. It would totally wreck the wilderness feel of this region.

W.M., Ferrum, VA

I believe in property owners having the right to do what they want with their property. But not if it affects the rights of other adjoining property owners. Because of the extreme height of this project it will be visible by many people from many different surrounding lands. One of the big reasons people visit here and live here is scenic beauty. Windmills severely hurt the areas scenic beauty.

L.C., Grand Lake Stream, ME

The sight of the towers are just plain UGLY!! It does not appear that there will be any benefit from them for us. The gross sight will never be able to make it right. Scratch this deal! Thank you.

K.S., Grand Lake Stream, ME

There are no benefits to landowners, just property value reduction.

D.O., Manchester, CT

The chain of lakes in this region should be valued for its near pristine vistas and wilderness accessibility. They should be developed as eco-tourism destinations so as to preserve the unique assets that are present.

P.F., Naples, FL

Please just say no no no to these wind towers on this GREAT WATERSHED. THANK YOU.

G.S., Sanbornville, NH

My family has a cabin on the lake and I will do anything to protect it from the banker-backed financiers currently controlling wind. Wind is not inherently a bad thing, but the bankers ruin as they ruin everything.

C.M., Albany, NY

i can see maybe 3 or 4 wind mills being ok but more than that would ruin the view. these lakes are beautiful as they are. i hope they won't be ruined by the greenies.

K.D., Ontario

I love this area because it is so undeveloped. Looking at your pictures, I don't think the windmills totally destroy the scenery. But even seeing two or three windmills will be enough to ruin the peaceful, return to the earth experience that I crave. Please don't pollute this area with these industrial white elephants.

B.M., Burlington, MA

I have been to Grand Lake Stream once for a few days. The beauty there is breath taking. I so bad do not want this pristine area of Maine devastated by wind turbines. These projects are going after subsidies from the federal government, payed for by my tax dollars and lining the pockets of a few men that don't care how they get it. Members of my family go to these areas to fish and enjoy the beauty offered there. This would be a good place for the federal and state governments to wake up and save this country!

M.L., South Portland, ME

I'm delighted to have wind as an option for Maine power. Considering the options for power creation of fossil fuels or nuclear--or even hydroelectric, wind is superior. In Maine, solar is limited, and it is crushing thinking of life without power most of the time (though my property in this area is without power or running water!) but the cost of such power is harsh. When I drive through Lincoln, and I see their turbines, I am heartened. People complain about the sight of the turbines, but no one seems to complain about the cell towers. I find those much more disturbing to the view, as they blink at night. I realize I am not in the majority of these camp owners, but my family has had this land since 1936. A lot of changes have occurred since then. Some have been less elegant than others. Compared to radio and cell towers, the wind turbines are lovely.

E.B., Bangor, ME

Tell this wind turbine company that if the presence of these wind turbines is so unobtrusive, then why don't they propose putting them in the Grand Tetons, or Glacier National Park, or on top of Mount Rushmore. If they're so unobtrusive, then why was a huge wind farm proposed off of Martha's Vineyard stopped by Vineyard residents? Wind power is and always will be too inefficient to be marketable without Federal subsidies, because it is not a "concentrated" form of energy such as nuclear, gas, oil, coal.

D.C., Eagan, MN

Save the Lake area. Let's leave the kids of the next generation, a view to the Natural Beauty of the State of Maine.

D.G., Kannapolis, ME

Thank you for allowing us some input on the wind farm proposed. My family and I have had a camp on Duck lake for almost 100 years, 5 generations now. change is not necessarily bad but a wind farm here, seriously!

P.S., Maynard, MA

The impact of the turbines on the vista, night views and scenic value of our resource negates the energy afforded. Maine should preserve our brand as the way life should be. The turbine farms should be located away from our scenic waterways.

V.A., Beals, ME

Over time, I think people will find other places than Downeast Lakes area to vacation--places that continue to offer unspoiled natural settings and views to those of us who value that when selecting a vacation spot. I'd rather see greater efforts nationally to conserve electricity.

M.E., West Chester, PA

I think no matter what is said and done Lurc , wind towers, or Land Trust have people in place to do what they want. Small land owners will have no say. A good example is the land sales that just happen 2 years ago with Webber LLC. Meetings were held. Lurc and Webber made deals with the lots storey we're told . Then bang 90 days is what you have to make things happen or get. If you get money your in, if not too bad. The people around here dont want changes, look what changes have been made in the last 50 years. Lodges have change ,fishing changed, Guiding changed, Hunting changed, everthing has change do to the large land owners to fit their needs.It still comes down to a few directors wanting what they want and buying or giving land on the lakes to poeple that work with them or for them. So here we go again.

G.S., Grand Lake Stream, ME

I visit the region because of what it is. Pristine, peaceful, quiet, natural. Wind farms will destroy all that.

J.S., Gilford, NH

I have grown up spending my summers on Bottle Lake. One of my favorite parts of being there is the dark nights with no street lights and blackness that enables you to the stars more brightly. I also love that there is very little distraction from the natural beauty. I love not having internet, and having limited electricity.

J.C., Northfield, VT

My wife and I have traveled this great country quite a bit. We have seen many wind farms in the California area and all of them interfere with scenery in the area. They also destroy a good portion of the bird population in the area they are in.

E.C., The Villages, FL

When I was looking for a camp my main concern was that the area would not become over-developed. Having to look at wind turbines on the horizon totally destroys the most valuable asset. The feeling that you are no longer in the city. That's what I came here for. That's what most of our visitors come for.

G.C., Hingham, MA

I was at the "Grand Lake Stream" meeting with this outfit, and I greatly disagree with this project. Especially so, due to the fact, that all the power generated.."GOES OUT OF STATE". It does "nothing " for Maine, and "specifically" destroys the beauty of the Downeast Lakes Watershed. This is totally unacceptable as far as I'm concerned.

R.S., Grand Lake Stream, ME

My family has owned a camp on Duck Lake since the early 1900's. We would have a direct view of the proposed project and it would greatly negatively affect our enjoyment of the lakes in that region. It would be the first thing we'd see arising on the sleeping porch of a camp built in the 1890's and we'd be seeing (and hearing) it all day long. We come to Maine and bring money into area businesses and pay taxes to enjoy the vast physical beauty of the region. This project would essentially ruin our enjoyment of the lakes and have a detrimental effect on tourism.

C.K., Santa Barbara, CA

I have not camped over night on the island but I hope to. But if there are going to be red lights flashing maybe I won't.

M.J., Manchester, NH

I go to this region for the quiet and natural beauty. The windmills will detract greatly from this particularly with flashing red lights. There are very few places that have the peace and solitude of this region. Please don't spoil it with the windmills.

E.G., Winchester, MA

I am very concerned about the impact on the night sky which is one of the most beautiful aspects of this area. There are not many places I have visited in the world in my 62 years where the sky is so clear because of the lack of man made light. These massive towers with their bright red lights will totally destroy this aspect of the region, and that in my opinion is a huge loss for the state of Maine. I planned to return to Maine soon when I retire as I was born in Portland where I lived my first 40 years. However, I will re-think that plan if the state allows such poor treatment of it's land resources.

