

Friends of Mount Sunapee



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Friends of Mount Sunapee advocates for protection of Mount Sunapee State Park for its essential public values; conservation of the Lake Sunapee watershed and Sunapee highlands; and preservation of the unique character and natural beauty of the rural communities in the mountain's shadow.

Commissioner Sean O'Kane

New Hampshire Department of Resources and Economic Development

P.O. Box 1856

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Delivered via email

November 12, 2004

Commissioner O'Kane,

On behalf of our more than 300 members and supporters in the Mount Sunapee region and across the state and country, Friends of Mount Sunapee, Inc. (FOMS) respectfully submits the following comments, concerns, and statements of opposition concerning the proposed 5 Year 2004-2009 Master Development Plan (MDP) and Environmental Management Plan (EMP) of Mount Sunapee State Park.

FOMS asks that the entirety of this document, in all of its specifics, be considered as you assess the proposed MDP/EMP and concurrent leasehold expansion request.

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Thank you for this important opportunity to comment. We look further to discussing any and all elements of this submission with you further. On behalf of the members, leaders, and directors of Friends of Mount Sunapee,

Thomas D. Elliott

Thomas D. Elliott, Executive Director

I. STANDING TO COMMENT

FOMS is a volunteer-based regional conservation and community protection organization. From its beginnings as an ad hoc citizens' organizing committee and information clearinghouse in 2001, through its current status as a registered not-for-profit corporation, FOMS has served as the Mount Sunapee region's voice for conservation, community protection, transparent and citizen-led government, and cautious stewardship of our natural resources, public lands, and essential rural character.

FOMS is an alliance of neighbors, town leaders, conservationists, and civic minded advocates from towns across our mountain region and from across New Hampshire and the country. Supporters include business owners, skiers, hikers, outdoor enthusiasts, and families with current and generational ties to Mount Sunapee State Park. FOMS brings a voice to issues and concerns of people who love Mount Sunapee and our state parks.

Our mission advocates for protection of Mount Sunapee State Park for its essential public values; conservation of the Lake Sunapee watershed and Sunapee highlands; and preservation of the unique character and natural beauty of the rural communities in the mountain's shadow.

Maintaining our region's essential qualities of clean air and water, large forest tracts and open lands, wildlife and their habitats, and the traditional methods of enjoying these resources is our goal. We advocate for local land use measures, regional planning practices, and land protection initiatives that safeguard livable and healthy communities.

Seeking to promote government and corporate leadership and accountability, we encourage public participation and openness in all policy-making processes that determine our region's future. With education, information, and citizen involvement, we will preserve the unique character of our state park, our mountain, and our region.

Some FOMS members are abutters of Mount Sunapee State Park in both the towns of Newbury, NH and Goshen, NH. More specifically, a number of FOMS members live adjacent to the parcels identified in the proposed MDP for potential development and expansion. Other FOMS members are former owners (and their descendents) of various parcels taken by the state to assemble Mount Sunapee State Park beginning in 1948. Still other FOMS members are descendants of the first white families to settle in, on, or around Mount and Lake Sunapee more than 250 years ago. Other members are the ancestors of the native peoples whose presence in the region pre-dates white settlement.

Employees of DRED, DES, and other state agencies are members of FOMS, as are several current and former state legislators and officials. Current and former employees of Mount Sunapee Resort are members as well. FOMS members live in all the local communities in the mountain's shadow, including Warner, Sutton, Bradford, Newbury, New London, Sunapee, Newport, Unity, Claremont, Springfield, Croydon, Washington, Lempster, and most importantly, Goshen. Still others live in seven of NH's ten counties.

II. GENERAL STATEMENT OF OPPOSITION TO THE PROPOSED MDP:

In general, FOMS is opposed to the expansion of the leasehold boundary to accommodate the West Bowl expansion plans proposed by Okemo/MSR's MDP for the following reasons:

1. FOMS believes that using public conservation land to facilitate private real estate development is not in the public interest and is wrong on principle.

State reservations like Mount Sunapee State Park exist to ensure essential public values and to protect open space from the very type of sprawl development that lease expansion would necessarily facilitate. Using parkland originally purchased, gifted, or taken by eminent domain for public benefit to spark private resort development violates NH's long and proud history of protecting state lands as a common asset to benefit the public good.

2. Privatizing state public lands to generate revenue for the state is irresponsible and sets a dangerous precedent for NH's future.

Using state conservation lands to facilitate private development for the sake of increasing revenue is short-sighted, unprincipled, and based on desperation logic. Because the NH Legislature has wrongly chosen to make the state parks system self-funding, DRED's consideration of the lease expansion proposal signals that the agency is so starved for funding that it is willing to sacrifice the very public assets the agency was created to protect. If lease expansion at Mount Sunapee is allowed, and if NH's state budget problems continue, the pressure to develop public land to generate revenue will only increase. Condos connected to Rye Beach, an ATV dealership with trails leading into Pisgah or Bear Brook State Parks, advertising on the summit of Mount Washington- once a precedent has been set, forces in Concord will be unleashed. Governor Benson's own policy recommends that we "divest [the state] of land that the private sector could put to better use." The lease expansion debate is the time to draw a line in the sand, and to defend the legacy and promise of a state lands system established to protect essential public values for future generations.

3. Lease Expansion will harm natural and recreational qualities of the park.

Lease expansion will diminish important environmental, recreational, and aesthetic qualities that the state park was established to protect. Lease expansion will lead to extensive trail cutting, blasting, and conversion of open forest to rocky trails, will dramatically increase visitation and over-usage, cause runoff, erosion, and destruction of wildlife habitat for shy and sensitive species, reduce use of the park for hiking and quiet enjoyment of nature, and further perpetuate the myth that Mount Sunapee is no longer a public space. While the operation of a modest ski area within the much larger state park can be compatible with these other essential public values, ski development must be contained and strongly regulated to protect the virtues of this important public asset.

