

**TESTIMONY OF MELVIN BURKE
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REGARDING ZP 707
PLUM CREEK PETITION FOR REZONING
MOOSEHEAD REGION**

**PRESENTED TO THE
MAINE LAND USE REGULATION COMMISSION**

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PART I: THE CONCEPT PLAN

Plum Creek's "Concept Plan" is a petition requesting LURC to rezone approximately 426,000 acres in the Moosehead Lake area. According to LURC's fact sheet, a concept plan is a landowner-created, long-range plan of the "landowner's intent", a flexible alternative to traditional subdivision and development plans. It is not a business plan, a project plan, or a concrete real estate development plan. Webster's unabridged dictionary defines "concept" as a "thought", "an idea," a "notion", which is precisely what Plum Creek's concept plan is--a thought, an idea, a scheme (plan) for making, arranging or doing something, having in mind a purpose.

The question arises, what idea, what scheme and for what purpose is Plum Creek's Concept Plan submitted to LURC? To obtain answers to this question, we first turn to the report by Charles S. Colgan entitled "Estimated Economic Impacts of Implementing the Proposed 2006 Plum Creek Rezoning Plan in the Moosehead Lake Area". To his credit Dr. Colgan writes at the outset that "since the Plan only proposes a zoning change, it is not what development will take place and at what pace" (p5, Colgan, 2006). He goes on to state that the "possible consequences", "possible development"

of the “proposed plan approved and implemented as envisioned” are based upon “reasonable assumptions”. He then proceeds to provide “estimates” of the increase in regional income, employment and taxes, which would result from rezoning based upon numerous assumptions and an econometric model. There are more than forty (40) assumptions cited in Colgan’s 2006 report and nearly the same number of “would” be’s with an implied “if” the assumptions hold and the Concept Plan is approved by LURC.

For example, despite Dr. Colgan’s disclaimer above that Plum Creek’s “Concept Plan is not what development will take place and at what pace” he goes on to report that “in the proposed development” “all lots are assumed to be sold and developed.” (p.15, Colgan, 2006). Finally, his summary Table 15 “Contributions of Elements of the Plum Creek Plan to Total Economic Impacts” provides numerical estimates of employment, income and taxes for the years 2010, 2020 and 2030 in the region for this non-development plan. These are indeed impressive “presumed” benefits for a non-plan, a concept plan [“an idea, a thought”] with little or no costs to Plum Creek or Maine mentioned. In Dr. Colgan’s May 2007 revision of his Economic Impact Report, he changes some of his assumptions, which, by definition, changes the estimated, presumed benefits of the Plum Creek “Concept Plan”. For example, in this latest revision, there is no “industrial facility” (sawmill) and wage and salary estimates are substituted for personal income estimates. The time frame is also changed to yearly estimates and the year to 2008 to 2016. (Colgan, 2007). As every economist knows, a change of assumption “A” will change the “impacts” B, but not the reality on the ground. Moreover, it is a truism of economics that all economic changes such as Plum Creek’s proposed land rezoning incurs costs as well as benefits. In addition, those who benefit are usually not the same individuals who bear these costs.

Section II of my testimony will report on the true, expected costs of Plum Creek’s Concept Plan and LURC land rezoning – without these assumptions or estimated economic benefits of hypothetical development.

This Concept Plan is purely hypothetical, and therefore does not warrant detailed scrutiny or evaluation since no evidence is presented that it will come to pass. Indeed, Colgan admits as much when he writes “Plum Creek has also indicated that it does not intend to be, itself, the developer of a forest industrial facility or tourist facilities [or residential housing]. The rezoning plan only provides the zones where such uses would be permitted.” (p.9, Colgan, 2007) Therefore, Colgan here explicitly states that Plum Creek’s Concept Plan is not the “landowners’ intent.” Rather, to Dr. Colgan’s professional merit he states in his 2007 report that:

“This analysis must be considered illustrative of the types and levels of changes in economic activity that may result for the [assumed] development that would be enabled if Plum Creek’s rezoning request were approved.....rather than a forecast of actual specific events.” (p. 3, Colgan, 2007).