L.L., Clinton, CT

I remain hopeful that the LURC and the people of Maine will realize the folly of this venture and turn down the project. There are things that all of us can do to decrease our energy use and protect our state.

K.R., Bangor, ME

There are better alternatives than wind power. Maintenance and replacement of worn out of faulty ones would be add futher damage and destruction of the beautiful environment Maine provides.

R.C., Frederick, MD

I'm worried about what affect this industrial wind power plant will have on my ability to continue guiding for a living. My whole livelihood depends on a wilderness experience

D.T., Grand Lake Stream, ME

Please leave our natural beauty of a sightline natural.

K.G., Wantagh, NY

I own property in Weston on East Grand Lake and often fish and kayak on the Hot Brook Lakes and Baskahegan lake. The Stetson Mt. wind farms have not effected my experience in any negative way and feel the same is true for the Bowers Mt. project. Benefits will outweigh any perceived negative impacts at the distance from the Lakes where the towers are proposed.

D.K., Easport, ME

One critical impact of the wind turbines not discussed in the survey is the night-time affect: Lights are flashing all the time. Do not underestimate the affect flashing lights have on your environment. I live 20 miles from a wind farm on the St Lawrence River (Wolfe Island in Canada). Miles down river, we see the flashing lights of the turbines. It is obnoxious and does spoil the night sky. Also, the birds and bats are affected by turbines. Surprisingly, the bat deaths far exceed those of the migratory birds according to studies by Bill Evans of Old Bird, inc. He was hired by the wind company to document the impact and his numbers show devastating results for the bat population already affected by white nose syndrome. Sadly, I will lose the sense of wilderness and remoteness that I so enjoy when I escape to Duck Lake.

D.G., Clayton, NY

This doesn't even touch on the huge, stripped tracts of land where the wires run down to the collectors, and doesn't mention the phosphorus and other run-off that decimates the trout populations. And who's going to fix these, or take them down when they no longer work? I'll bet that Ill Wind will be long gone when that needs to be done. There's precious little electricity being generated by these (30% efficient at best, often not turning at all), and no lowered energy costs. This is not the answer. Not here. Find an uninterrupted wind field, like the ocean or the plains. People come here for the beauty of the land and night sky. Do you think they'll come to see the blinking windmills and the forests criss-crossed with chopped-out lanes of high-tension wires?

R.H., Bridgewater, NJ

Wind power is NOT THE ANSWER! This is an overwhelmingly government subsidized construction project that would not be able to compete in an energy "free market. There are many more economical and proven ways to produce usable energy that could help not only the Great State of Maine but also, the world.

J.T., East Northport, NY

Just thinking of them there makes my blood boil!!!

B.L., Coventry, CT

Leave the Lakes ALONE!!!!

E.C., Woodstock, GA

I am a current resident of Aspen, CO with a family summer camp on Duck Lake near the town of Springfield. I grew up in upstate NY in the St. Lawrence River Valley where the threat of wind farms not only threatens to destroy the ambiance that the area has built its economic well-being on, but also the ecosystem of the area.

E.G., Aspen, CO

We enjoy our Maine vacationland because of its natural beauty. The worst possible idea for this area is to mar it with monster wind turbines where many people come to relax and enjoy nature at its finest.

L.C., Wantagh, NY

Please don't do this. Since I was a little girl visiting my grandmother, I've loved the natural beauty of this area. And now, having my own kids and property here, I can't imagine casting for white perch off the wharf at dusk and looking up to see a bunch of flashing red lights. Or seeing those big ugly things from our canoe or when waking up in the morning. They are an eyesore, they DO NOT blend, and they are just one big ugly reminder of how one of the last remote and naturally gorgeous places on earth was sacrificed against the will just about everyone who lives in or enjoys this area.

J.B., Lenexa, KS

GO FOR IT!!!!!!

M.P., Berwick, ME

I will not return to this area if I have wind turbines in view. I no longer visit Lincoln because of the wind turbines.

L.D., Orono, ME

THIS PROJECT WOULD DEFACE THE NATURAL BEAUTY OF THIS WHOLE AREA, ONE OF MOST SCENIC IN THE STATE OF MAINE.

M.H., South Berwick, ME

I think its important to consider the impact that the existing windpower projects already have on the beauty of the area within several miles of these lakes.

M.L., Essex Junction, VT

I think it's a fact that most of the wind farms are being built for financial benefit and tax breaks for the builders. The notion that these wind farms will help with the unemployment situation in the state of Maine is rubbish. I live on Molasses Pond, where the Bull Hill project is going to be built nearby. It will be a hideous blight on the previously pristine hillside. I believe that the people in Downeast Maine will not benefit one bit from this project with regard to the cost of electricity. The previous first Selectman, recently deceased, bought into the lies hook, line and sinker, and sold the town out to First Wind. There is no provision for the time when the wind turbines are no longer functional, they will no doubt affect the real estate negatively, certainly impact my evening peacefulness on my dock, and in general ruin the experience of Molasses Pond that I have enjoyed since I was a child. I will sell my home on Molasses Pond when the real estate market regains momentum, which is unfortunate because I was looking forward to sharing it with my granddaughter. My prediction is that this project will not benefit Downeast Maine in any way, and my belief is that land-based wind turbines are an inefficient and minimal way to produce energy. It's all about tax breaks, and the greed of men who have exploited the great woods of Maine. I'm disgusted.

C.A., Eastbrook, ME

If I wanted towers and "art" as some people have stated, I would head to the cities. I can't believe how many of Maine's pristine areas are being destroyed by out of state companies that have no concern for our quality of life. I have lived here all my life, found more to enjoy in my own backyard and never wanted to be anywhere else for a reason. Maine is pretty much heaven on earth and it is being ruined one turbine at a time.

T.N., Bar Harbor, ME

Not only do I think the scenic beauty of these lakes will be tremendously diminished, but am also concerned about the environmental impact it would have!

R.L., Lakeville, ME

The energy wind farms provide isn't worth the loss they create to our landscape. Drill new oil wells or develop tidal power.

R.M., Baileyville, ME

Wind towers have their place, just not here.

A.K., Gouldsboro, ME

WE NEED GREEN ENRGY. I DON'T LIKE THE "NIMBY" MENTALITY, GET ER' DONE!

B.C., Lubec, ME

Perhaps Maine Board of Tourism can come up with a list of lakes we can visit if we want to enjoy the Maine wilderness. Flashing lights in a night sky are not conducive to my vacation in Maine, I can just stay in Connecticut where light pollution and noise is every where.

C.C., Old Lyme, CT

Wind turbines have no place spread out over some of the last scenic wilderness left in the Northeast. They are industrial in nature and should be located and clustered in farms and in areas that have been highly developed. The scenic legacy of Maine is irreplaceable and should not be allowed to be sold off to outside interests with promises of jobs and support for civic projects.

R.H., Lakeville, ME

Don't destroy the region with windmills.

