

STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION

IN THE MATTER OF

TRANSCANADA MAINE WIND DEVELOPMENT)
KIBBY WIND POWER PROJECT)
KIBBY AND SKINNER TOWNSHIPS,) PRE-FILED TESTIMONY
FRANKLIN COUNTY, MAINE) APPALACHIAN MOUNTAIN CLUB
ZONING PETITION ZP 709) DR. DAVID A. PUBLICOVER
)
)

Introduction

This testimony is presented on behalf of the Appalachian Mountain Club. The AMC, headquartered at 5 Joy St., Boston, MA 02108, is a private, non-profit organization whose mission is to “promote the protection, enjoyment, and wise use of the *mountains*, rivers, and trails of the Appalachian region” [italics added]. We encourage public respect for the natural environment, provide leadership in its protection, and provide recreational and educational programs and facilities for the enjoyment and wise stewardship of the outdoors. Our nearly 90,000 members reside largely in the Northeast and include about 3,800 members in our Maine chapter, as well as many others who visit the state on a regular basis to participate in outdoor recreational activities. The AMC has an active interest in the protection of Maine's significant natural resources, including its forests and mountainous areas. As the only organization in the region that has as a primary part of its mission the protection and wise use of the mountainous areas of the northeastern United States, we have an interest in any activity that may significantly affect high-elevation environments.

The AMC has a demonstrated history of active involvement with windpower siting issues in the state. We have been active intervenors in the other commercial windpower project applications in LURC jurisdiction (Kenetech Corporation, Maine Mountain Power and Evergreen). We have been an invited speaker at a range of conferences and other gatherings dealing with mountain conservation and windpower issues, both within the state of Maine and across the region. AMC's standing as an important voice in windpower issues was recognized by LURC in its invitation to AMC to participate in a panel discussion on windpower and LURC's Comprehensive Land Use Plan at the Commission's meeting of December 7, 2005, and by its appointment as an alternate member of the recently-established Wind Power Siting Task Force.

The AMC recognizes that the increased use of environmentally sound renewable energy resources is a positive development. We have a long history of research and advocacy in the areas of air quality and conservation of mountain and alpine ecosystems, and fully recognize the adverse impacts that our society's continued heavy reliance on fossil fuels can have on the areas we care about. We believe that there is a place for windpower in the mountains of Maine. However, we feel that the construction of renewable energy facilities must be undertaken with a full understanding of the potential consequences, and that adverse impacts associated with these facilities should be avoided or mitigated to the maximum degree possible.

Finding the appropriate balance between windpower development and the conservation of Maine's important mountain resources (both at the scale of an individual project and across the broader landscape) is a significant challenge, and there are varying opinions as to where the balance point should lie. However, on balance we believe that the benefits of this project outweigh the known and potential impacts, and thus we support the approval of this application.

As a condition of this support, we have entered into a conservation agreement with the applicant that will provide additional off-site protection to high-value mountain resources both within the vicinity of the project and elsewhere¹.

Landscape context

AMC believes that windpower projects should be evaluated not only in regards to site-specific impacts but in the context of the larger landscape in which they lie. LURC's Comprehensive Land Use Plan states, "In light of the limited supply of mountain resources and their value, it is unlikely that all such areas will be considered suitable for rezoning and associated development by the Commission"². We agree with this, and believe that there are certain mountain areas that possess significant natural resource values of state, regional and national significance spread across multiple peaks, and which possess unroaded and relatively wild core areas that should be protected from development. Among the primary high-value mountain areas in the state (some parts or all of which are already protected) are the Mahoosuc Range, the Western High Mountains (Saddleback to Bigelow), the high peaks of the 100-Mile Wilderness (Lily Bay/Baker/Whitecap/ Spruce/Shanty), and obviously the Mount Katahdin region.

We do not believe that the northern Boundary Mountains³ *as a whole* rise to this level of significance. While they are a notable mountain region within the state, the resource values that they possess are not as unique or significant as the areas listed above, and are shared with extensive other parts of the western mountains of Maine. To hold that the entire area should be

¹ A summary of the conservation agreement has been entered into the application record by TransCanada.

² Comprehensive Land Use Plan [CLUP] P. 59.

³ Generally the area north of Route 27 and south of the Moose River.

off-limits to development would create a standard that would put many other areas off-limits as well. Given the need for renewable energy development, we are not prepared to do this.