The fact that there are two revisions of Dr. Colgan's Economic Impact Reports of Plum Creek's Concept Plan (2005, 2006, 2007) with different assumptions and different estimates of the economic benefits—without estimates of the costs—confirm the assertion that these are simply hypothetical exercises, wishful thinking, concepts and not real, concrete plans to be taken seriously.

Thus, Dr. Colgan's estimated economic benefits resulting from "development" are neither planned, proposed nor programmed by Plum Creek or anyone else—they are merely assumed to occur. It appears ironic that LURC would approve rezoning the land in question based upon such scant facts, without a real foundation. It would be more appropriate for LURC to assume little construction or economic development in the Moosehead region, since, in fact, there is nothing concrete upon which to predict otherwise.

Perhaps LURC should closely study Plum Creek's last such "development" project/plan on First Roach Pond where approximately eighty house lots (waterfront and inland) were sold. It is said that the lots sold like "hotcakes" and all have had houses constructed since they were sold. The reality is otherwise. Perhaps 25 percent of these lots have construction on them and even some of these are speculative constructions by building contractors, according to local real estate agencies. It would be in LURC's interest to investigate this reality of this Plum Creek land speculation instead of its hypothetical Concept Plan before rezoning the Moosehead Lake Region.

Indeed, one cannot, in good faith, come to any other conclusion and Dr. Colgan admits as much when he writes at the beginning of his report that which should have been placed at the end, namely:

"This analysis is presented as an aid in decision making, and not a specific forecast of the future economy of the region.....Given the assumptions used, this analysis should be considered a guide to possible effects from [assumed] development rather than a definitive statement of a specific future outcome". (p.8 Colgan, 2006)

In short, LURC has no alternative other than to base its decision upon other more factual information than that provided in Colgan's report, which is, in itself, an abstract exercise, a thought, an idea. No real construction gives rise to no real employment, and no real income from this hypothetical economic activity—and this is not an assumption, but a fact. This is a fitting conclusion of the economic analysis of the Plum Creek Concept Plan as envisioned or intended (planned) by the landowner. Now we turn to a more concrete, realistic economic analysis of the real objectives and measurable consequences of Plum Creek's land rezoning proposal—a definitive analysis of a specific future outcome of land rezoning for Plum Creek in the Moosehead area and for the remainder of the Unorganized Territories, which together comprise approximately half of the entire state of Maine.

The Predictable Consequences of Rezoning

What can we then expect from the Plum Creek Concept Plan if, in fact, LURC approves rezoning the land as proposed? Who benefits economically and how? Who loses economically and how? These are the questions addressed in the following economic analysis. Throughout, one must bear in mind that there will be little or none of the construction of residential housing or tourist facilities envisioned by Plum Creek and assumed in Dr. Colgan's reports. In lieu of additional, more concrete information, it is safe to predict that the future of the Moosehead Lake region, if the rezoning is approved by LURC, will reflect extrapolated past trends in every respect, including the impact upon land values, property taxes and leasing fees.

How does one know what will happen in the future? One can only surmise that Dr. Colgan's assumed construction has no basis in fact and therefore will not take place as "planned." Plum Creek's Concept Plan is therefore a best-case scenario concocted to obtain land rezoning for speculative purposes and little else. Moreover, my expectation is not assumed but based on the fact that there is no Plum Creek construction or development plan. LURC should be cautious in its decision-making and base its decision on facts not unrealistic assumptions and "best case" scenarios.

PART II: LAND VALUES, TAX ASSESSMENTS AND LEASING FEES

Regardless of what Plum Creek's Plans and Colgan's reports assume will occur should LURC approve the rezoning of its land in the Moosehead Lake Region, the reality of what actually will occur is quite distinct and not based upon the assumptions of Plum Creek's Concept Plan but rather upon past as well as present behavior of all parties involved. We begin by noting that the big landowners in Maine have recently switched from being solely timber suppliers for the wood industry to sellers of wilderness land as well. Neil Rolde, in his excellent book The Interrupted Forest, documents that in the 1990s some 3.3 million acres [of forest land] had changed hands in Maine." (p. 35-41, Rolde). It should be kept in mind that since the Indian Land Claims Settlement in 1980, these land deeds have been "unclouded" and they are now free to sell these lands, as was not the case before.