4. Lease Expansion will unleash destructive sprawl on local communities.

Lease expansion is expressly intended to magnetize real estate development in the town of Goshen, and will fuel similar resort sprawl in towns all along the Route 103 corridor. Expected impacts from the first phase of development include: more traffic on poorly maintained state roads; increased taxes from increased demand of town services and rising property values due to land speculation and secondary development; water, air, soil, noise, and light pollution; and the

loss of small town character, volunteerism, and community spirit in towns unprepared to handle the explosive change that lease expansion will unleash. As all available private land in the area that abuts or is near to the state park is developed, quality of life impacts will exacerbate and bleed into towns further and further from the resort itself. Economically, resort development will provide low-wage, seasonal, non-benefited jobs, while driving working class families out of the rural communities due to high property values/taxes and non-livable wages. The gravitation of the region's economic development toward an out-of-state controlled, seasonal and weather dependent service industry employer could be disastrous to near-mountain communities that instead should capitalize on the historical, cultural, and natural assets that are their greatest asset and which are at great risk of being lost.

5. Poor decision-making by DRED sets a precedent for all state public lands.

Without any clear or proven guidance from the Legislature, any published or adopted rules, and little experience within the agency to properly consider major development requests, DRED must choose its own method of evaluating whether or not lease expansion is in the public interest. DRED has no established, transparent, and consistent methods for decision-making, and is thus unaccountable to its constituents and the owners of the lands the agency manages. With no financial resources for good process, major questions will remain unanswered. And finally, without any appeal mechanism to a higher authority, the Commissioner of DRED holds the power to make enormously important decisions without any accountability to taxpayers and stakeholders. Decision-making by a state agency should be conducted with the highest standards and the public interest foremost in mind.

III. LEGAL ARGUMENTS AGAINST LEASE EXPANSION

FOMS asserts that the current leasehold expansion proposal is meant specifically to enrich Okemo/MSR while producing little compelling public benefit, intended or incidental. The lease proposal is based on dubious legal grounds, and is not a defensible action by state government.

(NOTE: The following are general legal arguments against the leasehold expansion. FOMS is hopeful that administrative decision-making will deny the lease expansion, and that legal action is avoidable. Should the leasehold expansion be approved by the state of NH, FOMS is reluctantly prepared to seek legal remedies to deny the expansion based on state and federal law.)

1. Chapter 134, Laws of 1998 (HB1291) provides legislative authority for DRED to enter into a lease agreement for the Mount Sunapee Ski Area. The legislative history reveals that the General Court and Governor did not contemplate the expansion of the leasehold area to facilitate private resort real estate development outside the state park. The bill intended to lease only the existing ski area and its facilities, not the entire state park, and certainly not state land to access and facilitate private real estate development on the park's boundaries. The same legislative history documents that the General Court and Governor were expressly informed by the bill's sponsors and the Commissioner of DRED that such real estate development would not be allowed by the lease, and would not ever take place on Mount Sunapee. Subsequent statements by Okemo/MSR, represented by Timothy Mueller, confirmed its understanding and agreement that the lease terms were for the ski area within the park only, and not for the purpose of facilitating real estate development outside the park. Indeed, it was such stated public promises by DRED, Okemo/MSR, Governor Shaheen, and several involved elected officials that convinced many in the Sunapee region that privatization of Mount Sunapee Ski Area would not ever lead to the very type of resort development currently proposed. DRED received no legislative authority to expand the leasehold area to facilitate private real estate development on Mount Sunapee State Park's boundaries. Instead it received much legislative guidance that such an action should ever happen as a direct consequence of HB 1291's passage.
2. Federal law prevents LWCF-enhanced facilities like Mount Sunapee State Park from being used to enrich a private corporation in the manner proposed. Conversion of the western edge of Mount Sunapee State Park from passive recreational uses such as hiking to intense industrial skiing requires a comprehensive review by the National Park Service under NEPA, and would be deniable by NPS. Additionally, conversion of the western edge of Mount Sunapee State Park from a public recreation zone to a commercial access zone meant primarily to enrich a private resort development also requires NEPA review, and would also be deniable. NPS involvement in this lease expansion discussion has been sorely lacking, and the absence of NPS involvement at the early stages of review is likely a violation of federal law.
3. State law clearly requires DRED to consider the ramifications of any state decision that would encourage sprawl, and to take no action that would directly facilitate sprawl within a large forest block such as the Monadnock-Sunapee highlands. As detailed in comments

by both DES and the Society for the Protection of NH Forests, RSA 9-B STATE ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING POLICY (Laws of 2000) as well as the Governor's Executive Order on Sprawl, directs DRED to consider the consequences of its actions with respect to sprawl, and validates the concerns of the towns of Goshen and Newbury, the Lake Sunapee Protective Association, and the Upper Valley/Lake Sunapee Regional Planning Commission. Commissioner O'Kane's refusal to consider "outside the park development" is a violation of this very important statute.