W.B., Lunenburg, MA

It might be better if the windfarm were to downsize. I am not opposed to wind power in general but to line up multiple turbines on the top of a mountain ridge in the way that is displayed seems quite extreme and excessive. I am also concerned with the effect this large scale development may have on eagles and migrating birds.

E.B., Pleasant Point, ME

Why is the wind farm project being proposed for installation in the ocean being built so far offshore that it will be out of sight? Because most people don't want them to be seen. Please don't approve the Bowers Mountain project it will be a permanent blight on a unique watershed.

B.L., Portland, ME

Studies have indicated that wind power is an inefficient method for producing power. Wind power is noisy and the flicker effect of the blade shadows would drive me nuts. Wind power is only a temporary job creator.

D.C., Minneapolis, MN

My country, my land, my freedom, my lakes, keep Maine the way it should be - no windmills on our ridges in the lake country.

D.P., Lakeville, ME

Horrible idea. One of few unspoiled areas of the country would be destroyed.

A.D., Overland, Park, KS

I first came to this area in the early 70's to enjoy canoe camping and fishing on the Grand Lake Chain of Lakes. It reminded me of experiences with my father in remote parts of Canada. Until 15 years ago I continued to return to these lakes for their quality and then I moved here!

T.P., Lakeville, ME

My family resides in New York where the natural beauty of the land has been destroyed for industrial and residential development. We bought our place in Maine in order to try to recapture that feeling of the great wilderness and to allow our children to experience those feelings that come when one feels as a part of this wilderness as we had when we were children. Mainers have come to call this recreating. It can not be accomplished when one is staring at a large industrial structure on the horizon which obviously does not belong and is totally out of place. Had we known ten years ago that there was a good possibility of this coming to pass we would have looked elsewhere for our piece of heaven which is what we have had these past ten years. We could have just stayed in New York and looked across the Long Island Sound to the power generation plants in Connecticut with their twenty four hour flashing lights and stacks reaching up toward the sky but we chose instead to purchase our little camp and to gaze out across the lakes and forest with an unobstructed view for as far as we could see save the trees and birds. If these industrial monstrosities are built on Bowers though our camp value will no doubt decrease we will more than likely sell and attempt to find a new piece of open space that has the same endearing qualities as our current camp. Though a new place may not have the same attributes as our current camp we will be sure it never has an overlook on unnecessary industrial sprawl. Thank you.

J.T., East Northport, NY

My family owns property in the Downeast Lakes area and has for generations. While I am currently a visitor to Maine, I will be a future resident. I will absolutely return time and time again but the proposed windfarm will have a profound negative impact on the scenic value of the area. I worked at a large windfarm in California and can attest that the actual number of local jobs created and sustained after development is very low. In this beautiful, wild area, I think they will permanently change the character of the land that generations before have used and enjoyed sustainably.

C.B., Santa Barbara, CA

Please listen to the people who have spoken and value their sentiments.

S.N., Orrington, ME

If the scenic beauty of the Grand Lake Stream region is destroyed by First Wind and their wind machines, there will be no difference in living or recreating in Maine in this area than with Iowa. Please do not allow the destruction of this nature's gift.

R.W., Freemont, NH

Please dont do it! Thanks.

D.J., Ashland, MA

One of the most important assets of Maine is it's scenic beauty from an environmental and economic view point. Maine is the last frontier of the East. No matter where you go in the world, if you mention you're from Maine people comment on how lucky you are and how beautiful Maine is.

N.W., New Portland, ME

Wind power is an unproven solution to the high price of power in Maine. Without massive Federal subsidies, these wind farms would not be built. There are other solutions to our energy needs that will have significantly less impact on our scenic areas.

R.M., Kennebunk, ME

Thank you for the opportunity to express my distaste for the windmill project at this location.

E.M.S., Veazie, ME

This area is absolutely legendary to me and my family. The scenic viewsheds and wild nature of the Down East Lakes Region is priceless. The Maine guides are the best. This entire area embodies what the true nature of Maine represents. Industrial activities have no place here. They should be banned. Tourism, hunting, fishing and nature based recreation and sustainable forestry are the current economic base as well as the future salvation of this area. Much has been invested to preserve this region for future generations to discover, explore and come to love the way we have. Keep the wind developers and other industrial development out.

P.G., Fort Kent, ME

Having lived in the area for fifteen years and visiting yearly since then, I believe the towers will ruin what is special about the area and devastate what is a beautiful piece of Maine.

P.D., Mineral Bluff, GA

I'm currently saving towards purchasing property in Maine in the future. I work in the biological sciences for a living and I hope to own property some day in the Downeast lakes area, specifically Junior or Bottle Lake, for low impact camping and nature observation. The draw of the area is that it is one of the last places left in New England and the Northeastern U.S. that is nearly free from the constant disturbance of industrialized society. This development of Wind Turbines would not only be an ecological disturbance but also a pernicious reminder that even in the great Maine woods man's influence is inescapable.

R.C., Middletown, CT

Once the wild character of unique ecosystem known as the Downeast Lakes is gone, it will be gone forever.

D.S., Holliston, MA

Given the paltry amount of energy land-based wind turbines produce, and the cost to Maine tax payers who foot the bill for transmission lines, it is not worth the degradation and destruction of the Downeast Lakes area. This project has turned me into a national park advocate. There does not seem to be any other way to protect Maine's natural resources for generations to come.

P.M., Orono, ME

The wild atmosphere is what caused me to decide to buy a home in this area. There is plenty of room for logging and other activities in this area with out messing up the horizons with turbines. I have folks come to visit and they say that it is nice to have an area as remote as this. They enjoy the beauty of it all and turbines have no place in this area. There must be plenty of other areas in the state without destroying the ambiance of this place., Build windmills in areas that do not affect such beautiful scenery. There are enough units already in place without adding more to such a nice area.

V.C., Lakeville, ME

I own property and vacation in Grand Lake Stream to relax and get away from all the commercialization of an industrialized city environment. I've seen these wind mills in Illinois in fields outside Chicago. They are huge and overwhelming and dominate the landscape in ways unimaginable. Placing these wind mills in such a rare and pristine environment in Maine will absolutely ruin it for everyone who comes to enjoy the beautiful wilderness scenery. Furthermore, this is not something easily undone once undertaken and, if undertaken, will become a permanent blemish on the Downeast Lakes Watershed. I'm simply heartbroken that this endeavor is even being considered.

K.B., Cincinnati, OH

I work at a wilderness camp located at the west end of West Grand Lake. I am deeply attached to this watershed, so I will continue to visit the lakes no matter what. But the erection of this "wind farm" would seriously detract from the kind of wilderness experience that we promise our campers. As an individual, I would want to stay; as the president of the Board of Directors, I would have to urge the Board to consider seriously relocating our base camp to a less developed area--and that would mean, most likely, out of Maine. Our camp spends large amounts of money in Washington County every summer (for starters, \$8-10k at Hannaford in Calais), and we bring tourists in the form of camper families to the region. The erection of these towers would be catastrophic for our business and for the sport-fishing industry.

