

STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

FEBRUARY 5, 2013 - 1:23 P.M. DAY 1  
Concord, New Hampshire AFTERNOON SESSION ONLY  
DELIBERATIONS

IN RE: SITE EVALUATION COMMITTEE:

DOCKET NO. 2012-01: Application  
of Antrim Wind, LLC, for a  
Certificate of Site and Facility  
for a 30 MW Wind Powered Renewable  
Energy Facility to be Located in  
Antrim, Hillsborough County,  
New Hampshire.

PRESENT: SITE EVALUATION COMMITTEE:

Amy L. Ignatius, Chrmn. (Presiding Officer)	Public Utilities Comm.
Kate Bailey, Engineer	Public Utilities Comm.
Harry T. Stewart, Dir.	DES - Water Division
Johanna Lyons, Designee	Dept. of Resources & Econ. Dev.
Brad Simpkins, Dir.	DRED-Div. Forests & Land
Craig Green, Designee	Dept. of Transportation
Richard Boisvert, Designee	Div. Historic Resources
Brook Dupee, Designee	Dept. Health & Human Svs.

COUNSEL FOR THE COMMITTEE: Michael Iacopino, Esq.

COURT REPORTER: Susan J. Robidas, N.H. LCR No. 44

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APPEARANCES (CONT'D)

APPEARANCES: Reptg. Antrim Wind, LLC:  
Susan S. Geiger, Esq. (Orr & Reno)

Counsel for the Public:  
Peter C. L. Roth, Esq.  
Sr. Asst. Atty. General  
N.H. Atty.Gen. Office

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AFTERNOON PROCEEDINGS

CHAIRMAN IGNATIUS: Good afternoon. Thank you, everyone, for being back right on time. Truth be told, you were all back before I was. We are going to begin again with the next area to cover, but we do have one follow-up from before the lunch break. Mr. Iacopino was asked to take a look at financial-related conditions that had been imposed in other cases, and he went back through and looked at some prior orders.

So if you want to report on what you found, please.

MR. IACOPINO: Sure. I'm going to have to actually correct myself because I may have misspoken about different projects. I'll start with Groton Wind.

In Groton Wind, there was no financing conditions. The Applicant in that case was a subsidiary of Iberdrola. I think before I said Groton Wind did not have a Power Purchase Agreement. But in fact, they did have a Power Purchase Agreement with NSTAR at the time of the adjudicatory

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1 hearing. And that's referenced at Page 32 of  
2 the Groton Wind decision.

3 Laidlaw Berlin BioPower had a  
4 Power Purchase Agreement that had not been  
5 yet approved by the Public Utilities  
6 Commission, but had apparently been agreed  
7 upon between Laidlaw Berlin BioPower and  
8 Public Service. In that case, there was a  
9 financing condition, and it read as follows  
10 from the decision. This is at Page 48 and 49  
11 of the Laidlaw decision. It says, "It  
12 plainly appears that financing of the project  
13 depends on the approval of the PPA by the  
14 PUC. The John Hancock 'comfort' letter" --  
15 and I'm going to excise out the internal  
16 quotations -- "requires an approved and final  
17 PPA as a condition to financing. If the PPA  
18 is not approved by the PUC, it is unlikely  
19 that the project will go forward. Therefore,  
20 as a condition of the certificate, the  
21 Applicant is required to demonstrate PUC  
22 approval of the PPA prior to commencement of  
23 construction. In addition, the Applicant  
24 shall: (i) notify the Subcommittee of

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1 approval or rejection of the PPA; (ii) if  
2 approved, provide a copy of the approved PPA  
3 to the Subcommittee; (iii) identify all  
4 changes to the PPA made or caused to be made  
5 by the PUC; and (iv) provide supplemental  
6 documentation demonstrating the Applicant's  
7 financial capability to construct and operate  
8 the facility based upon an approved but  
9 amended PPA. Upon receipt of said  
10 information and documentation from the  
11 Applicant, the Chairman of the Subcommittee  
12 will determine whether an additional meeting  
13 of the Subcommittee will be required in order  
14 to determine if all conditions of the  
15 certificate have been satisfied, such that  
16 construction may commence." And again, that  
17 was from Pages 48 and 49 of the certificate  
18 granting the Laidlaw Berlin BioPower  
19 certificate of site and facility.

20 Granite Reliable Power did not  
21 have a PPA when they were before the  
22 Committee. Page 31 of the decision there  
23 says they were in negotiations for a  
24 long-term PPA, but the decision says nothing

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1 further about that. In that case, with  
2 respect to financing conditions, the  
3 Committee ordered as follows: "The Applicant  
4 has demonstrated by a preponderance of the  
5 evidence that it has the financial capability  
6 to finance, construct and operate the  
7 project. Nonetheless, all parties agree that  
8 the current market for financing such  
9 projects is challenging. Therefore, the  
10 Subcommittee determines that the Applicant  
11 must have committed construction financing  
12 for the project in place before construction  
13 may commence. The Applicant shall provide  
14 notice to the Subcommittee when construction  
15 financing is in place. Such notice shall  
16 contain the name and address of the lender or  
17 lenders" -- I'm sorry -- "shall contain the  
18 name and address of the lender or lenders.  
19 Under R.S.A. 162-H:2,III, 'Commencement of  
20 construction' is defined as "any clearing of  
21 land, excavation or other substantial action  
22 that would adversely affect..." and it goes  
23 on to complete the definition of  
24 "commencement of construction." And that was

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1 at Page 32 and 33 of the decision in the  
2 Granite Reliable docket.

