

## Testimony on behalf of the Moosehead Region Futures Committee

**Name of witness:** Robert A. Guethlen

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**Topics of testimony:**

- 1) Inappropriate locations proposed for development:  
Lily Bay, North Shore of Long Pond, and Upper Wilson Pond
- 2) Conservation easements

**Qualifications of witness:** Citizen advocate, interest in conservation and sustainable development of the greater North Woods

Resident of Tomhegan Township since 1991 (permanent since 1994)

Real Estate Development, MA 1980-1989

Member of Historic Commission, Salem, MA (mid 1980s)

Member of Planning Board, Salem MA (mid 1980s)

Registered Maine Guide – Recreation  
Specializing in wilderness canoe tripping

### Testimony:

#### **Topic: Removal of proposed development from inappropriate locations—Lily Bay, Upper Wilson Pond, and Long Pond**

The Moosehead Region Futures Committee (MRFC) has been involved in analyzing and making constructive recommendations to both Plum Creek and the Maine Land Use Regulation Commission (LURC) over the past two years. We have taken this task seriously and once again we respectfully submit testimony of our concerns and recommendations on this latest version of Plum Creek’s proposed Concept Plan for the Moosehead Lake region.

At the outset we wish to thank LURC for their always professional and helpful staff. It must also be said that although we continue to find parts of the recent proposal troubling Plum Creek has been professional and respectful in their dealings with MRFC.

Because the plan is so large and complex, and given the magnitude of the impacts the plan will have on both the Moosehead region and the larger LURC jurisdiction, we feel that it is our responsibility to be as professionally critical as we can to help ensure that whatever happens to the area and region will be positive for current residents and users of the region and stand the test of time.

### **Inappropriate Development Locations – Introduction**

At Lily Bay the Resort (D-GN2M) and the D-RS2M zoning should be removed from the plan. MRFC believes only limited residential development consistent with “smart growth” principles (shared water access, clustered housing, etc.), consistent with existing development in the immediate area, and located no farther than 1-2 miles from existing publicly maintained roads should be allowed in Lily Bay. Plum Creek’s plan to build a resort with associated buildings up to 6 stories high, a golf course, and 154 residential lots at Lily Bay is not compatible with a remote primitive recreation area. Lily Bay is not close to existing communities, and this intense development would totally eliminate the public’s ability to use this resource-rich area.

Plum Creek does not meet LURC guidelines to: **1) Protect the character and values of the area;** Plum Creek’s plan will forever change the character and values of the area. **2) Prevent the mixing of incompatible uses;** the intense development of a high-end golf resort is incompatible with the present use of the area for non-intensive outdoor recreational activities such as wildlife watching and camping. **3) Protect the ecological and natural resources;** the intense development (including a large improved road network and golf course) would put a strain on the ecological and natural resources of the area and adjacent areas. **4) Encourage well planned multiple uses of the land and resources and appropriate use of the land for outdoor recreational activities;** this plan would eliminate the present use of the area for non exclusive, non intensive outdoor recreational activities.

There is no need for two resort communities located so close together in the region. There is no evidence that this large-scale development is needed and in fact it may overwhelm the region. It would be prudent to eliminate the resort and large-scale residential development in Lily Bay from the plan and add the area to the conservation balance to offset development in other areas of the plan. Lily Bay is one of the important remote areas that visitors to the region, second home owners, and residents alike will seek out for remote, non-exclusive recreation, including interaction with wildlife in a substantially forested area. The applicant has **not demonstrated need** to develop Lily Bay.

Lily Bay is not close to the service center of Greenville and the area is largely undeveloped. If development were allowed at Lily Bay it would result in the **scattered and sprawling development patterns** that the CLUP is trying to discourage. An expensive upscale private enclave in Lily Bay will only serve a small group and will harm a resource that could have a greater economic benefit for tourism if left in a natural state.

Development at Lily Bay will have an **undue adverse impact**. Building a 250 unit resort and 154 house lots with golf course, paved roads, and utilities on approximately 4400 acres will encroach on sensitive wildlife habitat and will have an undue adverse impact on a remote recreational area that is substantially wild and wooded. The proposed Lily Bay development will be located near areas of reported Lynx sightings.

