



FOREST  
SOCIETY  
of MAINE

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September 28, 2007

Agnieszka Pinette  
Senior Planner  
Land Use Regulation Commission  
Department of Conservation  
22 State House Station  
Augusta, ME 04333-0022

**RE: Plum Creek Zoning Application ZP 707; Rebuttal Testimony of Alan  
Hutchinson on Behalf of Forest Society of Maine**

Dear Ms. Pinette:

Enclosed please find the original and sixteen copies of my rebuttal testimony on behalf of the Forest Society of Maine in the above-captioned matter.

The rebuttal testimony is also being e-mailed to the service list.

Very truly yours,



Alan Hutchinson  
Executive Director

AH/kmr  
Enclosures

cc: Service List

STATE OF MAINE  
LAND USE REGULATION COMMISSION

In the Matter of )  
Zoning Application ZP 707 )  
Plum Creek's Petition for Rezoning )  
and Concept Plan Proposal for the )  
Moosehead Lake Region )

WRITTEN REBUTTAL TESTIMONY SUBMITTED BY ALAN HUTCHINSON  
EXECUTIVE DIRECTOR, FOREST SOCIETY OF MAINE

**I. Introduction**

1. My name is Alan Hutchinson and I am the executive director of the Forest Society of Maine ("FSM"). I have served in that capacity for the past ten years. Before joining FSM, I was employed for 24 years as a wildlife biologist by the Maine Department of Inland Fisheries and Wildlife. Further detail regarding my credentials is contained in my pre-filed testimony dated August 31, 2007.

2. The Forest Society of Maine's interest in these proceedings is multi-faceted. We are a conservation organization with a strong interest and involvement in the Moosehead Lake region. Plum Creek has proposed that FSM be the holder of the 90,000-acre Balance conservation easement, which is a component of Plum Creek's Resource Plan, and FSM has indicated to LURC its interest in becoming the easement holder. FSM has also partnered with The Nature Conservancy (TNC) and Appalachian Mountain Club (AMC) to develop the Conservation Framework, designed to add significantly to the lands proposed for permanent conservation.

3. The Forest Society of Maine believes that ZP707, the concept plan proposal for Plum Creek's lands in the Moosehead Lake Region provides a unique and significant

opportunity to protect the core natural resource values of the LURC jurisdiction and this region by permanently conserving 431,000 acres in the heart of Maine's North Woods. Our August 31, 2007 pre-filed testimony explained our position.

4. FSM wishes to provide additional testimony through this submission to comment on pre-filed testimony made by others and to respond to comments raised by others on issues included in our pre-filed testimony.

## **II. Regarding testimony by the U.S. Fish and Wildlife Service**

5. Pre-filed testimony by the U.S. Fish and Wildlife Service (the Service) raised a number of concerns regarding the Balance and Legacy conservation easements. Those concerns are summarized on pages 42 and 43 of their testimony. The Service's conclusion is that the easements and accompanying Multi-Resource Management Plan lack the specificity and assurances needed to understand how the lands will be managed to provide benefits to wildlife and biodiversity.

6. The Balance and Conservation easements were designed to provide specificity and assurances through a three-tiered structure: A) terms in the body of the easement; B) terms of the multi-resource management plan, which is attached to the easement; and C) the detailed documentation of the third-party forest certification, which would be tied to the easement as part of the baseline documentation. Each of the three components offers increasing levels detail and specificity and added assurances.

7. While FSM has confidence that sufficient detail and assurances are built into the proposed three-tiered easement structure, we realize, particularly based on comments by

the Service, Maine Department of Inland Fisheries and Wildlife (MDIFW), and other review agencies, that our confidence is based on our knowledge of and access to the details within the three tiers.

8. The closing section of the Service’s testimony (pages 42 and 43), titled “Conclusions on the Balanced and Legacy Easements”, sets out a list of recommendations to provide increased specificity and assurances. FSM is in general agreement with the concepts included in this list of recommendations, and has undertaken discussions with the Service, MDIFW, Plum Creek, The Nature Conservancy, and others to help improve the easement terms and architecture through incorporation of those concepts and recommendations. It is our expectation that changes, mutually agreed to by the Service and Plum Creek, will be submitted to LURC in response to the Service’s recommendations. While FSM has not yet seen the details in final written form prior to the deadline for submitting our rebuttal testimony to LURC, based on our understanding of the changes to be proposed, we anticipate that they will add helpful clarifications, assurances, and detail.

### **III. Regarding testimony by the Maine Department of Inland Fisheries and Wildlife**

9. MDIFW’s testimony submitted by Ken Elowe, Director of Resource Management, offers a number of recommendations as “means to avoid or ameliorate anticipated negative effects on important habitats”.