However, within the northern Boundary Mountains there are areas that we think are inappropriate for development. Most notable is the area encompassing the summit cone of Kibby Mountain and stretching east across the Tumbledown/Three Slide range (Exhibits 1 and 2). This area encompasses the (currently) wild roadless core of the region and contains multiple Natural Heritage element occurrences (rare plants and natural communities). Also notable are the higher elevations west of the Gold Brook Road along the Canadian border (including Caribou Mountain). These areas contain more extensive high-elevation land (especially above 3000', with four peaks rising above 3500'), encompass large roadless core areas, are more likely to be relatively free of past human impacts, and are more likely to contain larger areas of rare subalpine forest and associated habitat for Bicknell's thrush.

In contrast, the project area lies along the edge of the high-elevation core of this mountain region (Exhibit A), in closer proximity to Route 27 and within the area that has been most heavily impacted by recent harvesting (Exhibit B). It generally lies at relatively lower elevation within the region, with 36 of the 46 potential turbine sites lying below 3000' in elevation and 10 lying below 2700'. It avoids the most significant higher elevation and wilder core areas of the region, and in fact the conservation agreement will provide added protection for these areas by prohibiting future windpower development.

It is the project's location in the lower-elevation and relatively lower resource value portion of the region that has allowed us to support it. Had the applicant proposed development across and north of the summit of Kibby Mountain into the core area of high resource value, our decision as to whether we would support the project would have been much more difficult. The

project is in marked contrast to the original Kenetech proposal, which would have encompassed every ridgeline in the region. Based on our more comprehensive understanding of potential windpower sites today as compared to the mid-1990s, we are thankful that the original project was not constructed, and that the intervening time has allowed windpower technology to develop to the point where a project of significant capacity can be located in a much smaller area.

Consistency with LURC Comprehensive Land Use Plan and regulatory standards

We believe that, *when combined with the conservation agreement*, the application has satisfied all LURC regulatory standards including consistency with the CLUP. We address two of these standards in particular:

No undue adverse impact. Section 10.24 of LURC's standards and guidelines sets forth six general criteria for approval. The third criteria is "*Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal;*". Every windpower project, especially those lying within P-MA zones, will have some unavoidable impacts. In evaluating projects, we focus on impacts to resources of state, regional or national significance, but give lower weight to impacts that are primarily local in nature. Our assessment of the project indicates no undue adverse impact in the following areas of primary concern to us:

- *Rare and exemplary natural communities.* Based on a revised mapping of the Fir-Heartleaved Birch Subalpine Forest community on Kibby Mountain by the Maine Natural Areas Program, the project will have no impact on this significant community occurrence. While small patches of this community may also lie near the summit of

the Kibby Range, we do not believe that these are significant enough that the impact would be considered undue.

- *Rare Plants.* The application and comments from MNAP indicate that small populations of two rare plant species will be impacted by the development. We agree with MNAP’s assessment that this impact will be “limited and inconsequential”.
- *Wildlife (including Bicknell’s thrush, northern bog lemming and bird and bat migration).* We defer to the testimony of Maine Audubon Society on these issues.
- *Roadless areas and habitat fragmentation.* The northern end of the A series turbine string will lie within the southern tip of a large roadless area mapped by AMC⁴ and encompassing much of the Kibby and Tumbledown Mountain area. This roadless area encompasses over 14,000 acres (as of 2000, the date of the source information used to map the area), of which only a small part well away from the core will be impacted by the project (see Exhibit A). The ridge in this area is generally level and well-suited for the installation of turbines without the need for extensive cut-and-fill. The ridgeline of the Kibby Range has seen limited impact from recent harvesting, but these ridgeline forests are a smaller and narrower block of unfragmented core habitat than the larger blocks to the north (see Exhibit B). While the project will cause some fragmentation of ridgeline forests, it avoids the core of large unfragmented areas, and we do not consider these impacts to be undue.
- *Steep slopes.* The project will involve some road construction across areas of steep slope (>30%). This is often the most challenging aspect of any mountain-based windpower project, as it would be difficult to construct almost any windpower

⁴ Publicover, David and Cathy Poppenwimer. 2006. Roadless Areas in Northern New England: An Updated Inventory. AMC Technical Report 06-1, Appalachian Mountain Club, Gorham, NH.

development at higher elevations without some impact on steep slopes. Our examination of the preliminary site plans (application Appendix 1-A) indicates that these areas will be a relatively small proportion of the total road system and are almost all located below 3,000' in elevation.