We believe the proposed development at Lily Bay is not consistent with the principal values that define the jurisdiction's distinctive character. The large resort and subdivisions proposed for Lily Bay will have an adverse impact on the people who come for a remote recreational experience at Lily Bay State Park. There will be severe impact on wildlife in the development zone and the adjacent areas. Intense, exclusive development would eliminate the opportunity for remote and primitive pursuits in this largely undeveloped area. And locating development so far from existing community centers and so close to Lily Bay State Park will break down the separation of incompatible uses and harm the availability to the public of this outstanding, remote lake frontage, forest, and wildlife area. If this exclusive resort and intensive subdivision development are allowed in Lily Bay, the natural values and primitive recreational opportunities will be lost forever.

Furthermore, Upper Wilson Pond and the North shore of Long Pond are remote areas and the applicant should remove the proposed development from these areas as well. There is no demonstrated need for these developments. There will be undue adverse impact, and development in these remote areas will harm remote recreational opportunities that are the heart and soul of the region. These special places are part of the reason people live in and visit the area, and they drive the economic engine we all depend upon.

Allowing development in these remote areas will be precedent setting for future development in remote locations in the Unorganized Territories.

### **Inappropriate Development Locations – Development at Lily Bay**

#### **A) MRFC's previous comments and recommendations**

In a letter to Catherine Carroll, Director of LURC, dated October 20, 2006, the MRFC is on record with the following requests and recommendations relative to Lily Bay. **The MRFC believes that these concerns and recommendations are relevant to the current plan.** [Note: The full text of the October 20, 2006 letter from the MRFC and the text of the LURC document on which it relies (see paragraph below) are included in James Glavine's testimony as Exhibit 5.]

“In the preparation of the attached document, we have utilized the contents of the LURC document entitled “CRITERIA FOR APPROVAL OF CONCEPT PLANS – A summary prepared by the Planning Division of the Maine Land Use Regulation Commission”, dated 18 March 2005. For the purposes of clarity and brevity, we have developed a set of abbreviations which will appear throughout the document, making specific reference to various components of the above-mentioned LURC summary, using the assumption that LURC staff will be able to

easily equate these abbreviations to the statements within the referenced document. Each citation to these abbreviations will ...include one of more of the following 9 points:

1. **Long Range Plans for Development and Conservation.**
2. **Long term intent, density and means for Protection.**
3. **Demonstrated Need.**
4. **No undue Impact and Appropriate Protection.**
5. **Conforms with the CLUP.**
6. **At least as Protective – matching Conservation.**
7. **Protection of Resources in need of Protection.**
8. **Publicly beneficial balance, appropriate Development and Conservation.**
9. **Perpetual Conservation and Protection.”**

**“2. Nature-Based Tourism:** Camping, boating, hiking, canoeing & kayaking, skiing, snowshoeing, snowmobiling, photography, rafting, and diverse guided experiences of many types are part of the strongest economic sector of this region and much of the area’s employment is somehow connected to this sector. Nature tourism is projected to be one of the mainstays of the region’s future economy.”

On page 4, #3 of the above referenced letter MRFC stated: “Request that the applicant revise its proposed development in conformance with the “Citizen Solutions” map, as detailed below:

- \* For the Lily Bay peninsula – only limited residential development consistent with “smart growth” principles (shared water access; clustered housing) and existing development in the immediate area; no resort development is recommended.

1. **Long Range Plans for Development and Conservation.**
4. **No undue Impact and Appropriate Protection.**
7. **Protection of Resources in need of Protection.**
8. **Publicly beneficial balance, appropriate Development and Conservation.”**

**“3. Wildlife Recreation:** Hunting, fishing, and wildlife watching all require healthy, diverse wildlife populations. Contiguous tracts of undeveloped land, riparian areas, high value habitat for wild animals, and intact natural plant communities are essential to the ecological and economic vitality of this region. The potential long-term economic benefits of conserving un-fragmented, high value habitat will likely outweigh the short-term benefits of inappropriate development.”

On page 5, #2 MRFC stated: “Request a thorough investigation be conducted of the compatibility of uses and the impact that large residential development would have on ...Lily Bay, and consider those in relation to current and future human, wildlife and fisheries patterns, the long-term economic benefits to and character of [this] distinct [area].

1. **Long Range Plans for Development and Conservation.**
2. **Long term intent, density and means for Protection.**
3. **Demonstrated Need.**

4. **No undue Impact and Appropriate Protection.**
7. **Protection of Resources in need of Protection.”**

**“4. Retirement/ 2<sup>nd</sup> Home Industry:** This industry also depends on conservation of high value resources that define this region. People want to own retirement or second homes near the woods, waters, and wildlife habitat that initially attracted them to the area. Supporting real estate development that uses “Smart Growth” and sustainable community principles (with regard to the location and amount of development) ensures strong real estate values even as we secure the health of the region’s other resource-based sectors.”