10. MDIFW’s opening comments also commends Plum Creek “for opting to take advantage of LURC’s concept plan approach to landscape level planning”, stating, “ This approach fits with (MDIFW’s) Beginning with Habitat Goals of carefully considering land use decisions in the larger framework of ecological landscape functions”, and that “this

approach offers much greater opportunity to maintain long-term habitat values than the alternative approach of reviewing individual subdivision proposals on a case by case basis.”

11. FSM is in agreement with MDIFW with respect to the benefits of a landscape-scale, concept planning approach to conservation and land-use planning. Conservation at the landscape scale is critical to maintaining fish and wildlife populations, such as Canada lynx, and other special natural resource and recreational values within Maine’s North Woods.

12. The Plum Creek proposal before LURC, which will permanently conserve 431,000 acres, offers a permanency and scale of protection that would not likely be available otherwise than through the concept plan approach as proposed by ZP707.

13. MDIFW’s opening testimony also includes reference to their “Northern Maine Planning Approach”, which lists seven objectives MDIFW recommends be addressed:

- A. Maintain and possibly increase the number of large un-roaded or otherwise unfragmented blocks of forest and maintain connectivity between these blocks;
- B. Conserve high value plant and animal habitats;
- C. Protect rare and exemplary natural communities;
- D. Provide early successional habitat for wildlife species such as Canada lynx;
- E. Increase the amount and distribution of late successional habitats for mature forest dependent species;
- F. Provide enhanced protection for riparian areas; and
- G. Avoid or minimize the impacts of roads

FSM agrees with MDIFW that these are important objectives to be addressed within concept plans and conservation planning for Maine's North Woods.

14. Plum Creek's original proposal to LURC for the 420,000+-acre Concept Plan area included only 11,000 acres of permanently conserved land (2.5% of the total area) and included 382,000 acres in a 30-year, temporary, no-development-timber management zone. There was broad and strong public response against this amount of permanent conservation and the proposal to only assure protection of the 382,000 acres for 30 years.

15. The original plan would not have achieved the objectives set forth by MDIFW.

16. In response to this public call for increased conservation, FSM, TNC, and AMC agreed to work together to try and secure significantly more lands in permanent conservation. As a result of such discussions, Plum Creek's current proposal includes significant additions and improvements.

17. The amount of land proposed for permanent protection has increased from 11,000 acres to 431,000 acres, an area representing 94% of the total plan area (compared to 2.5% originally). The land will be protected with conservation easements and the acquisition of two tracts of high conservation value: Moose River-No.5 Bog and the Roach Ponds.

18. The conservation components of Plum Creek's Concept Plan and P-RP District will not only be one of the largest conservation projects in Maine's history and one of the largest nationally, it will also help to establish a network of about 2 million acres of conserved lands that surround the core of the LURC jurisdiction.

19. High value plant and animal habitats, rare and endangered species habitats, rare and exemplary natural communities, and riparian areas will also be assured protection

through the provisions of the Balance and Legacy easements. Processes are also included in the easements for the conservation of early successional and late successional habitats.

20. These assurances and protections are provided through a three-tiered easement structure: A) terms in the body of the easement; B) terms of the multi-resource management plan, which is to be attached to the easement; and C) the detailed documentation of the third-party forest certification, which would be tied to the easement as part of the baseline documentation. Each of the three components offers increasing levels detail and specificity and added assurances.

21. While FSM has confidence that sufficient detail and assurances are built into the proposed three-tiered easement structure to achieve MDIFW's objectives, we realize, particularly based on comments by MDIFW, U.S. Fish and Wildlife Service, and other agencies, that our confidence is based on our knowledge of and access to the details within the three tiers, and that improvements can be made to provide additional clarity and assurances to others.

22. FSM supports the concepts presented in MDIFW's list of objectives for conservation planning in Northern Maine, and has undertaken discussions with MDIFW, Plum Creek, The Nature Conservancy, and others to help improve the easement terms and architecture through incorporation of those concepts and recommendations. It is our expectation that changes mutually agreed to between Plum Creek and MDIFW will be submitted addressing those objectives.

23. FSM has also examined MDIFW's objectives in light of the recommendations proposed by the U.S. Fish and Wildlife Service (paragraphs 5 through 9) and concludes that if those recommendations are implemented, they will also help to achieve MDIFW's objectives.

While FSM has not seen the details in final written form prior to the deadline for submitting this rebuttal testimony to LURC, based on our general understanding of those proposed changes we anticipate that they will add helpful clarifications and detail.