- *Recreational use.* The project will not directly disrupt the use of any trails or significant backcountry recreational areas of high concern to AMC. The project will impact the limited use of the area by bushwhackers and peak baggers. To consider this impact undue would be to preclude development of any undeveloped mountain ridgeline, as all are likely to receive some low level of similar use.
- *Scenic.* The primary scenic impacts would be to the Route 27 Scenic Byway (including the Sarampus Falls Picnic Area) and to the summit of Kibby Mountain, where a trail leads to a fire tower. The impact on Route 27 will be relatively minor. The impact to the view from the summit of Kibby Mountain will be more significant and generally adverse, as most visitors to the summit climb there to enjoy the panoramic view of an undeveloped landscape and the project will be a dominant feature within this landscape. As an organization with a strong belief in the value of such experiences, we do not wish to diminish their importance. However, we recognize that the use of this trail is relatively limited and (most likely) local, and do not think that it rises to the level of significance where the impact should be considered undue. On balance, we believe that the benefits of the project outweigh this impact.

Substantially equivalent protection. The criteria for rezoning requires that the project “Incorporates, where the land proposed for inclusion in the D-PD subdistrict is in a protection

sub district, a substantially equivalent level of environmental and resource protection as was afforded under such protection subdistrict.”⁵ The AMC believes that compensatory mitigation (most likely off-site) is a necessary component of satisfying this criterion for any development requiring rezoning of a P-MA or other protection subdistrict⁶.

The activities associated with commercial windpower development are not equivalent to those currently allowed in a P-MA zone even by special exemption. It is our understanding that the Commission has concluded that wind turbines do not fit within the definition of utility facilities. Ski areas may require more clearing of vegetation, but the roads and structures associated with ski areas are generally smaller and more localized than those required for wind farms. Level B mineral exploration is explicitly limited to two acres – far less than areas disturbed by wind farms. Finally, while Level C road construction is allowed in P-MA zones, it is unlikely that the drafters of these standards envisioned anything the more extensive road network required for windpower development.

Rather than preclude all windpower development within P-MA zones, the AMC believes that compensatory mitigation provides a viable and necessary means of satisfying the “substantially equivalent protection” criterion. In essence, if protection is lowered in one area (by allowing rezoning of a P-MA zone for windpower development) it must be increased in another area, so that the overall level of protection provided to mountain resources is “substantially equivalent”. Such mitigation is a necessary and critical component of AMC’s support of this and future projects.

There is ample precedent for this approach. It is the basis of LURC’s lake concept plan process, in which increased development in some portions of a shoreline protection zone is

⁵LURC Chapter 10.21,G,8,b,2.

⁶ We recognize that LURC currently has a different interpretation of this criterion.

balanced by increased protection of other shoreline areas. (Our approach could be considered a Mountain Concept Plan.) It also the basis for much of the mitigation of wetland impacts required by state and federal agencies.

The conservation agreement signed by AMC and the other consolidated intervenors will preclude windpower development in three areas in the vicinity of the project totaling nearly 1,300 acres. These areas are at higher elevation and of higher natural resource value than the areas to be developed. In addition, TransCanada will assist with the conservation of a portion of Sunday River Whitecap in the Mahoosuc region, including the Grafton Loop Trail corridor – a mountain resource of significantly higher ecological, recreational and scenic value than the area to be developed. If for some reason the protection of this property can not be completed, the designated funds would be used for the protection of another property that contains land above 2,700' in elevation and important mountain-based resource values.

On balance, we believe that these conservation efforts provide a “substantially equivalent level of protection” to mountain resources that balances the reduced protection that will be effected by rezoning the P-MA zones within the proposed development.

Summary

The AMC believes that this project: 1) will make a substantial contribution to the generation of renewable energy in Maine, 2) is well-sited in a location that avoids the core areas of high resource value in the northern Boundary Mountains, 3) will not have undue adverse impacts on significant ecological, recreational or scenic values that are of concern to AMC, and 4) will provide enhanced protection to other mountain resources of greater value than those proposed for development.