On page 7, #1 MRFC stated: “Due to the magnitude of the proposed changes and the breadth of territory involved, it is requested that LURC uphold adjacency guidelines as an essential tool that has helped to direct development in the Unorganized Territories in an orderly, positive way, regardless of whether they are currently required for Concept Plans.

3. **Demonstrated Need.**
5. **Conforms with the CLUP.”**

On page 9, #16 MRFC stated: “Request that LURC require broad balance between reaching a critical mass of development near established service centers and the protection of remote areas that offer essential natural habitats, a valuable wildlife and tourism economy, and sustain the distinct character of the Moosehead region.

1. **Long Range Plans for Development and Conservation.**
2. **Long term intent, density and means for Protection.**
4. **No undue Impact and Appropriate Protection.**
5. **Conforms with the CLUP.**
8. **Publicly beneficial balance, appropriate Development and Conservation.”**

### **Inappropriate Development Locations – Development at Lily Bay**

#### **B) MRFC’s comments on Zoning Petition ZP 707**

The following is taken from the proposed Concept Plan for Plum Creek’s Lands in the Moosehead Lake Region, April 2007, Plan Description and Petition for Rezoning.

Plan Description, Volume 2, Section 1, Plan Purpose, page 6: Plum Creek states “In recognition of this permanent balance conservation, LURC will waive the adjacency requirement.”

**MRFC requests** that adjacency not be waived (see MRFC comments below regarding Petition for Rezoning, Concept Plan Volume 1, Section 12, Adjacency Criterion).

Plan Description, Concept Plan Volume 2, Section 4, Land Use Zones and Standards, Sub-Chapter 1, General Provisions: Plum Creek is requesting 154 house lots and a 250 unit resort with golf course. On page II-6, 2. Description, Plum Creek says “Resort accommodations in this

zone means both visitor accommodations such as hotels, inns, lodges, and other facilities detailed below, and a variety of residential uses, including permanent homes, second homes and vacation homes that are integrated into the resort development.” The resort would require major road building and utilities. The visitor accommodations could all be up to 6 stories tall. Many of the resort units could be large single-family homes.

**MRFC believes** that these uses are not compatible with remote primitive recreation areas. They are not close to existing communities. A large number of residential homes plus a resort with golf course scattered in the development area will totally eliminate the public’s ability to use this resource-rich area.

Petition for Rezoning, Concept Plan Volume 1, Exhibit D, page 14: S.W. Cole Engineering describes a large percentage of the proposed resort and house lot subdivision in Lily Bay as “not dominated by soils suitable for development.” In addition, there are wet, steep, or shallow to bedrock areas.

**MRFC believes** Lily Bay should not be rezoned and developed for a resort and large scale residential development. Poor soil types are just one of the many examples of how fragile and important this area is for wildlife habitat and recreation.

Petition for Rezoning, Concept Plan Volume 1, Section 8, Current Uses, History: The historical sketch of past development does not show any evidence of large-scale development on the Lily Bay Peninsula, currently proposed for development of a 250 unit resort with golf course plus an additional 154 residential units both single and multi-family.

**MRFC believes** that adjacency has not been met, there is no demonstrated need, and there is no historical context suggesting that this large-scale development would be appropriate at Lily Bay.

Petition for Rezoning, Concept Plan Volume 1, Section 8, Current Uses, Concept Plan Area Today, page 4: Plum Creek states “Outdoor recreational opportunities are vital to the heritage and economy of the region.”

**MRFC believes** this very area will be needed for remote outdoor recreational opportunities for all present and future residents/visitors to the area. Lily Bay should remain undeveloped to ensure that the “heritage and economy” of the Moosehead Region remains vital.

Petition for Rezoning, Concept Plan Volume 1, Section 11, Consistency with the CLUP, page 1: The CLUP identifies core values to protect the distinctive character of the jurisdiction. These include “Diverse and abundant recreational opportunities, particularly for primitive pursuits,” and “natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers.”