M.T., Clinton, NY

I feel that the windmills detract heavily from the scenic beauty of a wilderness lake... I invested heavily in this area because my wife and I really appreciate the beauty of the forest lakes... As avid bird watchers we are also very aware of the high kill rate in windmill areas.

J.H., Santa Monica, CA

With my family I have spent twelve full summers in a camp on Junior Lake which would have these lake views. The wind towers would ruin the view, and change everything about the place. Don't allow it!

H.R., Houlton, ME

The property owners who abutt and can visually see these wind turbines will be affected the most and benefit the least. These governmentally subsidised projects do not ever realize a return on the investment. It's a joke. Have them put all the turbines in the middle of the ocean, 100's of them, even thousands of them. This way they won't affect anyone and the benefit can be huge. When their life span is up (20-25 years) you simply remove them. On these beautiful mountains, when they have gone beyond their usefulness, they simply leave them. They are too expensive to remove. The whole thing is a godamm joke.

R.G., Lakeville, ME

I started camping on Junior Stream back in 1962. I returned every year to salmon fish in the spring and bass fish in the fall. We have fished every lake that is being potentially ruined by this project. We love it so much that we built two camps on Long Point on Junior Lake - in 1990 and 2005. Our family spends almost every weekend there --as we are snowmobiling enthusiasts as well. Windmills do not fit in this scenic and pristine part of the world.

E.G., Southborough, MA

The only people to benefit from this monstrosity are the tax payer subsidized developers and their contractors.

G.C., Monroe, ME

Wind Farms do not belong near our great ponds!

M.S., Belfast, ME

I live just outside of the area shaded on your map. This affected my responses - I visit the area on a daily basis, as opposed to for occasional or periodic vacations. Because I live here, my visits will continue.

M.B., Princeton, ME

This watershed has a very rich history of hosting "sports" from around the globe and needs to be protected from this industrial eye-sore that will change the wilderness character of the area forever. This IS NOT an appropriate site for a grid scale wind power project. One would have to be blind or extremely greedy to be in favor of it.

K.G., Lakeville, ME

The scenic impact of this project is terrible. I can not believe that anyone would even consider permitting such a project. The affect on the area will be devastating!

D.C., Concord Twp, ME



Paul R. LePage
GOVERNOR

STATE OF MAINE
EXECUTIVE DEPARTMENT
PUBLIC ADVOCATE OFFICE
112 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0112

Richard Davies
PUBLIC ADVOCATE

ELECTRONICALLY FILED ON FEBRUARY 2, 2012

Karen Geraghty
Administrative Director
Public Utilities Commission
18 State House Station
Augusta, Maine 04333-0018

RE: BANGOR HYDRO ELECTRIC and MAINE PUBLIC SERVICE COS.
Request for Exemptions and for Reorganization Approvals
Docket No. 2011-170

**THIS IS A VIRTUAL DUPLICATE OF THE ORIGINAL HARDCOPY
SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH
ITS ELECTRONIC FILING INSTRUCTIONS**

Dear Karen,

Attached please find an original and one copy of the Motion for Dismissal and Sanctions With Incorporated Memorandum of the Public Advocate regarding the above-captioned proceeding.

Copies of the Motion have been sent to all parties on the service list.

Very truly yours,

Eric J. Bryant
Senior Counsel

EJB/dt
Enc: Motion for Dismissal
cc: Service List



PRINTED ON RECYCLED PAPER

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ELECTRONICALLY FILED ON FEBRUARY 2, 2012

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

| | | |
|-------------------------------------------|---|--------------------------------|
| <u>BANGOR HYDRO ELECTRIC &</u> |) | |
| <u>MAINE PUBLIC SERVICE COS.</u> |) | |
| |) | MOTION FOR DISMISSAL |
| Re: Request for Exemptions and for |) | AND SANCTIONS WITH |
| Reorganization Approvals |) | INCORPORATED MEMORANDUM |
| |) | |
| Docket No. 2011-170 |) | February 2, 2012 |

Now come the Office of the Public Advocate, Houlton Water Company, the Industrial Energy Consumer Group (“IECG”), and Boralex, Inc. (“Boralex”)(collectively, the “intervenors”) by and through their respective attorneys and move to dismiss these proceedings or to enter judgment against Bangor Hydro Electric Company and Maine Public Service Company (“Petitioners”) based upon the recommended findings of the Examiners’ Report.

I. INTRODUCTION

Petitioners have intentionally and recklessly violated the Commission’s Rules of Practice and the Examiners’ January 19, 2011 Scheduling Order by filing Exceptions tainted by prejudicial non-record information and by assisting and/or encouraging First Wind Holdings, LLC (“First Wind”) and Algonquin Power & Utilities Corp. (“APUC”) to file unauthorized comments doing the same. According to the Examiners, these exceptions have been reviewed by the Commissioners. As described herein, further consideration of the case at this point would violate fundamental principles of due process and would be unduly prejudicial to the intervenors in this case. Of equal importance is the fact that the actions of the Petitioners, First Wind and Algonquin Power have damaged the integrity of the adjudicatory process by intentionally exposing the Commissioners and their advisors to information outside of the record that, even if the Commission can ignore, undermines public

confidence in the process. Dismissal with prejudice or judgment against Petitioners are the appropriate remedies and sanctions for Petitioners' violations of the Commission's Rules and the January 19 Scheduling Order.¹

II. BACKGROUND

After contentious and exhaustive litigation in this matter, the January 13, 2012 Examiners' Report recommended that the proposed reorganizations be denied.² On January 17, 2012, Petitioners requested an extension of "one day" to file their exceptions to the Examiners' Report citing in support of their request:

With so much at stake, Petitioners want to ensure a careful and thoughtful review of the Examiner's Report. More specifically, Petitioners are working hard to prepare their response, which includes considering whether new conditions could be developed or modifications to the Proposed Transactions could be negotiated that address Staff's concerns.

(Emphasis added). Responding to Petitioners' request, the Public Advocate and Boralex filed objections noting that allowing what Petitioners appeared to be proposing would violate intervenors' rights, and the rules, and should not be allowed.³

In their January 19, 2012 Scheduling Order, the Examiners granted Petitioners' request for additional time but cautioned that exceptions must comply with the provisions of Chapter 110, which requires exceptions to be based upon the record evidence in the case.

¹ In addition to the inherent power of the Commission, Chapter 110, Section 825 of the Commission's Rules of Practice and Procedure provide that all sanctions available under Maine Rule of Civil Procedure 37 are available to the Commission, including dismissal of the proceeding or an order entering judgment against the disobedient party.

² Intervenors have spent a tremendous amount of money, time and effort to get to this point in the process.

³ The IECG and HWC filed letters in support of the OPA and Boralex's objection. Boralex emphasized the need for the Examiner to ensure that the Petitioners did not "abuse" the system by filing information that was not in the record, including "new" conditions.