4. Some of the 175 acres proposed for lease expansion were taken by the state of NH through condemnation and/or eminent domain proceedings as the state park was being assembled. Other portions were gifted or sold to the state by individuals and conservation organizations. All parties involved with the assemblage of the state park, whether their parcels were taken by, gifted, or sold to the state of NH, did so with the clear understanding that these lands were to be added to a public reservation forever held in the public trust, and used to benefit the people of NH first and foremost. Several of the original parties, or their heirs and/or descendants, believe that the conversion of part or all of these parcels to a private profit-driven resort constitutes a violation of the intent and spirit of various agreements made with the original parties. Allowing part or all of these parcels to be used to facilitate a private resort's real estate development plans would be a violation of numerous agreements between the state and these parties, and would be a violation of the public trust doctrine and existing state law.
5. Current landowners abutting the state park, particularly properties adjacent to the 175 acres proposed for lease expansion, maintain rights to due process that may be violated by the proposed lease expansion. State action leading to the diminishment of the character and value of their properties could be a violation of state law as well.
6. DRED's lack of administrative rulemaking to promulgate rules to govern the development review process greatly concerns FOMS, particularly given the clear directive of the Supreme Court in *Neil Nevins & a. v. New Hampshire Department of Resources and Economic Development, 2002* that DRED must promulgate legislatively-approved rules to govern its management decisions and activities. Decision-making on an important and precedent-setting case like the proposed lease expansion should be guided by legislatively approved rules.
7. DRED's non-compliance with state law governing the lease casts doubt on the entire process to date. In particular, Chapter 134:16 of the Laws of 1998 expressly requires DRED to await local review of any proposed MDP by the towns of Goshen and Newbury before even considering agency approval. To FOMS knowledge, no official review of the MDP by planning officials in the town of Goshen has been sought by DRED, no public hearings about local concerns have been held by DRED in Goshen, and no official comments by the Goshen Planning Board about the specific proposed MDP have been solicited. Indeed, numerous communications to DRED from Goshen officials over the spring and summer of 2004 have repeatedly underscored the town's frustration with DRED's non-engagement on the issues most relevant to the town and its citizens.

DRED's stated position that it cannot and will not engage in review or discussion of the resultant real estate development facilitated by leasehold expansion is both illegal (see #3 above) and obstructive to the fulfillment of the legal requirements of Chapter 134:16 of the Laws of 1998.

8. Laws governing protection of Native American heritage sites and other historical, cultural, and archeological resources have been ignored by both DRED and Okemo/MSR to date. Approval of lease expansion and the resultant commercial skiing and real estate development on and near Mount Sunapee State Park may disturb and/or destroy sacred Native American heritage sites and other historical, cultural, and archeological resources protected by state and federal law.

IV. PLAN-SPECIFIC COMMENTS, CONCERNS, AND STATEMENTS OF OPPOSITION

The following are specific comments, concerns, and statements of opposition regarding the details of the proposed MDP/EMP.

NOTE: The absence of comment, concern, or statement of opposition to a particular element of the proposed MDP does not imply our tacit consent to that piece of the proposal. FOMS reserves the right to make further comment or objection to any part of this proposed MDP when presented in future Annual Operating Plans.

Page 6: Okemo/MSR asserts that the current MDP/EMP, enacted in September of 2000, will expire in 2004. FOMS disagrees with their arithmetic. A five year MDP beginning in September of 2000 expires in September of 2005, relieving any pressure on DRED to approve a new MDP until the current one expires in 11 months (September, 2005.)

Page 7: Quoting from the proposed MDP:

“with the findings of old growth forest characteristics in the East Bowl area of Mount Sunapee, in 2000 we agreed to abandon our plans for ski area expansion in the East Bowl, and focused on the western flank of Mount Sunapee instead. The West Bowl area, on which we are now seeking an expansion of the leasehold, is the only expansion of the leasehold boundary that is envisioned for the future.”

FOMS strenuously objects to this assertion. Okemo/MSR has perpetrated this “can’t go east because of old growth, so we have to go west” myth for the past three and one half years, and has consistently misled the public, the news media, and decision-makers with this fictional rationale for western expansion. FOMS rebuts this deceptive assertion with these facts:

1. Knowledge of the presence of old-growth “primeval” forest in the East Bowl of Mount Sunapee dates at least to the first decade of the 20th century. Indeed, DRED’s Natural Heritage Inventory staff detailed the extensive historical record in both its 1999 and 2004 reports on old growth forest in Mount Sunapee State Park, reports paid for in part by Okemo/MSR. Additionally, the Society for the Protection of NH Forests historical records contain research about and appreciation of this globally-rare natural resource dating from at least 1915. With respect to Okemo/MSR’s awareness of old growth in the East Bowl, numerous news articles appeared in local and state papers in the spring of 1998, before the state legislature had even given final approval to the lease arrangement. A written report and subsequent testimony by forest ecologist Christopher Kane appeared in the public record well before the lease was approved by Governor and Council, with his testimony given directly to Tim Mueller at the June 8th, 1998 hearing in Concord, NH. To suggest that Okemo/MSR was unaware of the East Bowl old-growth forest before 2000, or even before signing the lease agreement, is disingenuous at best, and appears to FOMS more tactical than truthful.