**MRFC believes** that Plum Creek’s plan is not consistent with these core values and does not protect the distinctive character of this area because: 1) the large resort and subdivisions proposed for Lily Bay will have an adverse impact on the people who come for a remote recreational experience at Lily Bay State Park; 2) there will be severe impacts on wildlife in the

development zone and the adjacent areas; 3) the plan would eliminate the opportunity for remote and primitive pursuits in this largely undeveloped area; 4) locating development so far from existing community centers, and so close to Lily Bay State Park, will break down the separation of incompatible uses and will harm the availability to the public of this outstanding, remote lake frontage, forest, and wildlife area. If this exclusive resort and intensive subdivision development is allowed in Lily Bay, the natural values and primitive recreational opportunities will be lost forever.

This major intensive recreational facility, removed from an organized area, constitutes sprawl and will set a precedent for developing remote locations in other LURC jurisdictions.

Petition for Rezoning, Concept Plan Volume 1, Section 12, Adjacency Criterion: Plum Creek notes that the Commission will waive the adjacency criterion for development proposals on Class 3 lakes if certain criteria are met. However, Moosehead Lake is a special case meriting Class 7 treatment. With regard to Class 7 lakes, the CLUP states that the Commission will give “specific consideration to identified resource values when evaluating the merits of lake-related zoning and permit applications.”

**MRFC believes** the adjacency criterion should be not waived for development at Lily Bay because of its valuable and unique wildlife and remote recreational qualities as well as its proximity to Lily Bay State Park. This issue is further compounded when considering the distance between Lily Bay and Greenville.

Petition for Rezoning, Concept Plan Volume 1, Section 13, Protection Zoning: For development to occur in Lily Bay, the applicant must show that there is demonstrated need in the community or area. The applicant must also show that there would be no undue adverse impact on existing uses or resources, or that the rezoning would be more appropriate for protection of existing uses and resources. The statutory purpose and intent of the CLUP are to:

- Protect the character and values of the area;
- Prevent the mixing of incompatible uses;
- Protect the ecological and natural resources;
- Encourage well planned multiple uses of the land and resources and appropriate use of the land for outdoor recreational activities.

**MRFC believes** that the development proposed for the remote location of Lily Bay fails on all four of these counts. There is no empirical data given to show that these goals have been met. Plum Creek’s plan will forever change the character and values of the area, it mixes incompatible uses, it puts a strain on the ecological and natural resources of the area and adjacent areas, and we believe that this plan will eliminate the non-exclusive, non-intensive outdoor recreational activities.

Plum Creek states on page 2, “The plan protects the unique, remote character of the area by providing unprecedented conservation opportunities.”

**MRFC believes** it is true that there is some mitigation conservation in the plan; however, it would be unreasonable to believe that it adequately covers all of the development requested in

this plan. The Lily Bay peninsula is an area that does not qualify for large-scale development. The resort and large-scale residential development should be eliminated and the area should be added to the conservation balance to offset development in other areas of the plan.

Plum Creek further states that “The Plan locates development near or adjacent to existing communities and public roads and contains sprawl by surrounding the proposed development with the Balance Conservation Easement. Finally, the uses in the development are consistent with and compatible with historic uses and development patterns.”

**MRFC believes** Lily Bay is not near or adjacent to existing communities (like Greenville or Rockwood). The proposed development at Lily Bay clearly is sprawl. Development of this scale is not consistent with the historic use of Lily Bay. Including Lily Bay in the mitigation conservation would bring the remainder of Plum Creek’s plan closer to a reasonable balance.

Petition for Rezoning, Concept Plan Volume 1, Section 13, Protection Zoning, Demonstrated Need, pages 4-5: A rezoning petition must substantiate that a particular need exists in the community or region in question in order to meet the statutory and regulatory requirements. Plum Creek states that “The two proposed resorts, Big Moose Mountain and Lily Bay, together with the residential development component of the Concept Plan will be the primary drivers of economic growth. The proposed resort developments are consistent with economic activities that have historically occurred in the area and are consistent with the character of the area.”

**MRFC believes** that some development may help the economy of the region, but there is no evidence that this large-scale development is needed, and in fact it may overwhelm the region. It would be prudent to eliminate the resort and large-scale residential development. The applicant has not demonstrated the need to develop Lily Bay.

Plum Creek states “The resort developments will raise the region’s profile and draw attention to recreational opportunities together with recreation and retirement homes.”

**MRFC believes** the Lily Bay area will be one of the important remote areas that people who patronize Plum Creek’s other resort at Big Moose and buy Plum Creek’s other lots located closer to communities will seek out for remote, non-exclusive recreation, including interaction with wildlife in a substantially forested area. The applicant has not demonstrated the need to develop Lily Bay.

