

Docket No. 7156

Exhibit UPC-Cross- WJZ

Admitted: 2/6/07

Docket No. 7156  
Town of Sutton's Responses to UPC's  
Second Set of Discovery Requests  
September 7, 2006  
Page 13 of 56

RESPONSE: The Sutton Town Plan, in numerous sections, identifies the culture of the region, including the goals and aspirations of its citizens in the Town. The Plan's introduction, the survey results, the history and land uses sections, and the goals of the citizens of the town of Sutton I believe help shape and define the culture of town. I also believe that the town of Sutton is similar in many respects to other towns in the Northeast Kingdom, and therefore I would extrapolate that the culture of the people in the town of Sutton, and particularly their goals and aspirations with regard to land use, and the preservation of scenic vistas would be similar to those of other towns in the region.

17. Please refer to page 13, answer 28. Please identify and produce any and all documentation supporting your contention that "the vast majority of the public" opposed inclusion in the regional plan of language that would support wind turbines in the Northeast Kingdom.

RESPONSE: The language cited in interrogatory 17, which was cited in my prefiled testimony on page 13, in answer 28, was taken verbatim from the Regional Plan. See Exhibit Sutton RM-4, chapter 2, page 20. In hearings held by the NVDA language proposed for the regional plan which would support the development of wind turbines in the Northeast Kingdom was reported in the regional plan as "adamantly opposed" by a "vast majority" of the individuals attending those hearings.

18. Please explain the basis for your contention that "the citizens of the Northeast Kingdom, consequently, rejected the notion that wind turbines would contribute to the "orderly development of the region"? Please identify and produce all documentation in support of this contention.

RESPONSE: See answer to interrogatory 17, above.

**Questions re Testimony and Exhibits of William Jewell**

19. Please produce all testimony, reports, analyses or other documents prepared by you or under your supervision and submitted to a District Commission, the Environmental Board, the Environmental Court, or the Public Service Board (other than PSB Docket No. 6911) that contain or describe a Quechee Analysis performed by you or anyone else under your supervision, within the past 10 years.

RESPONSE: The Town of Sutton objects to the document requests contained in interrogatory 19 in that the information or documents requested are obtainable from the public files and records of the District Environmental Commission, the Environmental

Board, the Environmental Court, or the Public Service Board, which sources are more convenient, less burdensome, and less expensive. Without waiving the above objection, Mr. Jewell states that within the past ten years he has performed a Quechee aesthetics analysis which has been submitted to a District Commission, the Environmental Board, the Environmental Court, or the Public Service Board in the following matters:

I have, to the best of my recollection, prepared two written Quechee analyses for submittal to either the District Commission #2 or the Environmental Board. These analyses were associated with In Re: Peter Tsimortos, L.U.P. No. 2W1127-EB (April 7, 2003) and In Re: N.S. Holdings, Ltd., L.U.P. No. 2W1165 (2004). I also prepared a Quechee analysis in PSB Docket No. 6911.

20. Identify and produce all documents referred to in Answer 12 (lines 2 to 12), and all notes taken, in the field or otherwise, and photographs or other images collected.

RESPONSE: The documents identified in my prefiled testimony in response to question 12, including aerial photographs, orthophotographs, and USGS maps are, as identified in my prefiled testimony, documents prepared by UPC's experts and submitted with their prefiled testimony. In addition, there are no field notes. Copies of all photographs or other images collected have previously been supplied to UPC with the Town of Sutton's answers to UPC's First Set of Discovery Requests.

21. Refer to page 7, lines 10 - 13. Please explain the basis for your belief that the applicant's visual simulations "do not appear to account for shadows or contrast with background scenery." Identify and produce all analyses, simulations or other documentation generated or relied upon by you that supports your belief.