2. Although Okemo/MSR did make an unspecific reference to potential expansion of ski terrain and lifts in the East Bowl in its initial 1998 RFP and accompanying lobbying materials, its own promotional map clearly denoted that the company's hopes for leasehold expansion were entirely contingent upon future state approvals. The initial leasehold area purposely excluded the East Bowl (as well as the 175 acres currently being proposed for leasehold expansion) because it was not within the current ski area zone that the Legislature had clearly intended to be the sole subject of the lease. The people of NH, through its state government, were never under any agreement or obligation to lease any more of Mount Sunapee State Park to Okemo/MSR, for any purpose. (See "Legal Arguments," Comment #1.) Any further expansion of the leasehold boundary always required an extensive public comment period and agency review, and thus was subject to a political decision-making process to determine if expansion was in the public interest. Unrealistic plans drawn on a colorful map do not constitute an obligation on the part of the people of NH to accommodate further development and diminishment of any part of Mount Sunapee State Park. (It should also be noted that the same promotional map gives no indication that Okemo/MSR envisioned or intended the West Bowl of Mount Sunapee to ever be considered for ski or lease expansion, underscoring the wisdom and appropriateness of the current leasehold boundary. No other reference to western expansion is included in any historical plans by the state of NH, or in any materials submitted in the public record by Okemo/MSR. The presence of the Summit Hiking Trail provides de facto evidence that the western edge of Mount Sunapee was meant to be maintained for passive recreation and other essential public values, and not for skiing.)
3. Potential for ski terrain development in the East Bowl is very low. By Okemo/MSR Resort Manager Jay Gamble's own public admission, terrain in the East Bowl is steep, rocky, and wet. Ski runs would necessarily be short and western-facing, and would all converge at the bottom of a ravine not easily crossed. Lift placement would be difficult and expensive. Expansion in the East Bowl would provide little if any appropriate Intermediate ski terrain, and would cost an inordinate amount in engineering fees, helicopter hours, and earth moving. Local, state, and federal approvals for developing this part of the mountain would be difficult to obtain, with numerous water, air, wetlands, and hydrological challenges to overcome. Public concern over the potential destruction of ancient forest, as well as development's encroachment on Lake Solitude, its numerous hiking trails, and Native American sacred sites in the East Bowl and surrounding area, would have proven formidable. The involvement and possible opposition of Newbury's planning, zoning, conservation, and select boards, as well as conservation organizations like SPNHF, Sunapee-Ragged-Kearsarge Greenway Alliance, Monadnock-Sunapee Greenway group, New Hampshire Sierra Club, Lake Sunapee Protective Association, numerous national and international ancient forest preservation groups, and the pre-existing local citizens group (all of whom expressed concern about the initial lease on environmental grounds) would have heightened public concern and regulatory hurdles. Indeed, the fact that the state of NH abandoned its own vague and un-funded proposals for East Bowl expansion is perhaps the most obvious indication that Okemo/MSR's hopes were entirely unrealistic.

4. Most importantly, expensive ski and lift development in the East Bowl would have provided zero opportunity to cash in on the prime motivator for ski area expansion in the past twenty years: lucrative real estate development. Entirely surrounded by protected public land, miles from any available and developable private parcels, situated high and deep in the heart of a protected public mountain park, East Bowl ski development provides no pot of gold at the bottom of the ski lifts and trails, no ski-in, ski-out condominiums, no vehicular access to gargantuan multi-million dollar ski chalets, and no guaranteed pay-off for the tens of millions of capital investment dollars needed to justify expensive ski infrastructure built in such a difficult and inappropriate location.

The “can’t go east because of old growth, so we have to go west” myth is one of several contributing factors to the growing distrust of Okemo/MSR by local officials and citizens. It rejects a century of our regional history and cultural heritage, ignores obvious geological and political realities, and is devoid of the *prima fascia* common sense that helps defines the people of rural western New Hampshire’s character and ethos. The more this deceitful myth is asserted by Okemo/MSR, the more suspect they and all their plans, positions, and presentations become.

Page 8: Okemo/MSR asserts that “Mount Sunapee has paid the Town of Newbury \$658,636 in property taxes, and has paid the Town of Goshen \$28,160 in property taxes in the first five years of the lease. Prior to the 1998 lease agreement, the Towns of Newbury and Goshen received no municipal property tax payments from Mount Sunapee Ski Area.”

FOMS finds this assertion misleading. A significant percentage of the property tax revenues listed above does not directly benefit the communities, but are instead sent on to the state and county governments. To honestly assess the impact of new property tax revenues for Goshen and Newbury, the actual new revenue may be as much as 60% lower. When new and emerging Okemo/MSR-driven costs to the towns are factored in, as well as accompanying property value inflation and state-level policies out of the control of local communities, the net benefit of these property taxes on the citizens of Newbury and Goshen is much reduced year by year, and trends toward a revenue-neutral level within Year 10 of the lease.

Page 8: Okemo/MSR asserts that: “In addition to the direct economic benefits from Mount Sunapee, the resort is an economic engine that helps other businesses and service providers in the Sunapee region. This generates additional employment in our area and other taxable benefits to the State of New Hampshire general fund.”

FOMS would like to comment that, while some economic benefit to some local businesses is undeniable, other local businesses have been hurt by the emergence of Okemo/MSR as the predominant marketing force in the region. Many local attractions have experienced little growth in visitation, while downtown New London may actually have lost visitors since Okemo/MSR has entered the marketplace. Some non-tourist based enterprises such as local retailers and manufacturers have lost revenue due to the re-orientation of our local ski area toward southern NH and the Boston market, while rising local property taxes, particularly in Newbury and Sunapee, have driven some small businesses out of the community. The domination of the regional marketing profile by Okemo/MSR through its control of the New London/Lake Sunapee

Regional Chamber of Commerce (of which FOMS is an active member) has been met with great concern. The NLLSRCC's consistent refusal to support the proposed expansion should be viewed by DRED as a remarkable and powerful sign that what is good for Okemo/MSR is not necessarily good for all our local businesses.

Page 11: Quoting from the proposed MDP:

“3. Upgrading Plan and Projects

Improvements presented and approved (except as noted) as part of the 2000-2004 MDP that are not yet implemented:

1. Construct the new Cataract Quad and Upper Outer Ridge trails.
2. Widen existing trails – Upper Cataract, Upper and Lower Blast Off, Elliot Slope, Duckling Slope, Billy Goat, Toboggan Chute, and Chipmunk.
3. Convert Stagecoach into tubing runs.
4. Install the Cataract chairlift, possibly by re-locating an existing lift.
5. Upgrade the Sun Bowl Quad and Duckling Double, possibly by re-locating an existing lift.
6. Add night lighting to the Province, Spruce, and North Peak trails.
7. Construct phases II and III of the Sunapee Lodge.
8. Relocate the NEHSA building.
9. Renovate the Spruce Lodge.
10. Renovate and expand the Summit Lodge.
11. Add snowmaking to Williamson, Outer Ridge, Elliot Slope, Papoose and Eastside trails.
12. Expand existing sprayfield disposal lines.
13. Construct new parking lot #4.
14. Install 480V/3P power along Bowl Road.
15. Develop golf driving range and miniature golf.
16. Construct a climbing wall.
17. Install Alpine Slide in Duckling/Eggbeater area. (not approved)
18. Install Water Slide in Duckling or Province area. (not approved)
19. Install a drive-in movie theater. (not approved)”

FOMS categorically opposes the proposed "Summer Improvements" contained in items 15, 17, 18, and 19 above.