Petition for Rezoning, Concept Plan Volume 1, Section 15, Anticipated Favorable Impacts, Land Use, Predictability for future long-term development in the Plan Area, pages 1 and 2: Plum Creek states that “The development zones are located near service centers and existing communities of Rockwood, Jackman, and Greenville.”

**MRFC believes** that Lily Bay is not located near the service center of Greenville. Large-scale development this far out would adversely impact the resource value of Lily Bay. Resort and large-scale residential development should not be allowed at Lily Bay.

Under the heading Prevents Sprawling Development, Plum Creek states that “The Plan prevents random, sprawling development by locating development approximately adjacent to existing public roads and proximate to service centers and existing communities.”

**MRFC believes** that the Lily Bay development is in no way close to Greenville. The area is largely undeveloped. If large-scale development were allowed to locate in the area, it would in fact sprawl development toward Kokadjo and the deeper North Woods. The development is so far removed from Greenville that the region would be better served by enhancing the Big Moose resort. An expensive upscale private enclave in Lily Bay will only serve a small group and will harm a resource that could have a greater economic benefit for tourism if left in a natural state. Large-scale development at Lily Bay would be random sprawl.

Petition for Rezoning, Concept Plan Volume 1, Section 18c, Soil Conditions: In Table 1 on page 3, “Access to Development Areas,” Plum Creek indicates that they will be using 5.5 miles of existing roads starting at the Lily Bay Road. There will be additional miles of roadway network for the proposed resort, golf course and house lots. All of these roadways will be paved.

**MRFC believes** that this highly improved roadway network will eliminate non-exclusive remote recreational opportunities and fragment the wildlife habitat, negatively impacting the proposed development area and adjacent areas.

Petition for Rezoning, Concept Plan Volume 1, Section 18i, Wildlife Habitat, Planning Approach, page 4: Plum Creek states that the Concept Plan minimizes impacts on resources by “Locating all development near existing development, roads, and service centers to avoid encroaching on more isolated and sensitive areas.”

**MRFC believes** that the proposed Lily Bay development is too far from the service center of Greenville and will encroach on this isolated and sensitive area. Building a 250 unit resort and 154 house lots with golf course, paved roads, and utilities on approximately 4400 acres will encroach on sensitive wildlife habitat. It will cause undue adverse impacts on a remote recreational area that is substantially wild and wooded. The proposed Lily Bay development will be located near areas of reported Lynx sightings.

Petition for Rezoning, Concept Plan Volume 1, Section 20, Resource Protection, page 1: Plum Creek states that “the Plan guides development to the most appropriate areas – near service centers, adjacent to existing development, along heavily traveled public highways and in areas appropriate as new development centers – and prohibits residential development from occurring in other, more remote locations.”

**MRFC believes** the proposed Lily Bay development is not near service centers and is not adjacent to compatible existing development. The applicant says Lily Bay is appropriate for development; however, they have given no concrete justification other than to say it will “stimulate economic growth.” There are areas in the Plan that are more appropriate for development. LURC encourages development close to existing communities. It seems possible that the public will not benefit from this development. Profit alone is not a valid rationale to develop this site.

## **Inappropriate Development Locations –**

### **Development should be removed from the following locations: North Shore of Long Pond Upper Wilson Pond**

**MRFC believes** that the rationale given for removing proposed development at Lily Bay also applies to the North shore of Long Pond and Upper Wilson Pond. There are several additional reasons that are relevant.

The North shore of Long Pond is part of the Northern Forest Canoe Trail. MRFC believes this area should stay undeveloped for primitive recreational opportunities.

Petition for Rezoning, Concept Plan Volume 1, Section 12, Adjacency Requirements, Table 1, page 3: Plum Creek shows that the North shore of Long Pond is 12 miles by road from the nearest development.

**MRFC believes** that this proposed development is too far from existing development and publicly maintained roads. The adjacency waiver should not be allowed on the North shore of Long Pond because of its remote recreational qualities, particularly its being on the Northern Forest Canoe Trail. This issue is further compounded when considering the distance of the North shore of Long Pond from the existing communities of Jackman or Rockwood.

Petition for Rezoning, Concept Plan Volume 1, Section 14, Scenic Quality and Shoreland Criteria, page 2: The applicant states that “Long Pond, Moosehead Lake and Upper Wilson Pond have significant or outstanding scenic quality and shore characteristics according to the Wildlands Lake Assessment.”