On January 23, 2012 Petitioners filed Exceptions to the Examiners' Report. On the same day, First Wind, which has never been a party to this proceeding, also filed "exceptions" and APUC, also never a party, filed a letter to inform the Commission of certain new facts. Although not identified as exceptions, APUC's filing is effectively equivalent to exceptions. The filings of First Wind, APUC and the Petitioners' Exceptions contain new information, not in the record that directly contradicts sworn testimony of Petitioners' witnesses and other evidence given during the proceedings. The exceptions also attempt to recast the proposed transactions based on this new information, in an effort either to negotiate with the Commission through pleadings or to otherwise get around the Examiner's Report. All three of these filings contain this non-record information in blatant disregard of the Commission's rules and the Examiners' January 19, 2012 Scheduling Order. Most troubling, and most directly in violation of the Commission's Rules and the Examiners' January 19 Scheduling Order, the Petitioners' Exceptions contain direct references to and quotes from the First Wind and APUC filings (i.e., Petitioners' Exceptions at 5-6 and 13 respectively) and even append the First Wind "exceptions." Petitioners described their decision to attach First Wind's "exceptions" in a footnote:

Petitioners also support the filing of First Wind. Petitioners do not repeat those points hereto but to the extent that First Wind's filing raises any procedural concerns, Petitioners hereby incorporate the First Wind filing in its entirety by reference and attach that filing here.

Petitioners' Exceptions, page 1, footnote 1 (emphasis added).

On January 24, 2012, in response to Petitioners Exceptions and the filings made by First Wind and APUC, the Public Advocate filed two letters with the Commission requesting that the filings of the Petitioners as well as those of First Wind and APUC be embargoed from the Commissioners.

In a Procedural Order dated January 24, 2012, the Examiners ruled that pursuant to the provisions of section 760-A of the Commission's Rules of Practice and Procedure, the filings by First Wind and APUC were prohibited filings by non-parties.⁴ In striking these filings, the Examiners correctly noted that both APUC and First Wind had ample opportunity to intervene in the case and chose not to do so. However, the Examiners revealed in this Order that the Petitioners' Exceptions "have already been reviewed" by the Commissioners.

On January 25, 2012, the Examiners convened a Conference of Counsel to discuss the issues raised by the Public Advocate's letters as well as those set forth in Petitioners' Exceptions. At the conference the intervenors orally moved that the proceeding be dismissed and that the Petitioners' Exceptions be struck in their entirety. Tr. 1-25-12 at 11. Petitioners asserted that certain modifications to the transactions described by APUC are not inconsistent with the transaction documents, which are in the record. *Id.* at 4. The Examiners noted that they were surprised by the information proposing the recasting of the transactions. *Id.* at 6. The intervenors also noted that the conduct by Petitioners, in concert with First Wind, were improper attempts at *ex parte* communications designed to influence the decision of the MPUC, just days before the scheduled deliberations. The Public Advocate set forth references to the provisions of the Commission's rules and orders that were violated. All intervenors supported the Motion to Dismiss and to Strike the Petitioner's Exceptions in their entirety. Petitioners asserted that they had not violated a single Commission rule. *Id.* at 20.

⁴ Both First Wind and APUC deliberately chose not to intervene as a party and First Wind has reminded the Commission of that fact as a defense to discovery. For example, First Wind challenged the IECG's deposition request and subpoena on the basis that "First Wind is not, and has never been, a party to this proceeding". Special Appearance of First Wind Holdings, LLC and Motion to Vacate Subpoenas (October 21, 2011), p. 2 (emphasis in original). FirstWind also objected to data requests or requests for information on the basis that that "First Wind is not a party to this proceeding and is not subject to discovery." *Id.* Ex. B. Likewise, during the technical conferences, First Wind objected to questions for the same reasons. Representatives of First Wind and APUC appeared as witnesses, but only on behalf of Petitioners. When presented with data requests or questions at technical conferences, both answered questions based only upon the personal knowledge of the witnesses and did not present any further facts or information otherwise in the possession of their employers.

By Procedural Order dated January 27, 2012 the Examiners denied the intervenors' request that the Petitioners' Exceptions be rejected in their entirety and ordered Petitioners to file revised Exceptions in accordance with the Examiners January 24 Order. The Procedural Order also required Petitioners to provide a "Statement of Clarification" regarding the proposed changes to the transactions that had been the subject of the litigation. Finally, the Procedural Order declined to rule on intervenors' oral motion to dismiss and established a deadline of February 2, 2012 to file a written motion. This motion is filed in accordance with the January 27 Procedural Order.

III. ARGUMENT

The right of a party to a Commission proceeding to file exceptions is governed by the Commission's Rules of Procedure and the Maine Administrative Procedures Act. Section 752 of Chapter 110 of the Commission's Rules states that the Examiner's Report "shall be provided to each party, and an opportunity shall be provided for response or exceptions to be filed by each party."⁵ (emphasis added). Section 1001 also refers to the filing of exceptions by parties. Nowhere in the Rules is there any indication that non-parties may file exceptions.

Section 760-A(a), entitled "Prohibited Communications After Issuance of Presiding Officer's Report," indicates that a "person" may seek to make a "communication" to a commissioner only "as permitted by order or prior approval of the Commission or presiding officer." This rule was the result of a tumultuous series of events in connection with a telephone rate case in 1995 where the utility (NYNEX), after the filing of the Examiner's Report, encouraged non-party stakeholders to contact

⁵ This provision reflects the Maine Administrative Procedures Act (5 MRSA §9062(4)) which states:

4. Report. In the event that the presiding officer prepares any report or proposed findings for the agency, the report or findings shall be in writing. A copy of the report or findings shall be provided to each party and an opportunity shall be provided for response or exceptions to be filed by each party. (emphasis added)

state officials with their views on the Report.⁶ The names and addresses of the Commissioners were provided to these stakeholders by NYNEX and many communications were received by them. In a responsive rulemaking, the Commission promulgated section 760-A. Subsection (a) of this rule reads, in full:

In an adjudicatory proceeding, after the issuance of the presiding officer's report or proposed findings, no person shall make any direct or indirect communication to any commissioner, presiding officer, or other advisory staff member in connection with any potential or proposed decision in the proceeding or any issue of fact, law or procedure, except for the filing by a party of a response or exceptions to the report or proposed findings as permitted by section 752(b), or except as permitted by order or prior approval of the Commission or presiding officer, or except as by motion pursuant to section 1004.

(Emphasis added).

This language does not contemplate *any* expansion of the rule that only parties may file exceptions. The ability of a “person” to file a “communication” pursuant to “prior approval” from an Examiner contemplated in this rule applies to those who may wish to file a simple letter or inject a comment on the proceedings. It does not mean that a non-party, like First Wind, who has an intense interest in the outcome, who attended many if not all of the proceedings, but who nevertheless *adamantly* refused to become a party, would be provided a forum at the last point in a proceeding to come forward, inject new, inconsistent and procedurally uncontestable information as fact, and state their case in an attempt to influence the Commission’s ultimate decision.