Such activities would affect a fundamental change in the non-ski season ambience of Mount Sunapee State Park. While the historic role of intensive winter recreational use is well established and generally accepted within the footprint of the existing ski area, the use of the park in the non-ski season for such amusement activities is wholly inappropriate. DRED should not allow Okemo/MSR to foster a Disneyland atmosphere in the non-skiing months, but rather an appreciative, nature-intensive, and non-fee based experience for the public.

A potential exception to this opposition could be the inclusion of an indoor or summertime-only climbing wall, which might provide an experience consistent with the park's character and atmosphere. Review of the specific site plan would be necessary for our non-opposition.

FOMS is tolerant of the introduction of snow tubing to the ski area. However, the activity itself is appropriate only in a seasonal context. Similar amusement activities, proposed for the non-ski season, are inappropriate. The character of the park is and should continue to be very different in non-ski months.

FOMS also opposes items 1, 4, and 6 above.

FOMS opposes night skiing at Mount Sunapee under any circumstance. The effects of night skiing on the park's non-skiing character would be disastrous to wildlife and the scenic evening beauty of the mountain, and has dubious economic potential for Okemo/MSR.

FOMS also opposes the creation of a new lift and ski trails off the North Peak in Polygon 23. Given its ecological rarity, any further fragmentation of any of the mountain's mature forest is unacceptable. We ask that DRED follow the advice of its own Division of Forest and Lands, the NH Natural Heritage Inventory, and the wise counsel of the Society for the Protection of New Hampshire Forests and the Nature Conservancy, and reject these "improvements" with polygon 23 as proposed.

The widening of trails for skier safety is a legitimate practice. However, great care should be taken to leave standing ecologically significant older trees or forest patches. Additionally, appropriate direct off-site mitigation is necessary to replace the felled trees. The removal of mature forest for trail construction or widening should be partially compensated for by the acquisition of adjacent forestland of significant ecological value, expanding the area of protected old forest on the mountain. Such forestlands should be outside but adjacent to the park, and should be added to public ownership and managed as a non-timber quiet-recreation wilderness.

The dramatic increase in visitation proposed by Okemo/MSR and necessitated by increased ski capacity within the current leasehold greatly concerns FOMS. While the effects on the park itself will be substantial, the impacts on the regional environment and rural character will be great as well. It should be unilaterally recognized that the proposed "improvements" within the state park, particularly in the non-ski season, necessarily drive dramatic change outside of it. These changes will have a negative impact on the environment and rural character of the surrounding communities.

Therefore, FOMS is also opposed to the further acceptability of item 13, Parking Lot 4, and has been on record as such before DRED and the Newbury Planning Board since 2001. FOMS is concerned about the unplanned growth and environmental impact in surrounding communities caused by such increased capacity and thus visitation. Expanded parking is a concern when viewed with the larger issues of road use and traffic, resulting air and noise pollution, and sprawl as well. Additionally, plans for earth removal and blasting for the parking lot puts the adjacent sewage lagoons at risk of failure or leakage, which could lead to catastrophic releases of effluent into Beck Brook.

FOMS does not oppose the general concept of lodge renovation and construction, if it is consistent with the historic ambience and uses of Mount Sunapee State Park. A new or renovated lodge that includes real estate development marketing space or a movie theater is wholly

inappropriate, for example. Additionally, we are concerned about the role such "improvements" will play in spurring unplanned growth and environmental impact to surrounding communities by increased capacity within the ski and visitation infrastructure. We expect that Okemo/MSR and the Newbury town planners will design these lodge improvements with good environmental stewardship in mind

Renovation or expansion of the Summit Lodge has implications for the fragile summit environment and visual character of the mountaintop. Specific comment on this part of the proposal will be made when they are included in a future AOP. Both Okemo/MSR and DRED would do well to approach the renovations of the Summit Lodge inclusively and very cautiously, as the existing lodge is a beloved and revered landmark for generations of local residents, some of whom have fallen in love with each other (and our region) and then been married on the summit deck.

Whenever possible, we suggest that recycled materials, energy and water efficient technologies, and locally and sustain-ably harvested wood products and labor be utilized. FOMS commends Okemo/MSR for their existing efforts to minimize some solid waste and water use within their operations. A comprehensive recycling program and Green Audit is necessary next step, to highlight potential cost savings from further energy and material conservation possibilities.

With respect to increased snowmaking, FOMS remains concerned about the associated impacts. The taking of public waters for private use by Okemo/MSR is a serious issue, one that is not fully enough explained in the proposed MDP. FOMS asks that DRED commission a participatory study group to assess and analyze the impacts of such water withdrawals from Lake Sunapee, involving a broad variety of interested parties and knowledgeable resource specialists. The long-term water use goals of Okemo/MSR must be explained before approval is granted.

Efforts by Okemo/MSR to improve the sewer and wastewater systems are commendable. FOMS supports those recommendations of the Lake Sunapee Protective Association and the Department of Environmental Services that will ensure the future quality of all water resources in the vicinity.

Page 12: Quoting from the proposed MDP

“Additional proposed improvements within the current lease boundary

1. Construct two new trails between Upper Ridge and Lower Blast Off.
2. Replace Spruce Triple with a quad chair.
3. Remove Duckling Double
4. Install a moving carpet/beginner lift at South Peak.
5. Construct new sections of 2nd Ridge ski trail.
6. Create new skiing area at South Peak.
7. Culvert Beck Brook near South Peak.”

FOMS is generally indifferent to these proposed lift “improvements,” excepting the impact such increased capacity has on local communities through increased visitation.