**MRFC believes** that the significant and outstanding scenic quality and shore characteristics of the North shore of Long Pond and Upper Wilson Pond should be protected in their wild state and that developing these areas would adversely impact these values. Removing these areas from development is reasonable when the magnitude of the whole plan is considered. These special places should stay undeveloped because these are the places that everyone, including future buyers/visitors of Plum Creek’s developments, will want to visit for remote recreational activities.

Petition for Rezoning, Concept Plan Volume 1, Section 17, Public Services, page 1: Plum Creek states, “Utility line extensions will be provided by the developer as part of the applications for subdivision approval or resort development.” In another part of the Plan Plum Creek exempts both the North shore of Long Pond and Upper Wilson Pond from this provision by stating that lots “will have the option of having utility service” and “Utilities may not be provided to this area.”

**MRFC believes** the applicant has shown the importance of connecting to utilities in today’s world for both part-time and full-time buyers because they provide them for the rest of the proposed development areas. Connecting to utilities is an important requirement for

development and it is also important that all development should be within 1 to 2 miles of existing publicly maintained roads. Both the North shore of Long Pond and Upper Wilson Pond are too far from existing utilities and county maintained roads to be considered appropriate areas for development.

Petition for Rezoning, Concept Plan Volume 1, Section 18c, Soil Conditions, page 2: Plum Creek states that “with the exception of Upper Wilson Pond and Long Pond north shore development areas, most access roads will be paved.”

**MRFC believes** these access roads will not be paved because of the remote location and the prohibitive cost. It is clear that these areas are recognized by Plum Creek as remote. They should not receive approval of a zoning change for these remote locations.

Petition for Rezoning, Concept Plan Volume 1, Section 18c, Soil Conditions, Table 1, Access to Development Areas, page 3: This table indicates that both Upper Wilson Pond and the North shore of Long Pond are many miles from publicly maintained roads.

**MRFC believes** that these subdivisions are located too far from publicly maintained roads and that residents would have to travel over many miles of third party haul roads. There is no guarantee that these haul roads will be maintained in the future. The cost to the proposed subdivisions for maintenance of these haul roads could then skyrocket. It is inevitable there will be pressure to have the county maintain these roads. This is poor planning, leading to unpredictable costs to the county/state budget. Development in these remote areas should be prohibited.

## **Topic: Conservation Easements**

**Conservation Easement granted by Plum Creek Maine Timberlands, L.L.C. to Forest Society of Maine as Holder and to State of Maine as Third Party**

**Conservation Easement granted by Plum Creek Maine Timberlands, L.L.C. to The Nature Conservancy of the Pine Tree State, Inc.**

*As written the easements do not provide proper balance. As written they do not constitute conservation easement values.*

Guiding Principle – From the LURC “Guidelines for selection of Conservation Easement Holders amended 11/10/04”, pages 2 and 3. “Purpose – This Conservation Easement is intended to provide a significant public benefit by protecting and preserving in perpetuity the natural and undeveloped character of the Protected Property, including its wildlife habitat and its high scenic and substantially forested character when viewed from public waters of lakes and streams and public roads subject to such uses as are specifically provided for herein.”

The applicant goes to great lengths to state that the easements provide an adequate balance to the proposed development. As they are written, it is true that there will be no residential development, however, the easements have many instances that will be listed below that allow

serious and heavy industrial and commercial use. For the easements to truly demonstrate conservation values that would qualify as “balance” the allowed uses would have to be substantially changed to tip the scale back to LURC’s stated goals.

Plum Creek is required to provide significant and meaningful conservation to balance the development they propose. It does not meet this test if the conservation given or sold becomes another extension of development. In fact, the public is being asked to accept a large amount of industrial and commercial development disguised as conservation. This industrial and commercial activity in conservation areas will have a serious and permanent undue adverse impact on the region for remote recreation and scenic values needed to sustain our vibrant economic base.

The following are examples of areas that need to be removed or changed. If they were allowed to stay as is, they would not protect and preserve the natural and undeveloped character of the property including habitat and highly scenic and substantially forested areas.

- **Uniformity of Easements**

Plum Creek has requested that LURC include both the mitigation and fee easements in the application for rezoning. They have stated publicly that the combined total of nearly 400,000 acres should be viewed as a package. These statements have been made many times in the local area. Most people cannot distinguish the fact that there are two separate easements. LURC has refused to decouple the fee easement from the plan and the application.

**MRFC believes** that the easement language and the allowed uses as well as the prohibited uses should be the same in both easements. The standards should follow the highest protection of wildlife habitat, natural and undeveloped character while protecting the highly scenic character for non-exclusive, low intensity, remote recreational opportunities.