**IV. Prescriptive versus outcome-based design for the conservation easements:**

24. Various parties, including the U.S. Fish and Wildlife Service and Maine Audubon Society have taken the position that easements fall short if they do not include prescriptive practices. Recent work by easement practitioners across the country, led by the nationally prominent Land Trust Alliance, have concluded that easements, especially large-scale easement and easements in working forest landscapes should avoid the prescriptive approach. They recommend an outcome-based approach with performance expectations. Such easements as the Katahdin Forest and West Branch easements are built upon the outcome-based approach. The Balance and Legacy easements are built upon that model as well.

**V. Protection of Biodiversity and Provisions for Landscape-scale Management**

25. Concerns have been raised as to whether the easement and incorporated multi-resource management plan and associated supporting documentation are sufficient to ensure that species and habitats of management concern, native wildlife, plants, and habitats, and, more broadly, biodiversity, will be sustained, and, further, if the easement and management plan provide for landscape-scale management in a way that will conserve viable habitats or populations. FSM's response is that the easement with the incorporated management plan and other relevant and controlling documents that will become part of the permanent baseline document, ensure that Maine's native wildlife, plants, and habitats, and, more broadly, biodiversity, will be sustained and that landscape level management is provided for in a way

that conserves viable habitats and populations. Pertinent provisions include the revised Purpose statement, the revised recitals to the easement, sections 5, 5.A, 5.C, and 5.D. and Section E, “Wildlife Practices”, of the Multi-Resource Management Plan.

**VI. Provisions for the protection of rare and endangered species or rare or unique natural communities:**

26. Concern has been raised as to whether the easement and incorporated multi-resource management plan are sufficient to ensure that rare, endangered, or imperiled species and similarly rare natural communities will be sufficiently protected, and as to whether new information regarding these important resources will be periodically added.

27. FSM’s response is that the easement with the incorporated management plan and other relevant and controlling documents, which will become part of the permanent baseline document, ensure that Maine’s native wildlife, plants, and habitats, including rare and endangered species and natural communities will be afforded appropriate protections.

28. That protection will come partially as described in the preceding comments addressing biological diversity and other matters, but is also achieved by Section E, “Wildlife Practices”, of the Multi-Resource Management Plan, and Section F of the Multi-Resource Management Plan, Significant Natural Communities and Rare/Threatened Species.” FSM’s understanding is that additional improvements to the easements are under discussion among Plum Creek, MDIFW, the U.S. Fish and Wildlife Service, and other review agencies designed to add new specificity and procedures to further address the conservation of biological diversity, rare and endangered species, and other wildlife habitats.

## **VIII. Conclusions**

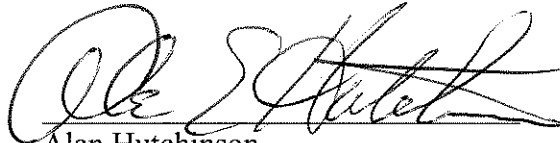
29. Plum Creek's concept plan for the Moosehead Lake region has improved significantly from earlier versions, and our expectation is that it will be further improved through on-going discussions between Plum Creek and the government review agencies.

30. FSM has a long standing interest in the future of the Moosehead Lake region, working with the State, Greenville, and other communities on important conservation projects to help maintain the region's special nature. These include Big Spencer Mountain as an ecological reserve and popular hiking destination, Northeast Carry and six miles of Moosehead lakeshore for public access and recreation, and the 329,000-acre West Branch project on the north end of Moosehead Lake.

31. We believe that the real choice before LURC is between planned growth with significant conservation and unplanned, sprawling growth with little conservation. The choice is not between the Plum Creek proposal and no further development in the Moosehead region. Growth and development are upon us, whether one thinks that to be good or bad. The proposal before LURC offers a planned approach with all attending benefits, including large-scale, permanent conservation. The alternative is the continued fragmentation of forestland and sprawling, piece-meal development of the Moosehead Lake region.

32. The proposal before LURC for Plum Creek's lands in the Moosehead Lake region provides an extraordinary opportunity for conservation—offering permanent protection to 431,000 acres and sufficient assurances and specificity to guarantee that the many natural resource and recreational values of these lands are protected into the future.

DATED: September 28, 2007.



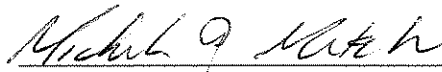
Alan Hutchinson  
Executive Director  
Forest Society of Maine

STATE OF MAINE  
Penobscot, ss.

September 28, 2007

Personally appeared the above-named Alan Hutchinson, Executive Director of the Forest Society of Maine, and swore under oath to the truth of the within written testimony, and, to the extent based on information and belief, that he believes it to be true.

Before me,



Notary Public/Attorney-at-Law

Print Name: Michele G. Metzler

My Commission Expires: \_\_\_\_\_