This Maine Indian Land Claims settlement made it possible for the land speculation that we see today in Maine's Unorganized Territories by making it feasible for Plum Creek and others to purchase large tracts of heretofore forest lands and resell them, especially lakefront lots, for huge speculative profits.

The demand for pristine Maine waterfront land lots has increased due to the increase in population nation-wide and the increasing unequal distribution of income and wealth. More people want and can afford to speculate on the few lots, which have been offered for sale over the last two decades.

The supply of such lots on the market, however, has not kept pace with demand as the large land speculators have a vested interest in selling only a small portion of their land to push up the price as illustrated in the below graph. The supply of land made available for sale in this graph is only a small portion of the land owned by the large speculators, held in tree growth tax status and only released for sale piecemeal so as to increase the price of all their lands. In short, when Plum Creek seeks a rezoning of only a small portion of their properties and offers for sale only 975 house lots they can reasonably expect to get a price of \$80,000, \$100,000 and \$125,000 for these lots, 75 sold each year over the next 13 years. However, if First Roach Pond is any guide, one cannot expect that nearly 90 percent of these lots will be built upon—as assumed.

As we can see in the graph below, it is in the interest of these land speculators to increase the supply of these lots very little so as to raise the marginal value (price) of these lots sold and unsold, as well as raise the "fair market value" of tax assessed lots of their leaseholders since the State tax assessments are the foundation for the price of their leases, a fact not mentioned by Plum Creek in its Concept Plan.

The large land speculators do not pay a property tax on much of their waterfront land because it is taxed separately as "tree growth" at an average of \$1 to \$1.50 per acre until such time as they subdivide it for speculative purposes and sell it. The penalty for withdrawing from the "tree growth" tax status is nominal and is passed on to the house lot buyers. Limited, marginal rezoning and small house lot sales enable the large land speculators like Plum Creek to increase the value of all their land without themselves paying property taxes. Indeed, Plum Creek's CEO Rick Holley is quoted in Smart Money as saying, in stump speeches to investors that "it's not just trees, it's the underlying value of the land."

This raises the second major component of land speculation in Maine besides the Indian Land Settlement of 1980. Most of the land, real property of the large land speculators like Plum Creek is subject to the low Tree Growth tax and exempt from the Unorganized Territorial Education and Service Tax (M.R. S.A. 1601-1610 (1990 & Supp. 1994). However, their small leaseholders and other small lakefront property owners are largely non-exempt and subject to a uniform State property tax in the Unorganized Territories based upon "Fair Market Value" assessments and a uniform mill rate. While it is called an "equitable taxation of property" it is, in fact, discriminatory. For example, despite the fact that the large land speculators like Plum Creek cannot harvest lumber on an acre back from lake fronts, this land is determined to be exempt from the much higher property tax and only subject to the low Tree Growth Tax until such time as they lease it, sell it or otherwise remove it from the Tree Growth Tax for speculative purposes.

Over the last decade, it is a fact that the State has increased the assessed "fair market value" of the land of small house lot owners and leaseholders' plots by 100% to 200% -- based upon a very small number of house lot purchases and sales in the very large unorganized territories of the State of Maine. Approximately 1300 such buy and sell transactions have been used by the State tax officials to determine the "fair market value" of these house lots which are then taxed and leased accordingly. The large landholders who lease these house lots such as Plum Creek, then pass on this tax to their leaseholders as well as use this higher tax assessed house lots to increase their annual lease fees.