**INDUSTRIAL AND COMMERCIAL DEVELOPMENT ALLOWED ON PROTECTED PROPERTY**

- **Wind Power Activities**

Plum Creek allows an unlimited number of wind towers to be built on the fee easement, and permits roads and utilities to cross the mitigation easement. There is no indication as to where these would be built; however the highest elevation and therefore most prominent areas are the most probable.

**MRFC believes** that these “high peaks” are the very places that hold the highest conservation values and that wind towers along with the accompanying roads and utility transmission lines will severely impact wildlife habitat, viewsheds and remote non-intensive recreational

opportunities. These towers are an industrial enterprise and should not be allowed in the conservation easements.

- **Septic Field Activities**

Plum Creek allows 100 acres at a time to be used as a septic waste disposal site on both the mitigation lands and the fee lands for a total of 200 acres at a time on the Protected Property. Allowing septic waste disposal on the Protected Lands would severely impact the conservation values of the 200 acres as well as the areas surrounding it. It would also involve improved roads and increased industrial traffic to the disposal sites, eliminating any remote recreational opportunities.

**MRFC believes** that septic waste disposal is incompatible with conservation values of the Protected Property and should be located somewhere on the applicant's lands that are not part of the conservation easements.

- **Subdivision**

Plum Creek allows the Protected Property to be subdivided into parcels as small as 5,000 contiguous acres (up to 5 (five) lots on the mitigation easement and up to 20 (twenty) on the fee easement, for a total of 25 possible parcels). It would be easy to see these lots morphing into Kingdom lots that 1) are adjacent to existing development, 2) become attached to exempted lease lots that are brought up to conformity with LURC standards, or 3) are connected to the remote hut system. In all of these possible scenarios the lands would lose the non-exclusive public recreational benefit and become exclusive or semi-exclusive high-end resorts or single-family development.

The ability of the easement holder to enforce and monitor the easements would be negatively impacted, and the ability of the public to seamlessly enjoy the Protected Property would be reduced. It would be easy to envision a multi-layered and confusing management plan that would cause undue adverse impacts on remote recreation and management of recreational resources.

**MRFC believes** the ownership should stay in larger parcels.

- **Permanent Sawmills**

Plum Creek allows permanent sawmills on the fee easement Protected Property.

**MRFC believes** that permanent sawmills should be placed on Plum Creek lands that do not have easements and that permanent sawmills should not be allowed in the lands with easement protection. The roads, utilities, and heavy activity generated by sawmill development are too intensive and would harm the underlying conservation values of the easement.

- **Back Country Huts**

Plum Creek allows 3 (three) backcountry huts on both the mitigation and fee Protected Properties (for a total of 6 (six) huts). There is no definition as to how large they can be, or will become in the future. There are no locations provided. It is possible that these remote huts could be highly developed lodging facilities with foundations and multiple buildings, with roads and utilities to the site, thus becoming de facto resort development outposts for expensive, high-end exclusive use. It is likely that these resort outpost huts would be placed in the most important remote locations that are in need of protection for non-exclusive remote recreation values.

**MRFC believes** that if any backcountry huts are allowed, they must not be in high value locations in need of protection, and that they must conform to the LURC definition and restriction of a single “remote rental cabin” or “lean-to.”

- **Public Boat Launches**

Plum Creek allows an unspecified number of public boat launches. There is no information as to the number, location, size, or type (drive-to or hand carry) of these boat launches. It is unclear how large the parking lots will become. There is the potential for these boat launches to be placed in sensitive locations where they would harm remote non-intensive use and enjoyment of quiet recreational opportunities. There is no prohibition of utilities or waste facilities, and no restrictions on absolute length of stay. It is quite possible that the boat launch sites would become large campgrounds that would be yet another commercial use of the Protected Property.

**MRFC believes** that the use and location of possible boat launch sites must be defined using strict standards. Repair and replacement of existing boat launch sites should also be scrutinized to prevent them from becoming unplanned campgrounds or being expanded into larger sites.

- **Cell Towers**

Plum Creek allows cell towers on the Protected Property (2 (two) on the mitigation lands, and 4 (four) on the fee lands). There is no location given for any of the six cell towers. There would need to be roads and utilities to the sites. These towers would most likely be built on the highest hills, the very remote and special landscapes needing the most protection and the very places needed for quiet, primitive recreational pursuits.