Development of any new trails within the current leasehold area greatly concerns FOMS. A full natural heritage review of these forested areas should be conducted and those results considered when laying out the trails. Great care should be taken to leave standing ecologically significant older trees or forest patches. Additionally, appropriate direct off-site mitigation is necessary to replace the felled trees. The removal of mature forest for trail construction or widening should be partially compensated for by the acquisition of adjacent forestland of significant ecological value, expanding the area of protected old forest on the mountain. Such forestlands should be outside but adjacent to the park, and should be added to public ownership and managed as a non-timber quiet-recreation wilderness.

Page 12: Quoting from the proposed MDP

“West Bowl Expansion

1. Install a detachable quad chairlift. (50% on state-owned lands, and 50% on private lands.)
2. Install a moving carpet/beginner lift. (on private lands.)
3. Construct +/- 75 acres of new terrain. (50% on state-owned lands, and 50% on private lands.)
4. Construct a new base area facility with limited guest services. (on private lands.)
5. Construct new parking areas. (on private lands.)
6. Install utilities and infrastructure (power, water, roads). (mostly on private lands.)”

As made clear earlier in this document, FOMS opposes the entire West Bowl Expansion package in every respect. No expansion of the ski operation beyond Mount Sunapee State Park’s boundaries is necessary, warranted, or appropriate.

As part of a comprehensive Environmental Impact Statement under NEPA, which FOMS asserts is needed before any approvals of the West Bowl Expansion are made by the state, an essential question will be asked by the process, a question that supercedes many other important questions: Is there a purpose and need for this project, and is it economically viable? A number of pressures facing the ski industry in the next ten years will conspire to make many of the proposed “improvements” in the draft MDP economically unrealistic. Continued global climate change and rising temperatures, higher and higher energy prices, and lack of enthusiasm for expensive, difficult winter sports far from home make the future of the ski industry in New England cloudy. As the total number of skiers declines across the region, competition for the remaining market share will be fierce, and will drive several existing NH ski areas out of business. Within 15 years, the amount of available skiing will far exceed demand for its use.

While real estate development no doubt offers lucrative investment opportunities for Okemo/MSR in the next 5-8 years, expansion of the ski terrain within and outside Mount Sunapee State Park is not justifiable as a response to markets needs and forces, and may eventually become economically unviable. When measured against the public demand for open space, clean air and water, wildlife habitat, and passive recreation resources, the West Bowl expansion has no defensible purpose and need in the larger social and environmental long-term public context. The scenario of the western flank of Mount Sunapee littered with absentee landlord mansions and ½ empty condos with miserable ski conditions for just a few months in deep winter contrasts sharply with the rosy and highly unrealistic picture painted by Okemo/MSR in its proposed MDP. However, the current owners will likely have made a fortune

on the initial sales of these properties, and then likely have moved on to other opportunities just in time to avoid such headaches which may fall instead upon the state of NH.

Without a compelling purpose and need, and with dubious long-term economic viability, the West Bowl Expansion proposal should be denied entirely.

Page 57: Quoting from the proposed MDP:

“I. WEST BOWL REAL ESTATE POTENTIAL

Figure V-3 illustrates the potential real estate development area at the base of the West Bowl expansion terrain. There are no detailed plans for this area, which has the potential capacity for 175-250 units. This potential development will require potable water supply and a wastewater treatment facility to be developed by Mount Sunapee, in accordance to the New Hampshire Department of Environmental Services regulations. In addition, any future development will require power distribution and road infrastructure.

The 2005 Environmental Management Plan, and supporting studies, describe the potential impacts of the West Bowl expansion including possible real estate development on: wetlands, wildlife, traffic, regional economics, watershed drainage, and visual quality.”

FOMS objects to the assertion that there are “no detailed plans for this area.” It is untenable to suggest that Okemo/MSR would propose to spend tens of millions of dollars on the skiing infrastructure detailed in this MDP without being fully aware of the potential to earn a return on that investment. It is more accurate for Okemo/MSR to state instead that it refuses to reveal its detailed plans for the western side of Mount Sunapee. DRED’s disinterest in requiring full disclosure of these plans is a violation of the intent of state law (see III. LEGAL ARGUMENTS AGAINST LEASE EXPANSION, #3, above).

Page 59: Quoting from the proposed EMP:

“Mount Sunapee is dedicated to the protection of the environment and ensuring that the values of environmental stewardship are in the forefront of our planning efforts. We understand the balance between resource protection, recreational opportunity and fiscal responsibility. All three must be in harmony if we are to achieve the management objectives set forth in the Lease.”

FOMS is heartened to read that Okemo/MSR believes that a balance between “resource protection, recreational opportunity and fiscal responsibility” should exist at Mount Sunapee State Park. FOMS also believes in a balance, and we believe that the current mix is slanted too far toward Okemo/MSR’s needs, and too far away from the public interest. Any sense of balance, however, would vanish if the West Bowl expansion were implemented.

Page 63: Quoting from the proposed EMP regarding Snowmaking and Water withdrawals:

“To put this into perspective, instantaneously withdrawing all of Mount Sunapee’s current seasonal water needs from the lake, reduces the lake level by only 1.12 inches (one and one-eighth inches).”

FOMS objects to this glib trivialization of the impacts snowmaking water withdrawals have on our lake and watershed. Localized impact in the area of the intake pipe is unstudied and potentially problematic for the lake’s fishery, aquatic health, and abutter’s property rights. Before allowing a 43% increase in snowmaking and thus enormous additional water withdrawals, these concerns should be studied and mitigated by DRED and Okemo/MSR, no matter what DES permits allow. In addition, the very concept of removing water from Lake Sunapee and pumping it into another watershed to make snow on a western facing slope to provide guaranteed access to private home owners is inappropriate and should be denied.

