

**REBUTTAL TESTIMONY OF DARYL DEJOY
REGARDING TESTIMONY PRESENTED BY
THE NATURE CONSERVANCY
FOR ZP 707
PLUM CREEK PETITION FOR REZONING
MOOSEHEAD REGION**

**SUBMITTED TO THE
MAINE LAND USE REGULATION COMMISSION**
September 28, 2007

My name is Daryl DeJoy. I am the Executive Director of the Wildlife Alliance of Maine.

In reading the testimony of the three witnesses testifying for The Nature Conservancy in support of Plum Creek, I was struck initially by the seeming belief of those parties that should the proposed Plum Creek development plan not go forward that the future of the North Woods looked very bleak.

I consider the wildlife of northern Maine to be every bit as important to the continuance of the Maine we know and love as the forests they inhabit. Much of the mentioned testimony seems to ignore the wildlife that lives in the region. Instead, it places much emphasis on access for recreation.

In advocating for the Canada lynx and against the Plum Creek's proposed development I used the best, most up-to-date information to determine the potential for a negative impact by development on this threatened species. The last stronghold in the entire eastern U.S. for the Canada lynx is in Maine, including the areas mentioned for development by Plum Creek.

The US Fish and Wildlife Service (USFWS) has stated in its August 31, 2007, testimony that:

"Lily Bay (3581 acres, proposed 250 units) – The development envelope is located in the middle of a large block of high quality lynx habitat in the Kokadjo area....Associated road traffic will increase road mortality south and north of this envelope. This development, more than any others extends development and sprawl-like impacts into areas occupied by lynx." (p. 12)

Indeed, the Maine Department of Inland Fisheries & Wildlife map showing lynx range in Maine places the Moosehead Lake area well within that description. The USFWS also states in its testimony:

"Long Pond (1500 acres) – The development envelope is located entirely within the southern perimeter of a large block of high quality lynx habitat...Associated road traffic will likely result in lynx road mortality. Similar to Lily Bay, this development will have a sprawl-like effect on lynx and other wildlife." (p. 12)

USFWS also states that:

“The size, shape, and location of the Balance Conservation easement is far short of what is needed to be ‘at least as protective’ as the habitat that will be lost.” (p. 29)

“There is almost no mention of lynx in the Forest Management Plan.” (p. 30)

“Conclusion: The Concept Plan is short of being at least as protective for replacing Canada lynx habitat.” (p. 30)

Maine’s own Department of Inland Fisheries & Wildlife has also weighed in with its own testimony concerning Canada lynx. On page 15 of their testimony they say

“If the Lily Bay envelopes are developed as proposed, lynx will likely be displaced from at least the footprint of these envelopes. In addition, the increased disturbance in this area from vehicular traffic and other forms of recreation may further diminish the value of much of the greater Lily bay area to lynx.”

In my August 31, 2007 testimony I said I believe Plum Creek is in direct violation of federal law because of the failure to develop a required habitat conservation plan, which would enable Plum Creek to affect lynx populations in the area with their development. I further testified that I believe that LURC would be in collusion with Plum Creek in this violation of federal law should they choose to rezone the proposed land for development by Plum Creek without an incidental take permit being issued by the federal government. The Nature Conservancy’s witnesses seemingly do not believe this is true. Their encouragement of this proposed rezoning could make them a party to this potential violation as well. Whether or not they could be held accountable is a matter of law, but I believe The Nature Conservancy’s witnesses would be well advised to familiarize themselves with the Endangered Species Act before they advocate for an entity potentially in violation.

While The Nature Conservancy’s testimony encourages Plum Creek’s development within known Canada lynx habitat, TNC’s witnesses do not explain how the species will not be affected by the development, and how to mitigate these effects, if indeed that is possible. The Nature Conservancy does advocate for the preservation of additional acreage, which will be available to them should Plum Creek rezoning petition be approved. Unfortunately, the TNC testimony rings of quid pro quo without any tangible reason to let this development go forward. I believe the effect of this development on Canada lynx and their habitat would be injurious to the species and to those in Maine who cherish wildlife for its intrinsic value.

The University of Maine has a study, recently released, which is projecting a decline in the hare population in the areas around and north of Greenville. The group studying lynx in Maine is also very concerned about recent lynx deaths due to a nematode, which has never been found before or studied in lynx. The University has offered a two-year assistantship to a graduate student familiar with parasitological to study the

problem in conjunction with the US Fish & Wildlife Service. Because of concerns for the lynx population in the state, the University (through Dr. Dan Harrison, one of the authors of the paper cited in The Nature Conservancy's testimony) has also offered the USFWS a graduate student for two years to continue the ongoing lynx studies when the current funding runs out in 2008. Both of these responses on the part of the University are in part related to concerns for the Canada lynx population that is apparently starting to decline. The Nature Conservancy does not mention any of these concerns in its testimony. This is a dangerous omission.

The Nature Conservancy's pessimistic portrayal of a doomed North Woods in Maine is inaccurate. While some private lands have been closed to some recreational activities, even those are far from the vision portrayed in TNC's testimony. Many of these private lands offer greater protection to wildlife while still allowing many forms of recreation, albeit less consumptive or destructive ones.

Adequate protections for bald eagles should be addressed here as well. Even with the current de-listing of the bald eagle the species is still protected under the Bald and Golden Eagle Act of 1940. The USFWS has determined that:

“The concept plan barely mentions bald eagles and loons....There is almost no mention of bald eagles or loons in the Forest Management Plan....Conclusion: The Concept Plan falls short of being at least as protective for replacing bald eagles and loon habitat.” (p. 29)

Plum Creek is the only private landowner known to have cut down a bald eagle nest tree in a logging operation. The company did so in the 1990's. With 33.5 miles of potential nesting sites that will be lost to this development, I find it hard to agree with The Nature Conservancy's testimony on page 10, under “Conservation Values, “that the Conservation Values of the property are highlighted as a high priority for protection under the easement.”

In closing, I believe The Nature Conservancy is misguided in its support for the proposed Plum Creek rezoning plan. There is more than enough testimony from many expert witnesses containing information directly contradictory to TNC's contention that this development will be a positive step for the state of Maine. For instance, both the USFWS and the MDIFW are clearly concerned about the impact of development, not just on the two protected species I mentioned in my testimony, but also on much of the habitat and wildlife that will be misplaced if this plan is allowed to go through.

I also strongly feel that those in support of the plan should read the federal Endangered Species Act very closely. They are, in my belief, advocating for federal laws to be broken.

____/s/Daryl DeJoy_____ September 28, 2007
Daryl DeJoy
Penobscot, Maine

COUNTY OF HANCOCK
STATE OF MAINE, ss

On this day personally appeared the above Daryl DeJoy and made oath that the above statements are true and correct to the best of his knowledge, information and belief.

Before me,

____/s/Dianne B. Thompson_____ Dated: 9/28/07 _____
Notary Public/Attorney
Print Name: _____
Commission expires: 5/3/2012 _____

This completed form had not arrived by the submission deadline due to an electronic failure and will be delivered to the Land Use Regulation Commission early next business day.