We believe that rezoning of P-MA zones must be done with a high level of caution, as any windpower project has the potential to create adverse impacts on the natural and social resources that these zones were designed to protect. We believe that this project has avoided or minimized major impacts to significant natural resource values, and that the benefits of the project outweigh the inevitable and unavoidable impacts that will be created (and which are common to most if not all windpower projects located in undeveloped high-elevation areas).

Based on our assessment of the overall balance of benefits and impacts, the AMC supports this application and encourages LURC to approve it. We thank you for the opportunity to present this testimony.

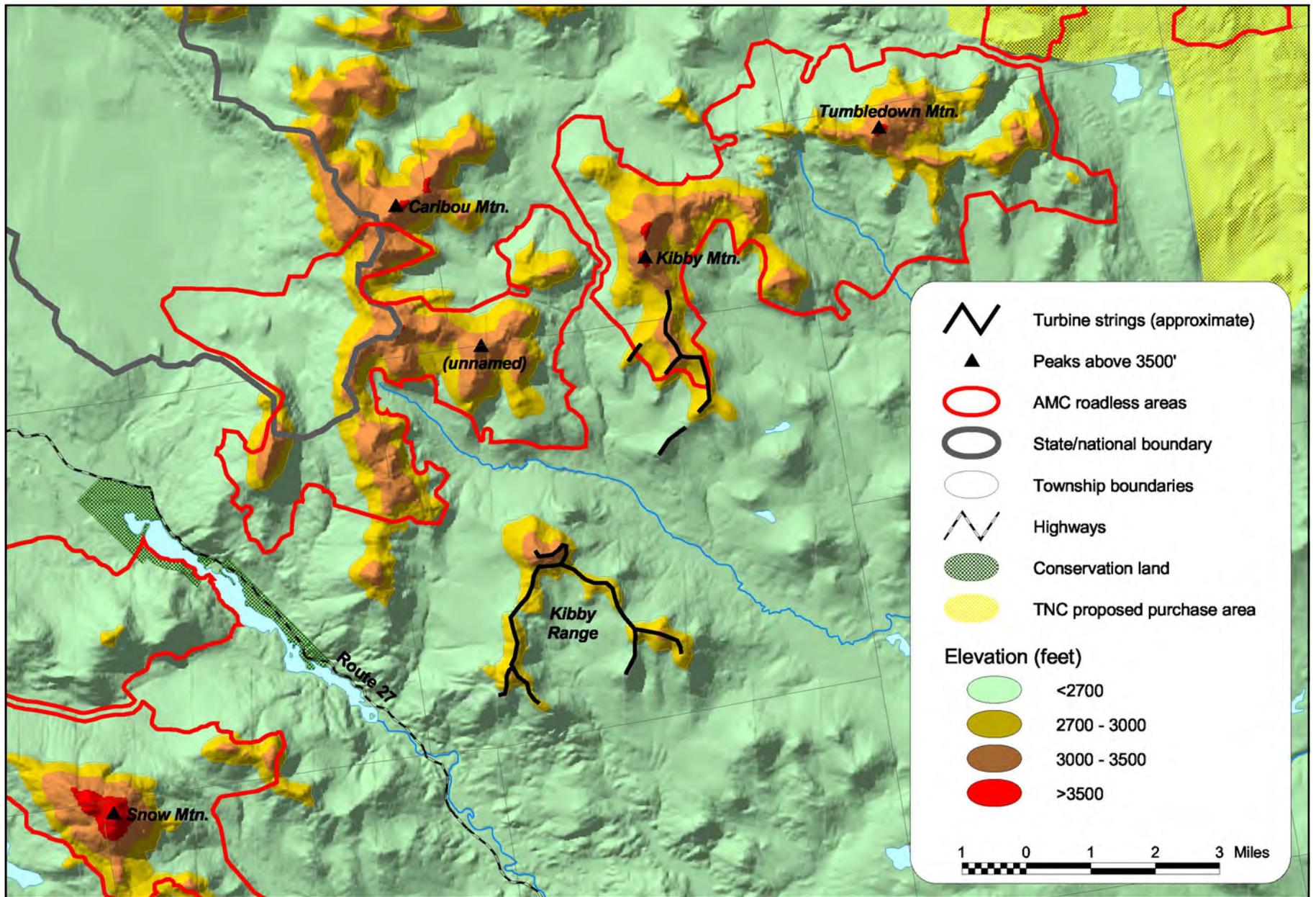


EXHIBIT A. The northern Boundary Mountains region.