The obvious reason why a person has to obtain “prior” approval before filing communications at this critical point in the proceeding is so that the Commission is not exposed to prejudicial information while deciding whether to grant approval. Otherwise the purpose of the *ex parte* rule would fail. Petitioners violated this provision by not seeking approval prior to unilaterally injecting

⁶ PUBLIC UTILITIES COMMISSION, *Rulemaking: Chapter 110, Rules of Practice and Procedure; Proposed Amendments to Ex Parte Provisions*, Order Adopting Rule Amendments; Factual Policy Basis, Docket No. 95-390 (February 1, 1996).

references to the First Wind and APUC exceptions in their filing, and advocating based on such improper submission, thereby deliberately exposing the Commission to prejudicial material in an effort to influence its decision. Petitioners clearly knew what they were doing, and this was no mistake (see footnote 1 to Petitioner's exceptions). Indeed, the reason was because they did not like the Examiners recommendation. Despite the Examiners best efforts to protect the Commission from this improper action, they were unsuccessful because the Examiners did not realize that the Petitioners had included such references in their Exceptions, which had already been reviewed by the Commission.

When adopting the revised *ex parte* rules in 1996, the Commission made the following findings:

The revised prohibition in new section 760-A(a) will apply to all persons. . . As stated in the Notice, during the period following the issuance of an examiners' report, our attention should be focused entirely on the record, the briefs of the parties and the parties' exceptions. We do not believe that it is appropriate for us to consider extra-record comments or other attempts to influence our decision during that time period, or for any person, whether a party or not, to have further opportunity to make such comments. [footnote:] Persons have various rights to influence Commission decisions through extensive established procedures. A person with standing to intervene (under a liberal intervention standard) may participate as a party in a case. Other persons may participate as a party in the discretion of the Commission. All persons may attend and testify or speak at public witness hearings that are held in important cases. Moreover, at all stages during the case prior to the issuance of an examiner's report, persons who are neither parties nor persons legally interested in the outcome of the proceeding, may be able to state their views verbally or in letters to the Commission.

Public Utilities Commission, Rulemaking: Chapter 110, Rules of Practice and Procedure; Proposed

Amendments to Ex Parte Provisions, Docket No. 95-390, ORDER ADOPTING RULE

AMENDMENTS; FACTUAL AND POLICY BASIS (February 1, 1996) at pages 20-21 (emphasis added). The Commission made these findings and adopted this rule in response to attempts by at least one utility to encourage non-parties to communicate with the Commission under the prior *ex parte* rules. *Id.* at 18-19. The Commission was highly critical of such tactics, describing them as “[a] heavy-

handed lobbying campaign, involving people whom the party apparently believes to have more influence than the party itself or than the merits of its positions, is unreasonable and inappropriate and will not be tolerated.” Id.

By filing their coordinated “exceptions” and letter, First Wind and APUC attempted to subvert the intention and effect of this rule. Therefore, the Examiners correctly excluded APUC’s and First Wind’s filings.

The Petitioners’ actions give rise to particular and very serious concerns. Petitioners have deliberately attempted to inject new evidence into the record “through the back door,” long after the record closed on December 9, 2011 and at that point in the proceeding where other parties are not afforded a chance to respond, test the evidence through cross examination, engage in discovery, present witnesses, or otherwise have the benefit of the procedural safeguards of an evidentiary record. Their Exceptions, containing these new facts, were filed in blatant disregard of at least two of the Commission’s rules and in direct violation of the Examiners’ January 19 Scheduling Order, and in an obvious attempt to influence the outcome. The rules violated are rules of integrity, fundamental fairness and substance, not mere housekeeping rules designed to advance administrative efficiency.

Petitioners violated Chapter 110 section 760-A(a) and (d) of the Commission’s Rules. The filing of “exceptions” by APUC and First Wind violated the *Ex Parte* rule under Section 760-A(a). Petitioners’ subornation of these filings, as evidenced by the references to the filings in Petitioners’ Exceptions, also violates Section 760-A(d) which reads:

No party in a proceeding shall request, encourage, suggest, or provide any assistance to any other person to make a communication that would violate subsection (a) of this section.

Petitioners chose to engage in coordinated, concerted action with First Wind and APUC to assist them in an improper attempt to have a non-party influence the Commission after the date for filing exceptions, and to inject non-record information into evidence, and to couple this with a direct violation by commingling the prejudicial material into Petitioners own Exceptions. Petitioners deliberately cited to, quoted from, and indeed made such filings a part of their own January 23, 2012 Exceptions. Their awareness of procedural issues is revealed by the first footnote in their Exceptions. Petitioners' actions were willful, with the expectation that opposing parties would have no opportunity to respond,⁷ and for the primary purpose of influencing this Commission's decision.

Petitioners violated Chapter 110 section 773 of the Commission's Rules. By including references to First Wind's and APUC's filings, Petitioners also violated section 773 of the Rules which states that "[f]actual information shall be considered in rendering a decision only if such information is in the record as evidence."⁸

Petitioners violated the Examiners' January 19, 2012 Scheduling Order. This Order was issued in response to objections filed by the Public Advocate and Boralex on January 18, 2012 to the very type of filing Petitioners have now made. Rule sections 773, 926 and the Scheduling Order could not have been clearer that only record evidence can be referenced in a party's exceptions.

Petitioners' conduct was in contempt of the Commission's Order (issued through its Examiners) and the integrity of the process and fairness to the parties. It does not matter that

⁷ At the conclusion of the January 25 conference of counsel, counsel for Petitioners asked that the Commission deliberate this matter as originally scheduled and without further process. Tr. 1-25-12 at 38.

⁸ Petitioners have also violated section 926 of the rules which governs late-filed exhibits. This is the only method within the Commission's rules that allows for new evidence to be admitted after the close of the record. This rule requires parties seeking to put in new documentary evidence "not in existence or otherwise available at the time of the hearing" to do so between the close of hearings and the filing of briefs. Petitioners, who could not have met the requirements of this rule, simply filed their new evidence in the body of their Exceptions.

Petitioners were “surprised” by the Examiners’ Reports conclusions⁹ (which, in fact, were clearly foreseeable to any reasonable person based on the record), that they may have spent a large amount of time and resources pursuing this deal, or that there may be a negative fallout in Boston, Toronto and Halifax if the Commission agrees with its Staff. Process at the Commission is governed the rule of law and by procedural due process safeguards to all parties. The new facts included in Petitioners’ Exceptions violate these fundamental principles and have tainted the record and the process. Petitioners cannot be permitted to benefit from these actions. The remedy to correct these actions must be dismissal or judgment against Petitioners.

In addition to the new information presented by First Wind and APUC, Petitioners have also proposed voluminous new conditions. Petitioners’ Exceptions at Appendices I, II and III. Conditions are at their essence a blend of factual information and expert opinion. Proposed conditions should therefore properly be presented to the Commission through the testimony of experts and other witnesses. The Commission’s prefiled testimony rule requires that such information be filed in a timely fashion as part of the evidentiary record. Chapter 110, Sections 931 and 933. Further, the January 19 Scheduling Order prohibited the presentation of information from outside the record. Petitioners’ presentation of new conditions is nothing more than a transparent attempt to negotiate a settlement with the Commission in the guise of exceptions. By holding back their presentation of such an extensive set of conditions, Petitioners have intentionally deprived the parties of any opportunity to review and test these conditions through ordinary procedural means, including discovery, cross examination, and rebuttal testimony.