There are an estimated 6000 such leaseholders in the Unorganized Territories of Maine and a smaller undetermined number of small house lot owners affected by this tax of approximately \$400 per acre – but not the bulk of the large land speculators' properties like those of Plum Creek which, as mentioned above, is taxed separately at a much lower "tree growth" tax rate. The large land speculators then pass on this tax increase to those who buy their house lots and increase the fees of their leased lots based upon a percentage of this higher tax assessed value, increasing their lease fees to \$3000 per lot and more. Moreover, the land speculators, such as Plum Creek, do not offer to sell their leased properties in large numbers to the leaseholders since placing 6000 lots on the market would increase the supply and thus depress the price of their lands as well as eliminate their "cash cow" leases.

In this regard, it is interesting to note that large landowners reported in a survey conducted by the Committee to Study Issues Concerning Changes to the Traditional

Uses of Maine Forests and Lands (December 2001, 120th Legislature) that “only a few leases have actually been terminated in recent years”....”Landowners have adjusted lease fees based on [tax) and Fair Market] valuation”, and the large landowners report that they are “not creating new leases.” Plum Creek stated in this report that they have 120 such leases on their property. Dr. Colgan, in his report states that “real estate values are assumed to be held constant in 2005 dollars.” (p.15, Colgan, 2006) and that “property taxes in the Unorganized Territories could fall by as much as one quarter at full build out of the Plum Creek proposal.” (p.16, Colgan) One fails to see how he can arrive at such a conclusion inasmuch as the 975 house lots Plum Creek proposes to sell would nearly double the 1300 lots presently used by the State to determine “Fair Market Value” for property tax assessments in the Unorganized Territories. It is assumed that the Plum Creek lots are to be sold at \$80,000 to \$125,000 per lot, which is far in excess of similar properties currently tax assessed at \$50,000-\$60,000 per lake front property. Needless to say, the State’s discriminatory land taxation and selective rezoning fuels land speculation in Maine, redistributes income and wealth unequally and does not promote economic development or increase employment and income.

Finally, the large landowner speculators like Plum Creek and its shareholders are the only beneficiaries of these State tax and rezoning policies, both of which increase the land prices, the value of land assets and stock price of the large land speculators like Plum Creek at the expense of everyone else. This interpretation, like everything else presented in this short analysis, is not an assumption or an abstract “concept” but rather is based upon observed behavior of all parties involved – in the past and presently on the ground. LURC cannot realistically expect anything different in the future should it decide to rezone the Plum Creek land in the Moosehead Lake Region.

This type of market is classic land speculation, which is older than capitalism, and there is nothing “fair” about these prices, which are controlled and manipulated by the large land speculators to drive up the price of their land and other such land in Maine as well as the fees of their leaseholders and other leaseholders statewide. It increases the price of all such land and thus tax assessments and therefore lease fees. No real investments are made to the land, no, or very little, construction, employment or income is generated in the process. Indeed, such oligopolistic market manipulation is never in the public interest. Such land speculation only benefits these rentiers at the expense of everyone else except perhaps the State, which also benefits in the short run from increased tax revenues. Everyone else loses and what occurs is a redistribution of income and wealth from the people to the big land speculators such as Plum Creek.

If this land speculation and lot price increase, in play with the State's increased tax assessments of these properties and leaseholder lots, continues, the 6000 modest income families who have had small cabins and leases on their lots for generations will eventually be priced out of the market and lose their heritage. Modest and low-income families in Maine will also henceforth be denied lakefront property as they are now largely excluded from the coastal waterfront lot market. Is this the objective of land speculators like Plum Creek and is this what LURC or the people of the State of Maine want?

In the short run, the cost of this land speculation and manipulation of prices is born by the leaseholders of waterfront lots and other small lot owners of which there are very few in Maine as noted above.

In the long run, the State also loses, since the short-run (current) tax policy aids and abets this land speculation, which cannot be the "best" use of its forestlands. Land speculation of this type only benefits the large landowners and is a manipulation of the market, which is unfair, unjust and unwise. "Fair market value", the "sanctity of contracts" and "equitable taxation" under these conditions is a distortion of the terms.

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