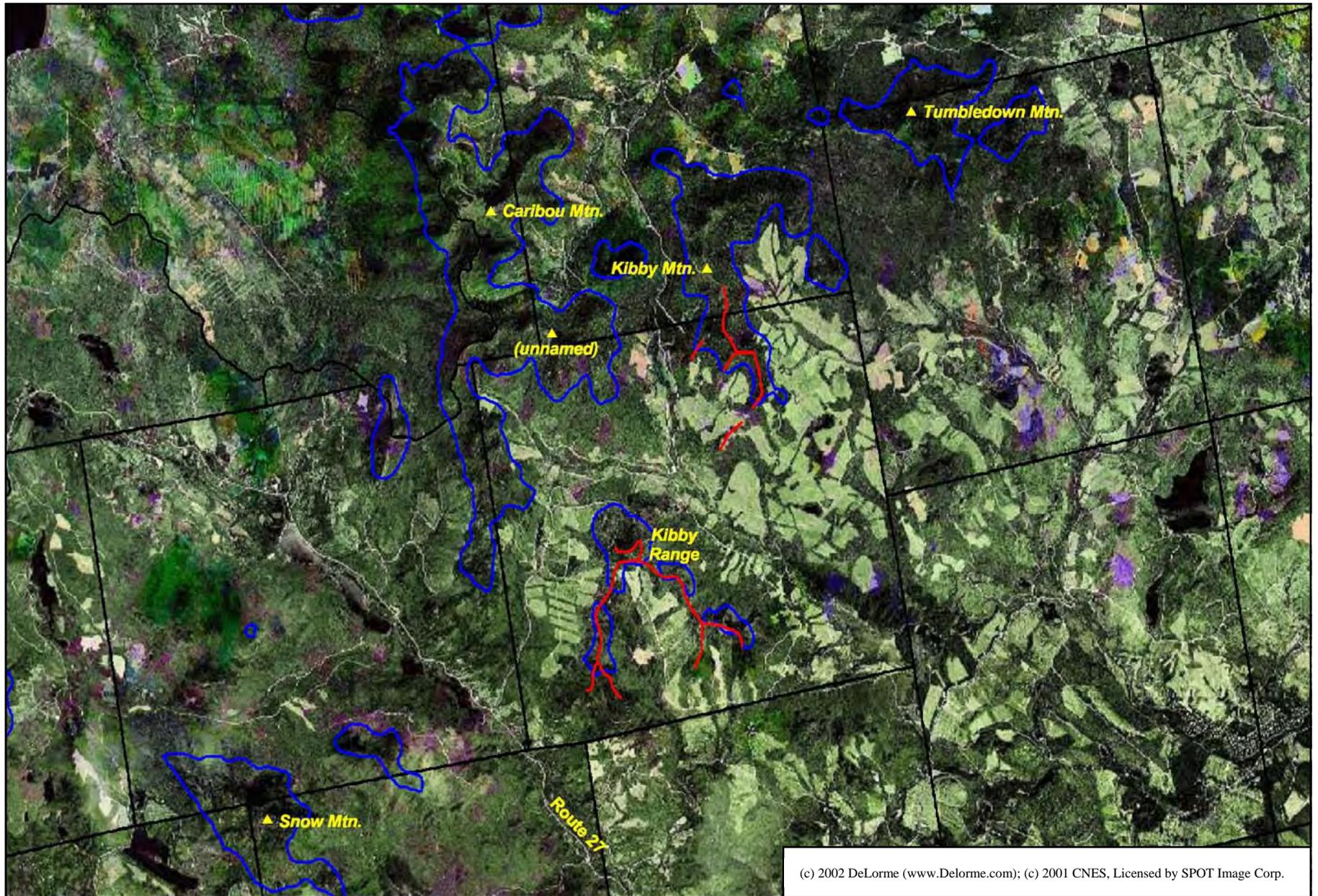


Exhibit B. Satellite image from 2000 of the northern Boundary Mountains region. Township boundaries are in black, 2700' contour in blue, and approximate location of turbine strings in red. Lighter colors of green indicate recently harvested areas.