⁹ Tr. 1-25-12 at 6. Petitioners were not surprised, however, that their Exceptions have “caused a little confusion and uncertainty among the interveners and staff.” *Id.* at 4. This is because Petitioners fully realized that their actions were outside the rules.

Courts may exercise their inherent powers and invoke dismissal as a sanction in situations involving disregard by parties of orders, rules or settings. *Reffior v. Lansing Drop Forge Co.*, 124 F.2d 440, 444 (6th Cir. 1942), *cert. denied*, 316 U.S. 671(1942); *Link v. Wabash R. Co.* 291 F.2d 542 (7th Cir. 1961), *aff'd* 370 U.S. 626 (1962). (“Every litigant has the duty to comply with the reasonable orders of the court and, if such compliance is not forthcoming, the court has the power to apply the penalty of dismissal.”) *See also*, *Joseph v. Norton Company*, 24 F.R.D. 72 (S.D.N.Y. 1959), *aff'd* 273 F.2d 65 (2nd Cir. 1959); *O’Brien v. Frank Sinatra*, 315 F.2d 637, 641 (9th Cir. 1963)(“there is inherent power in courts, in interest of orderly administration of justice, to dismiss the action for disobedience of court orders and the dismissal of the complaint and the supplemental complaint, was not, under the circumstances, an abuse of discretion”). Courts have also dismissed actions with prejudice for using undisclosed exhibits or by mailing documents directly to the Court, in contravention of a court order. *See Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997).¹⁰

These principles of fair play apply to administrative agencies. “Due process in an administrative hearing, of course, includes a fair trial, conducted in accordance with fundamental principles of fair play and applicable procedural standards established by law. *Morgan v. United States*, 34 U.S. 1, 22 (1938). Further, Title 35-A contains substantial statutory and inherent powers for the Maine Commission to sanction or penalize utilities or other persons who violate their orders or the rules. Underlying these principles is the fact that the Commission is a quasi judicial agency whose operation is based on integrity and fair conduct of the parties. Thus, the system in which the Commission operates is critical to its role of protecting the interest of the public. 35-A MRSA § 101 states that “[t]he purpose of this Title is to ensure that there is a regulatory system for public utilities in

¹⁰ The sanction of entering default judgment is likewise available for failure of a party to obey a court order or other wrongful conduct. *E.g. Global NAPS, Inc v. Verizon New England Inc.*, 603 F.3d 71, 94 (1st Cir 2010), *cert denied* 131 S.Ct. 1044 (2011).(The court ruled these defendants had violated the court's past discovery orders and the rules of discovery)

the State that is consistent with the public interest and with other requirements of law.” (emphasis added). The legislature provided for specific provisions or penalties and sanctions, adopted the procedures of a Court, and also gave the Commission inherent authority: “The commission has all implied and inherent powers under this Title, which are necessary and proper to execute faithfully its express powers and functions specified in this Title.” 35-A MRSA § 104.

Petitioners fully understood that they were disobeying the January 19th Scheduling Order when they acted in concert with First Wind and APUC and filed prejudicial material in the form of exceptions that relied on facts and arguments not in the record. *First Iowa Hydro Electric Coop. v. Iowa-Illinois Gas and Electric Co.*, 245 F.2d 613, 628, (8th Cir. 1957); *cert. denied*, 355 U.S. 871 (1957); (trial court committed no abuse of discretion in dismissing the cause upon the refusal of president and secretary treasurer of the cooperative to testify as ordered on depositions and upon plaintiffs' refusal to make required deposit to cover master's fees). The Court stated:

It is contended for appellants that they ‘were not contumacious’ and that ‘their motives were not contumacious’ in refusing to testify and in refusing to make the deposit for costs ordered by the court and that ‘dismissal was a harsh and unjustified penalty to impose upon confused laymen,’ but there is no claim that the individual plaintiffs did not fully understand that they were disobeying the order of the court when they refused to testify and when they refused to make the deposit or that their disobedience was other than willful and deliberate. Under Rule 37(d) and Rule 41(b) of the Federal Rules of Civil Procedure as well as in the exercise of its inherent power the District Court is authorized to dismiss the action of any individual plaintiff who willfully disobeys a proper order of the court to compel the giving of security or the giving of testimony on deposition and to dismiss the action of a corporation plaintiff whose managing agent so offends. We think the contention that dismissal was unduly harsh or unjustified is without merit. It was the right of the plaintiffs to prosecute the action for the recovery of \$120,000,000 against the defendants regardless of the burden it imposed on defendants, but only in the orderly course and in obedience to proper court orders. The Court would not have been justified in granting leniency or indulgence to the plaintiffs at the expense of the defendants. We find there was no abuse of discretion in the application by the Court of the sanction that was authorized by the Federal Rules of Civil Procedure, and by the inherent powers of the Court.

Courts have dismissed actions with prejudice for using undisclosed exhibits or by mailing documents directly to the Court, in contravention of a court order. See *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997).

The Maine Law Court in *Unifund CCR Partners v. Demers*, 966 A.2d 400, 403 (2009), has also recognized the inherent authority of a Court to impose the sanction of Dismissal With Prejudice: “The functions to be served may be several; to penalize non-compliance, remedy the effects of non-compliance, and to serve as a deterrent.” *Pelletier v. Pathiraja*, 519 A.2d 187, 190 (Me. 1986); see also *Baker's Table, Inc. v. City of Portland*, 743 A.2d 237, 243 (Me. 2000), (stating that, when determining the appropriate sanction to be imposed for failure to comply with procedural rules, “the court should take into account the purpose of the specific rule at issue, the party's conduct throughout the proceedings, the party's bona fides in its failure to comply, prejudice to other parties, and the need for the orderly administration of justice”). The Law Court in *Unifund, supra*, stated:

In considering the imposition of the specific sanction of dismissal, the court need not find “willfulness, bad faith, or fault of the party to justify the imposition of the dismissal sanction.” *Pelletier*, 519 A.2d at 189–90. Instead, “the trial court should evaluate the effect pretrial violations have on the adverse party and also consider the purpose the sanctions are to serve in exercising its discretion.” *Id.* at 190. “[S]erious instances of non-compliance with pretrial procedures can support a trial court's imposition of dismissal as a sanction.” *Id.* (affirming the Superior Court's dismissal of the case as a sanction for the plaintiff's failure to produce requested documents in violation of M.R. Civ. P. 16(d) and 37(b)(2), noting that such failure could well have “seriously and irreparably affected the [d]efendant's ability to proceed to a fair resolution of the claims against him”).

Because of the potential harshness to some parties of dismissal with prejudice, the Law Court cautions that before dismissal, consideration should be given to whether the conduct was intentional or innocent. Here, as has been shown, Petitioners' conduct was intentional.