Page 68-81: Impact Studies

Objections to the many skewed and misleading claims by Okemo/MSR in the EMP’s so called “Impact Studies” are too numerous to be fully enumerated in this document. Much has been written and said by colleagues in other organizations and planning bodies about the inadequacies of these studies and conclusions. Allowing a developer to design, guide, release, and pay for impact studies about their own development is nonsensical and is a failure of oversight on DRED’s part. The results of the various impact studies are irrelevant, and must be entirely discounted by any fair and reasonable reviewer. These studies exist solely to spin and sell the expansion plans of Okemo/MSR and hold no credibility in an objective review of the true impacts. Any conclusions within the EMP drawn from these studies should be rejected outright.

Instead, should DRED continue to ignore that the West Bowl expansion is wrong on principle and ought to be rejected immediately and without further consideration, the agency should at least coordinate with the National Park Service to implement a full Environmental Impact Statement governed by NEPA. Such a process:

- Is guided by an independent entity experienced in planning and environmental impact review processes (NPS);
- Encourages broad public participation via several public hearings, particularly in the communities most affected by expansion including the towns of Goshen and Newbury, communities along Route 103 and Lake Sunapee, and other local towns;
- Is clearly defined and logically scheduled, and makes information readily available to the general public through meetings, mailings, and the internet;
- Uses a clear timeline for public comment, with an established and well-publicized end date for comment;
- Uses professionally produced, independent, and science-based research to answer the tough questions;

- Is not inherently prejudiced toward expansion;
- Arrives at a decision using clear criteria for how the state and federal government will determine what is in the public's best interest, as well as the best interest of local communities, the state park system, the natural environment, and fiscal responsibility; and
- Is fully explained in writing to the public as a draft, with a second round of comment before a final decision is rendered.

Such an independent process would assess:

- Purpose and Need for Development (Is it viable? Is there demand?)
- Economic Impacts on local communities, including assessment of displaced economic activity (forestry, agriculture, snowmobiling, etc.) and potential economic benefits to local communities. JOBS- how many, what kind, pay, benefits, etc.
- Tax and Town Services Impacts such as: land values and viability of current residents to continue living in towns; increased tax base vs. increased services (cost/benefits); need for services such as fire, police, road maintenance and highway department, library, Planning, Zoning, Town Clerk's services; Tax Collector, Building Inspector, and school population increases/decreases.)
- Safety Impacts based on effects of having influx of people. State Police, local and county police; ambulance; fire, etc.
- Transportation Impacts on Route 103, Brook Road, etc. Need for more roads, pavement, town, county, and state road planning.
- Housing Impacts in the region; how many people living where, driving where?
- Environmental Impacts, including:
 - Air quality
 - Water Quality in Gunnison, Lake Sunapee, and other watersheds along Route 103 and the mountain, especially related to run-off, snowmaking, water withdrawals, septic and sewer; drinking water; aquifers
 - Wetlands
 - Soils, Steep slopes, and agricultural areas
 - Light Pollution
 - Energy Consumption and Electrical Grid
 - Wildlife, endangered species, and habitats of unique or sensitive qualities
 - Scenic Resources and Pretty Views
- Public Recreation Impacts including hiking, hunting and fishing, snowmobiling, backcountry/cross country skiing;

- Historic Resources Impacts on local historic resources, i.e. Province Road, old home sites, Gunnison homestead, etc.
- Secondary Growth spurred by Okemo's development (lodging, parking, retail, etc.)
- Enforcement of environmental and community regulations.

Okemo/MSR's MDP & EMP address fewer than half of these issues, and are designed to provide the information they need to lead DRED to the conclusion they want, regardless of the facts. "We find what we seek in life, and we get what we pay for" accurately describes these studies.

Page 75: Quoting from the proposed EMP:

"Mount Sunapee, working cooperatively with the DRED, agreed to abandon their original expansion plans in the East Bowl and took steps to analyze the capacity of the West Bowl for ski potential. The West Bowl was found to have favorable ski potential. Mount Sunapee is seeking expansion within the West Bowl area to avoid the old growth areas identified within the East Bowl."

Please see comments on page 9-10 above regarding this deceptive and deceitful myth.

Page 81: Quoting from the proposed EMP:

"Discussions with the State of New Hampshire Division of Historical Resources (NHDHR) did not identify any known or documented archeological and/or historical resources within the lease lands or within the private lands proposed for the West Bowl expansion. Furthermore, a review of the state and federal register of historic places found no structures designated as historic. NHDHR has been asked to comment on the MDP and will be involved, as necessary, in reference to cultural resources."

FOMS awaits with great anticipation the findings of the NHDHR, as the assertion above is beyond absurd. A cursory review of the history of Mount Sunapee State Park reveals to even the most casual researcher a 12,000 plus year history of human settlement and use of the mountain. One of the oldest roads on the continent and an essential route for combatants in the French & Indian and Revolutionary Wars, Province Road, borders the expansion zone. Numerous colonial historic homes and farmsteads line Province and Brook Roads. A remarkable colonial cemetery abuts the proposed real estate development zone. Countless sacred sites for the Native peoples of the region are scattered all over the mountain, particularly on the western, sunset-facing ridgeline. Interred remains of native peoples are tucked away in the crags and caves of the western slope of the mountain (while also providing important bear denning habitat.) Although a convenient way to avoid important issues, their statement further erodes the credibility of the MDP/EMP and Okemo/MSR generally.

Page 81: Quoting from the proposed EMP:

“XII. ECONOMIC IMPACT ANALYSIS

Mount Sunapee retained RKG Associates of Durham, New Hampshire to conduct an economic impact analysis to assess the impact of the MDP on the towns of Newbury and Goshen. In general, they found that the proposed expansion would have a net positive impact to the Town of Newbury and the Town of Goshen. Their study also found that there would probably not be a significant increase in additional municipal services demand placed upon the towns because of the West Bowl expansion. The study determined that wages paid at Mount Sunapee are very competitive with wages in the region. The full study can be found in Appendix K.”