**MRFC believes** that cell towers with the accompanying roads and utilities should not be allowed in the easement areas and should be removed from the application.

- **Water Extraction**

Plum Creek allows limited residential water extraction on the mitigation lands, but would allow a full-scale industrial bottling plant on the fee lands. This is an example of large-scale development that could include construction of large industrial buildings, highly improved roads,

and utilities. All easement values would be eliminated in the affected area and this large-scale development would adversely impact the remote recreational opportunities in the adjacent areas.

**MRFC believes** commercial water extraction and associated bottling facilities should not be allowed on the easement lands.

- **Mineral Rights**

Plum Creek allows mining activities of the Protected Property by an unknown third party who may have mineral rights to the property. There is no indication as to how large this problem could become. The third party, if any, is not identified and the type, location, and size of the mining operation are not stated. Therefore any adverse impacts are unknowable.

**MRFC believes** that there should be no surface or subsurface mining on the Protected Property. If there are prior agreements in place they should be disclosed before the easement is approved by LURC. It is possible that the Protected Property could be severely compromised.

- **Permitted Construction Material Removal Activities**

Plum Creek allows numerous extraction sites on both Protected Properties of 15 acres in size (mitigation lands allow 185 acres total at any one time, fee lands allow 215 acres in total at any one time.) It would be possible for these construction material removal sites to continually roll over the entire easement area of nearly 400,000 acres. Wherever there is usable material it would be possible to extract it. Plum Creek states that the material could be used for development in the “vicinity” of the Protected Property, which could encompass a very large geographic area. Left unchecked, this would become a large industrial development component that would negatively impact the ability to enjoy any remote recreation.

**MRFC believes** that only limited sites under 5 acres should be allowed on the Protected Property. The material should be limited to use on roads within the Protected Property.

**MRFC requests that the above inappropriate activities and uses be removed from the nearly 400,000 acres subject to easements as part of the Concept Plan.** It is clear that they represent large-scale industrial and commercial development. For the Conservation Easements to be relevant and protect the natural and undeveloped character of the Protected Property, these industrial and commercial activities must be eliminated. They are incompatible and do not qualify as conservation values.

The applicant has other property that would better fit some of the above uses.

There is a way to conduct sustainable harvesting while protecting special high value areas that the easements encompass, and we encourage Plum Creek to re-evaluate and omit the above. This would go a long way toward furthering one of LURC’s stated goals: Page 134 of the CLUP, “Broad Goals of the Commission,” #3, “Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreational opportunities.”

Balancing development with Conservation Easements requires that high standards be met, establishing a precedent that could be used throughout the LURC jurisdiction as more development proposals come forward.

**MRFC believes** that, taken as a whole, the amount of allowed industrial and commercial development means that the easements would be less protective of resources than the existing zoning. The primary purpose of the easements should be to protect important conservation values first, and to allow sustainable high quality timber management second.

The balance conservation to offset 2315 resort and residential housing units must guarantee that easement lands will be protected from development of any kind, residential as well as INDUSTRIAL AND COMMERCIAL. This balance must guarantee that the protected lands will be managed for remote non-exclusive low intensity recreation while improving habitat and scenic views and keeping a largely undeveloped forest intact. Development is not compatible. If the conservation is to be meaningful, these prohibited uses should be in perpetuity for both the mitigation and fee lands.

The CLUP identifies four principal values that define the jurisdiction's distinctive and special character:

- The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest, largely on private lands. This value is based primarily on maintenance of the forest resource and the economic health of the forest products industry.
- Diverse and abundant recreational opportunities, particularly for primitive pursuits.
- Diverse, abundant and unique high-value natural resources and features, including lakes, rivers and other water resources, fish and wildlife resources, ecological values, scenic and cultural resources, coastal islands, and mountain areas and other geologic resources.
- Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers.

**MRFC believes** that these values are important and that the easement language should reflect the same.

Further, the CLUP states as its Broad Goals:

1. Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
2. Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, nonintensive outdoor recreation and fisheries and wildlife habitat.

3. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.

**MRFC believes** that if we are to balance development with conservation, the Protected Property must stay free from industrial and commercial development or the above goals will not be met.

OATH

State of Maine

County of \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn on oath, affirm that the foregoing pre-filed testimony is true, accurate, and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

Sworn to and subscribed before me this \_\_\_\_ day of August, 2007.

\_\_\_\_\_  
Notary Public (signature)

\_\_\_\_\_  
Notary Public (printed name)