The Law Court also suggested that it would be well for a trial court to consider the imposition of lesser sanctions. However, an administrative \$5,000 fine or contempt proceedings, would not be sufficient to protect the public and parties from the harm caused by the actions of Petitioners.

Here no lesser sanction than dismissal with prejudice or judgment against Petitioners could guarantee or affect the orderly progress of the litigation or remove the taint or appearance of unfairness. *See Francis-Sobe v. University of Maine*, 28 Fed. Rules Service, 400 (Me. 1979). Indeed the actions of Petitioners were calculated and deliberate – and constitute with a serious violation of Commission procedures, rules and orders. The First Circuit in *Aoude v. Mobil Oil Corp.* 892 F.2d 1115, 1118 (1st Cir 1989), summarized:

The courts' inherent power includes "the ability to do whatever is reasonably necessary to deter abuse of the judicial process." We need go no further. Appellant chose to play fast and loose with Mobil and with the district court. He was caught out. The judge considered the relevant factors and acted well within his discretion: appellant's brazen conduct merited so extreme a sanction; Mobil, having undergone extra trouble and expense, had a legitimate claim to dismissal; and the court, jealous of its integrity and concerned about deterrence, was entitled to send a message, loud and clear.

In addition to violating the Examiners' January 19 Scheduling Order, the Petitioners conduct was aggravated by violations of the Commissions' rules and the concerted *ex parte* contact with the Commission, which succeeded despite the best efforts of the Examiners to shield the Commission. This contact succeeded because Petitioners, in concert with First Wind and APUC, utilized a variety of means to ensure that the Commission viewed the unlawful material before it deliberated – direct filing by First Wind and APUC, attaching and incorporating into the body of the Petitioner's own exceptions, and making sure it was published in the newspaper. This Commission has previously commented and placed utilities on notice that it will not tolerate such behavior.

In its Order in *CMP Natural Gas, LLC, Petition for Approval to Furnish Gas Service in the Municipalities Of Westbrook and Gorham, and Central Maine Power Company and CMP Natural Gas, L.L.C., Request for Approval of Affiliated Interest Transaction, Sale of Assets*, Docket Nos. 1999-739 and 1999-477, at page 33, Order (Dec. 13, 1999), the Commission stated:

CMP NG and CMP Group are hereby notified that direct communications to the Commissioners on matters of substance during a pending case outside of any procedural context are inappropriate and may be subject to penalties provided in 35-A M.R.S.A. §§ 1503 and 1504. This is the case even if the communication is copied to all parties, because it presents untested allegations to the decision-makers outside the procedural framework of the case, leaving parties without an opportunity to cross-examine the proponent or to provide a meaningful response. Moreover, it is unfair to the parties, as well as distracting to the Commission and its staff, to inject unnecessary, [*70] unreliable, and inappropriate communications into the proceeding.

Statutes, case law, and the Commission's rules all require that the Commissioners confine themselves to the record established at the public hearing. This fundamental principle is embodied in the due process clause of the Constitution. *E.g. Chambers v. Kootenai County Bd. of Comm'rs*, 867 P.2d 989, 992 (1994). Agency proceedings that have been blemished by *ex parte* communications are voidable, based on the principle that it is simply unacceptable for any person directly or indirectly to influence a decision of a judicial officer in a pending case outside of formal public proceedings or in violation of rules or orders. "[A]n *ex parte* contact is condemnable, when it is relevant to the merits of the proceeding between an interested person and an agency decision maker. Finally, lest there be any doubt, we categorically reject any suggestion that *ex parte* contacts in Kentucky are, or should be, the 'bread and butter' of administrative proceedings to be tolerated with a knowing wink." *Louisville Gas and Elec. Co. v. Com. ex rel. Cowan*, 142 P.U.R.4th 464, 862 S.W.2d 897 (Ky.App,1993)(citing *Louisiana Association of Independent Producers and Royalty Owners v. Federal Energy Regulatory Commission*, 958 F.2d 1101, 1113 (D.C.Cir.1992).

In *Portland Audubon Soc. v. Endangered Species Committee*, 984 F.2d 1534, 1544 (9th Cir. 1993), the Federal Court emphasized: “*Ex parte* contacts are antithetical to the very concept of an administrative court reaching impartial decisions through formal adjudication. We agree with the observations of the District of Columbia Circuit regarding this principle:

We think it a mockery of justice to even suggest that judges or other decisionmakers may be properly approached on the merits of a case during the pendency of an adjudication. Administrative and judicial adjudications are viable only so long as the integrity of the decisionmaking process remains inviolate. There would be no way to protect the sanctity of the adjudicatory process if we were to condone direct attempts to influence decisionmakers through *ex parte* contacts.” *Professional Air Traffic Controllers Org. v. Federal Labor Relations Auth.*, 685 F.2d 547, 570 (D.C.Cir.1982) (*PATCO v. FLRA II*).

The fact that these communications came at a crucial time - right before deliberations - made them even more egregious. “No communication from any other person is more likely to deprive the parties and the public of their right to effective participation in a key governmental decision at a most crucial time.” *Id.* As Justice Spottworth stated: “[u]ltimately, an agency must be the guardian of its own honor. If it permits interested persons to show contempt for its formal adjudicatory processes by the subversion of *ex parte* pleas and approaches, then those processes will indeed become contemptible” *PATCO, supra* 685 F.2d 547, at 601.

Petitioners’ behavior in this proceeding warrants the dismissal of this proceeding or entry of judgment based upon the relevant case law. For the reasons described herein, the conduct of Petitioners in presenting prejudicial non-record information in their Exceptions and by encouraging First Wind and APUC to do the same through unauthorized *ex parte* communications, “seriously and irreparably affected the . . . ability to proceed to a fair resolution of the claims.” *Pelletier, supra*, at 190. Further, these actions “violated . . . clearly articulated orders.” *Ladien, supra*, at 1057.

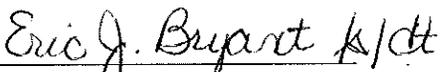
Here no lesser sanction than dismissal with prejudice or entry of judgment could guarantee or affect the orderly progress of the litigation or remove the taint or appearance of unfairness. *Francis-Sobe, supra*. Anything less would reward Petitioners for their actions, and would cause prejudice to the parties who have complied with the rules and fair play, and the public who expect nothing less. Dismissal, particularly given the recommendations of the Examiners, would be consistent with the public interest and the Commission's responsibility to ensure that the regulatory "system" protects those interests.

IV. CONCLUSION

For the reasons stated herein, the following parties respectfully request that the Commission dismiss the Petitions with prejudice, and for such other and further sanctions, including but not limited to rendering judgment against Petitioners as reflected in the Examiner's Report with regard to 35-A MRSA Section 708 that the risks of the proposed First Wind and APUC transactions set forth in this consolidated case even when mitigated by conditions outweigh the benefits of the transactions, thus, the "no net harm" standard is not met and the Proposed Transactions cannot and are not approved.

Respectfully submitted,

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