

Docket 7250 Questions for Technical Hearing on Mitigation Stipulation

The Mitigation Stipulation was filed to fulfill compliance with Condition 11 of the Amended CPG. To the extent that it describes funding the remainder of the bear study, it is also related to compliance with Condition 12 of the Amended CPG and the related Bear Study Order, bear study stipulation, and bear study protocol.

The Mitigation Stipulation is not entirely clear on the decision-making process to determine how the mitigation funds will be spent, and does not clearly delineate what habitat will actually be preserved. As a result, it is not clear on whether or how Condition 11 of the Amended CPG will be met.

The Mitigation Stipulation is also not clear on whether the Stipulating Parties are proposing any changes to the bear study, including the total amount of Project funds to be provided for the study and the study approach previously approved by the Board.

Accordingly, the stipulating parties and appropriate witnesses should be prepared to clarify these issues and to answer the following questions at the Technical Hearing:

1. What is the basis for establishing \$1 million as the total for the Mitigation Funds?
2. Will the portion of the Mitigation Funds to be allocated to the bear impact study be in addition to the \$150,000 that Deerfield is obligated to pay under the 2011 Bear Study Order and the bear study stipulation? If so, how much additional money will be allocated to the bear impact study?
3. Assuming that a portion of the Mitigation Funds would be used to continue the bear impact study, that means that the remaining portion of the \$1 million will be used for habitat mitigation (Stratton Conservation Easement purchase and/or other conservation purchase(s) to conserve 144 acres) and the cost of the stewardship endowment fund for the Stratton Conservation Parcel.

The Stratton Conservation Easement would conserve a sizeable area of forest, but only a small portion of the site (100 acres) constitutes high-elevation, concentrated beech stands required as mitigation for the Project.

Therefore, please provide the following details for use of Mitigation Funds toward purchase and stewardship of the Stratton Conservation Easement:

- (a) What is the procedure, schedule, and status of approval for purchase of the Stratton Conservation Easement?
- (b) What is the total cost of the Stratton Conservation Easement and what entities are contributing funds?
- (c) How was it established that the Mitigation Funds would cover 25% of cost of the purchase?

(d) What is the total dollar amount to be allocated to the establishment of the stewardship endowment fund, and how much of the Mitigation Funds will be used for that purpose?

(e) Based on the total dollar amount of Mitigation Funds to go toward the purchase price and establishment of the stewardship fund for the Stratton Conservation Easement, and assuming that some of the Mitigation Funds would fund continuation of the bear impact study, what is the remaining amount of the Mitigation Funds that would be available to conserve the remaining 44 acres of remote, high-elevation concentrated beech stands? Is that considered to be a sufficient amount to achieve that objective?

(f) Explain why the approval process for the Stratton Conservation Easement could result in a decision that the purchase agreement would not include bear habitat conservation measures.

(g) Are the Stipulating Parties essentially asking the Board to modify the original Condition 11 to allow Deerfield to conserve less than the 144 acres specified in the order? If so, why is this reasonable and appropriate?

4. Section 1d of the stipulation states that ANR shall use the Mitigation Funds solely for the purposes specified in Sections 2, 3, and 4 of the stipulation, but that in the event ANR or any other government entity uses any Mitigation Funds for any other purpose, Deerfield shall not be required to make additional payments under the stipulation. Please explain. Can ANR confirm that Mitigation Funds would be used in accordance with the stipulation, or if not, funds would only be used for other purposes by filing a revision to the stipulation for Board approval?

5. Do any of the Stipulating Parties have a list of potentially feasible properties that would (a) provide the balance of the mitigation acreage required for the Deerfield Project in the event the Stratton Conservation Easement is applicable (i.e., the remaining 44 acres of habitat mitigation required by Condition 11 of the Amended CPG), or alternatively (b) provide mitigation for 144 acres in the event the Stratton Conservation Easement is not applicable for the Project?

6. Can ANR provide a detailed schedule for how the remaining bear study funds will be used to monitor the construction period and four years of post-construction operational monitoring? Are any changes to the study protocol approved in the Bear Study Order proposed? Are there any challenges ANR foresees in ensuring that the study will fulfill the requirement of the Bear Study Order to enable bear location data to be correlated with turbine operation?