While FOMS generally disbelieves any and all of the assertions made by Okemo/MSR in their “Impact Studies” and chose not to expend great energy refuting them in this document, this statement above deserves to be an exception. One simple fact should discourage any reasonable person from believing this statement. Without detailed plans for the proposed real estate development (which Okemo/MSR refused to include in their MDP) any assessment of the property tax or other economic implications of the expansion are null and void. Any quantifiably positive economic impacts from the expansion are unknowable unless or until Okemo/MSR fully reveals its specific and long-term real estate development plans. That RKG was willing to offer any assessment exposes that they have either received more information about the proposed real estate development than anyone else (including DRED and the local communities) or they were willing to make wild guesses to best support their client’s pitch, regardless of the facts or standard consulting practices. Either way, their conclusions contained in this “Pollyanna” report are simply not credible, further contribute to the growing distrust of Okemo/MSR by local officials and citizens, and are devoid of the *prima fascia* common sense that helps define the people of rural western New Hampshire’s character and ethos. The more this and other non-credible impact studies are used to support the expansion, the more suspect the claims of Okemo/MSR and all their plans, positions, and presentations become.

V. COMMENTS AND STATEMENT OF OPPOSITION TO PROPOSED “COMPROMISE” OPTION.

FOMS would like to address the potential “compromise” scenario that has been debated and discussed in the region since its introduction into the public discussion by Okemo/MSR in September 7, 2004. Jay Gamble, General Manager of Okemo/MSR, described before the Newbury Planning Board, the public, and the news media the possibility that the company would be willing to gift to the state of NH all the trails, lifts, and ski infrastructure of the West Bowl expansion, to avoid the complications necessarily arising from having a ski lift and trails crossing from public onto private lands. While clearly not Okemo/MSR’s preference, such a “compromise” would, in some minds, eliminate these complications, and would allow the state of NH to someday retain full control and ownership of all the ski terrain and infrastructure within a single, enlarged state park.

FOMS opposes this proposed “compromise,” and believes that such a plan would merely create even greater problems for the local communities, the state park, for DRED, and for our natural, cultural, historic, and essential public resources. Merely moving the boundary does nothing to alleviate the inherent inappropriateness of using a state park to facilitate real estate development on its borders. This plan will still enrich a single private entity by diminishing the public interest, would still violate the public trust established during the assemblage of the existing state park. It would still result in all the negative impacts detailed in these comments, and would still violate many state and federal statutes. Furthermore, the town of Goshen would assume an even worse position in this scenario, as the state would not pay the town any property taxes when it regains full control of the enlarged ski area in 2038.

The current leasehold expansion proposal is wrong on principle and violates an essential public trust, and should have been rejected outright on arrival in February, 2001. This subsequent “compromise” option is even more inappropriate.

The state of NH should never, under any circumstance, involve itself in setting a precedent unimaginable to the wise forefathers of NH’s conservation and public lands movement: enlarging a state park for the expressed purpose of diminishing the very values and characteristics that state parks fundamentally exist to preserve, so that a private company can make millions and millions of dollars. This notion is untenable, undignified, and disrespectful to the heritage and legacy of those who gave us our state park system, and a protected Mount Sunapee.

FOMS recognizes the complex and difficult nature of the decision before the state, and sympathizes with government’s common inclination to want to please all sides involved in a policy dispute. Compromise is very often a necessary and noble goal for a government to pursue. However, the “compromise” described above is not one of those moments.

If DRED and our state leaders seek to find compromise in the Mount Sunapee region, they can simply look to the recent past and current circumstances affecting our state park. Compromise has been occurring for the past six and one half years, day by day, decision by decision, for the sake of maintaining a viable ski area. FOMS supports this goal, but believes the means to this

end have resulted in constant compromise of what makes our park, our mountain, and our region special. The essential public values of our state park have been compromised. Affordability and access for NH citizens to skiing have been compromised. The sense of a public open space by the people, for the people has been compromised. The wild and natural ambience of our state park has been compromised. Good government and planning practices have been compromised. Compliance with local, state, and federal law have been compromised. The public's belief in Okemo/MSR's credibility has been compromised. The economic viability and market profile of some pre-existing local businesses has been compromised. The virtue and integrity of NH's revered public lands system has been compromised. The air, water, and natural beauty of our park and region have been compromised. DRED's reputation and standing as the people's steward has been compromised. The potential for finding true solutions to our state park system's fundamental funding problems has been compromised. Our forefather's greatest gift to future generations, a wild, cherished, and essentially *public* Mount Sunapee, protected by citizen volunteers a hundred years ago, men and women fueled with a vision and limitless resolve, a mountain protected for the good of the people and their posterity, rising above the wants and needs of any single interest, a mountain protected as an enduring symbol standing high above us all and defining our regional identity and culture, a summit shining brightly, displaying the success of an essential American invention, the uniquely American idea that stands among the most important intellectual achievements of mankind, *the notion of public parks protected for the people and for nature*. This is what has been compromised, too much, for too long, and with too little thoughtfulness on the part of our leaders and government.

Our Friends of Mount Sunapee say, with the strength of our ancestors in our hearts and the will of our region in our lungs, no more compromise for our mountain.

Viewing the West Bowl expansion within the full historical and political context of the 10 year privatization debate, and taking the long view into both the past and the future, the reasonable course for DRED is deny this lease expansion outright immediately. Doing so will make it clear to Okemo/MSR that the existing lease is the limit of its control of the people's mountain. Working to improve the existing facilities within the current ski area footprint and maintaining a viable but environmentally-sound ski area for as long as our climate and economy cooperate should be the shared goals of DRED and Okemo/MSR, not any further expansion.

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