RESPONSE: The basis for my belief that the applicant's visual simulations do not account for shadows or contrast with background scenery is based upon the direct observation of the applicant's visual simulations as part of UPC's exhibit UPC-DR-4 attachments 12 - 21, and based on over 20 years of experience in evaluating aesthetic impacts in the state of Vermont. Based upon my review of the above simulations, they do not appear to accurately account for shadows or contrast and therefore, in my opinion, do not appear to accurately represent the actual impact of the turbines on viewers when shadowing would cause the turbines to appear more prominent.

c. Page 24 lines 9 to 11;

RESPONSE: There are no Environmental Board decisions cited in this section of my testimony.

d. Page 25, lines 16 to 21;

RESPONSE: There are no Environmental Board decisions cited on lines 16 to 21, although a reference is made to decisions issued by the Environmental Board in lines 12 to 17. Assuming this is the reference for which you seek a response, examples of Environmental Board decisions dealing with this section of the Quechee test are: Southwestern Vermont Healthcare Corp., #8B0537-EB (February 22, 2001); In Re: Josiah E. Lupton, Quiet River Campground, #3W0819(Revised)-EB (May 18, 2001); In Re: Northshore Development, Inc. #4C0626-5-EB (December 29, 1988).

e. Page 26, lines 1 and 2.

RESPONSE: See answers to subsection d, above.

29. Please refer to page 23, lines 19 to 21. Please provide copies of all Quechee Analyses prepared by you or under your supervision that have been submitted in support of or opposition to an application for a Land Use Permit under Act 250 in which you have contended that language from a town plan or zoning ordinance does not constitute a clear written community standard for purposes of prong 2 of the Quechee test.

RESPONSE: No such documents exist.

30. Please refer to page 24, lines 18 to 21, and page 25, lines 1 to 3. What do you mean by "dominate the viewshed"? Please provide all visual analyses performed, or other research conducted, comparing the potential view of the project to other views available from the locations identified.

RESPONSE: The testimony contained on page 24, lines 18-21 does not use the phrase "dominate the viewshed." In fact, the testimony states that "... given the size and close proximity of the turbines to Route 5, there is little question but that the turbines will dominate the views from many locations along this well-traveled road, and from many of the roads assessed from Route 5." The visual analysis performed, which forms the basis

for this testimony is contained in my prefiled testimony and exhibits, particularly Exhibits Sutton WJ-8, Sutton WJ-7, and Sutton WJ-6. Given the close proximity of the proposed turbines to these viewing locations associated with Route 5, it is my opinion that the turbines will dominate the views from these locations.

31. Please refer to page 25, lines 5 to 7. Please provide all documents, research or other information supporting your statement that "thousands of individuals" utilize this area. How many thousands?

RESPONSE: Page 25 lines 5-7 of my prefiled testimony does not contain the language you reference in the interrogatory question. I believe the language is contained on line 1 of page 25. Nevertheless, it is my understanding that there are about 12,000 individuals who use the Crystal Lake area for boating, swimming and hiking. This number was also testified to by Eric Gilbertson in his prefiled testimony on page 12 lines 20-23.

32. Please refer to page 26, lines 6 and 7. Is it your position that any project whose impacts cannot be mitigated is unduly adverse under Quechee? Did you consider the perspective of "the average person" in performing this analysis? If not, why not? If so, what is your definition of "the average person" and how did you determine that this project would offend his or her sensibilities? Please explain.

RESPONSE: Page 26, lines 6 and 7 of my prefiled testimony do not reference the Quechee decision, and therefore I do not understand the interrogatory question with regard to that page reference. Nevertheless, this analysis of the Quechee decision and the reference to the "average person" is contained on page 25 of my prefiled testimony, and I will assume this is the reference with regard to this interrogatory question. If it is, my answer is that a project which cannot be mitigated because of its size or scale, and particularly with regard to its placement in the landscape, is a project which would create an undue adverse impact under the Quechee decision. The analysis of what offends the sensibilities of the average person under the Quechee test is generally an analysis of how out of character with its surroundings is the proposed project. In this case, as I have testified, the proposed wind turbines are so out of character with the surroundings in which they are to be located that they would diminish the aesthetic qualities of the area, and because of their size they cannot be effectively mitigated in a manner which would preserve the aesthetic qualities of the area.

33. Please refer to page 26, lines 15 to 18. Please explain in detail the basis for your conclusion that the assumption of a 60 foot tree height "significantly" understates visibility. Provide all field notes, photographs, visual projections or other documents that