3 Also, in the certificate  
4 itself that the Committee issued, it  
5 contained the following language: "Further  
6 ordered that, the Applicant shall not  
7 commence construction, as 'commencement of  
8 construction' is defined in R.S.A. 162-H:2,  
9 III, until such time as construction  
10 financing is completely in place. The  
11 Applicant shall notify the Subcommittee when  
12 construction financing is in place and shall  
13 generally advise the Subcommittee of the name  
14 and address of the lender or lenders  
15 providing such financing. Nothing in this  
16 condition or in this order shall prohibit the  
17 owners of the land on which the project is to  
18 be constructed from continuing with logging  
19 activities in areas below 2700 feet in  
20 elevation."

21 So those are, at least in the  
22 recent years, orders that have contained or  
23 addressed either the existence or need for a  
24 PPA or a financing condition.

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1 CHAIRMAN IGNATIUS: Thank you  
2 very much. That's helpful.

3 MS. BAILEY: Madam Chairman.

4 CHAIRMAN IGNATIUS: Yes, Ms.  
5 Bailey.

6 MS. BAILEY: I reviewed the  
7 testimony to answer my own question about  
8 whether the PPA was going to help get the --  
9 whether the certificate would help get the  
10 PPA. And I think the testimony is that it  
11 will, because their testimony is basically  
12 that they have the ability to raise the  
13 capital. Capital providers will depend on  
14 many factors, including completion of all  
15 necessary development tasks, receipt of a  
16 non-appealable SEC certificate, execution of  
17 a financial power purchase or financial hedge  
18 agreement for the off-take of power.

19 So I think the testimony is  
20 they need the certificate, then they get --  
21 they also need the PPA, and then they can get  
22 the financing. That's Mr. Cofelice's  
23 testimony Exhibit AWE 2 -- 1, the testimony  
24 on Page 8 of the prefiled testimony dated

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1           January 31st, 2012.

2                           CHAIRMAN IGNATIUS: Thank you.

3           And I think it's been clear as we've been

4           talking about this, that although a number of

5           Committee members felt that a PPA was of

6           particular importance in the success of any

7           of these sorts of projects, it wasn't that

8           there was a requirement that the application

9           be filed with a PPA or that a PPA be a

10          necessary component of a finding of financial

11          viability, but it's one of the pieces that

12          could help in making that finding. And there

13          are other ways of making that finding as

14          well. And what Mr. Iacopino just read

15          demonstrated the mix of different things that

16          have been in the record in various projects.

17          Sometimes there's a PPA; sometimes there

18          isn't. Sometimes there's a lender already

19          committed, sometimes not. Sometimes a

20          significant equity investor, sometimes not.

21          But it's the putting together all the

22          different pieces that may vary from case to

23          case to case, what those pieces actually end

24          up being. But that in working a handful of

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1 items that each case brings forward, does it  
2 add up to giving us a basis to conclude that  
3 the financial capability standard has been  
4 met?

5 So it's -- I hope I'm clear.  
6 I'm not looking to say there's one thing, and  
7 if I don't see it there, that's the end.  
8 It's not -- you know, if it were a  
9 requirement that you must have a PPA, then  
10 the statute would say you must have a PPA. I  
11 don't think it's that, that I'm looking for.  
12 And I don't think any of the Committee is  
13 looking for just that. It's been one of the  
14 items that could have shown, and there are  
15 others as well, that could have shown  
16 financial capability that we don't yet feel  
17 has been demonstrated.

18 All right. We're going to  
19 obviously come back to that issue again  
20 later. But let's move on to the next  
21 category, which is whether the project will  
22 unduly interfere with the orderly development  
23 of the region. Ms. Lyons has been given the  
24 task of leading us through the key evidence

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13

1 in that issue, and then we'll have a  
2 discussion about it. Ms. Lyons.

3 MS. LYONS: Thank you. As I  
4 was reviewing the different documents, I went  
5 back to the Application, went to testimony,  
6 supplemental testimony, and tried to pull  
7 together the strings of this section. I have  
8 to say that the preceding Commission members  
9 did an excellent job. I'm kind of more of a  
10 "tip to the wave" kind of person, was hoping  
11 for more of a bigger discussion. So,  
12 hopefully what I've outlined here will help  
13 everybody generate that discussion.

14 I'm going to first read what  
15 the task was for the orderly development  
16 section. It says that -- this is  
17 Section (b). It says, "Will not unduly  
18 interfere with the orderly development of the  
19 region, with due consideration having been  
20 given to the views of municipal and regional  
21 planning commissions and municipal governing  
22 bodies." And I also took that into kind of  
23 four sections: First, the views of the  
24 municipal and regional planning commissions;

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1 then to kind of general, some land-use  
2 questions that kept coming up, and then also  
3 real estate values and economic benefits. So  
4 those are how I constructed my comments here.  
5 And I'm just going to go through my notes,  
6 and I'd appreciate if anybody has any  
7 questions, just to stop me.

8 So, starting with views of  
9 municipal and planning commissions, some of  
10 the things I noted as I was reviewing all the  
11 documentation is that the Town has a recent  
12 master plan. It's from 2010. And it was  
13 developed in a collaborative process in their  
14 community, and they specifically speak to  
15 "orderly development" in the plan. The  
16 master plan has several goals. They have  
17 about 15 different chapters in the master  
18 plan, but I kind of concentrated on the  
19 natural resources and conservation, energy  
20 uses and conservation use sections, and also  
21 the future land use section in the master  
22 plan.

23 In the future land use and  
24 economic development sections of the master

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1 plan, they really talk about keeping the  
2 rural character of their community,  
3 encouraging small home businesses in the  
4 outside areas outside the commercial  
5 districts.

6 And they also talk about  
7 energy conservation and encouraging the uses  
8 of renewable energy in their community.  
9 There was an effort to go -- they have a  
10 small wind project ordinance within Antrim,  
11 and that was something that was encouraged by  
12 the State's planning efforts, to make sure  
13 that communities encourage small wind  
14 development. So they thought they would go  
15 one step further and have a large-scale  
16 ordinance on the books. And it went to town  
17 vote in two different time periods and it  
18 was -- both times it was voted down. And  
19 there are differing opinions about why it  
20 failed, and I'm just going to hold back on  
21 that for a minute. But there was an effort  
22 within the community to respond to new and  
23 different planning efforts within the  
24 community. So there was a response to that.

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1 MS. BAILEY: Can I ask you a  
2 question about that?

3 MS. LYONS: Yes.

4 MS. BAILEY: I just want to  
5 make sure I'm not getting it confused with  
6 something else that I read about a vote that  
7 the town took to prevent industrial wind  
8 farms or industrial wind energy being built  
9 in the Rural Conservation District. Are you  
10 talking about a different vote or that one?

11 MS. LYONS: No, that one.

12 MS. BAILEY: So that one, the  
13 town voted not to prevent it.

14 MS. LYONS: They voted against  
15 the ordinance.

16 MS. BAILEY: Which the  
17 ordinance was to prevent industrial wind  
18 development in the Rural Conservation  
19 District.

20 MS. LYONS: No. There's --  
21 okay.

22 MS. BAILEY: That's why I want  
23 to clarify, because I think I'm confused  
24 about something.

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17

1 MS. LYONS: So in November  
2 2011 -- there are actually warrant articles,  
3 and I'll read them out. The first one is,  
4 "Are you in favor of the adoption of  
5 Amendment 1 as proposed by the Planning Board  
6 for the Antrim Zoning Ordinance as follows:  
7 To adopt a large-scale wind energy ordinance,  
8 the purpose and intent of which is to:  
9 Establish a process for the planning board to  
10 issue conditional permits, in addition to  
11 site plan approval for large-scale wind  
12 energy wind facilities..." and then it goes  
13 on to say, No. 2, "Specify particular  
14 standards that address construction, public  
15 health and safety, noise, environmental  
16 issues and visual impacts; 3) Require as part  
17 of the application various impact statements  
18 and assessments to help gauge impacts of  
19 proposal; 4) Establish a process and  
20 requirements following an approval whereby  
21 the planning board issues a permit to operate  
22 that must be renewed on a regular schedule?"

23 MS. BAILEY: So, just to  
24 really summarize that, they were asking the

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1 voters whether the planning board should have  
2 the jurisdiction to set parameters against  
3 the large-scale industrial wind project?

4 MS. LYONS: No. Actually, the  
5 ordinance has a whole -- the proposed  
6 ordinance has a whole set of conditions that  
7 it would be permitted. So if someone met  
8 those conditions --

9 MS. BAILEY: Okay. So it was  
10 assuming that there could be an industrial  
11 wind project if these conditions were met.

12 MS. LYONS: It gives a  
13 process.

14 So then there was a second  
15 warrant article that said that -- that was  
16 proposed that said, "Wind energy facilities  
17 and meteorological towers, as defined below,  
18 are allowed to be constructed or operated in  
19 any district in the town of Antrim, except  
20 for the Rural Conservation District, where  
21 the construction and operation of a  
22 large-scale wind facilities shall be  
23 prohibited after the effective date of this  
24 ordinance, subject to all applicable federal,

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1 state and local ordinances and regulations."

2 MS. BAILEY: So that sounds  
3 like it means what I thought it meant.

4 MS. LYONS: Well, that's the  
5 second one. So there was one for process,  
6 and then there was one for exemption for the  
7 Rural Conservation District.

8 MS. BAILEY: And so I'm  
9 talking about the second one.

10 MS. LYONS: Yeah.

11 MS. BAILEY: And the second  
12 prong of that was, after that passed --

13 MS. LYONS: And they all --

14 MS. BAILEY: No. After they  
15 took the vote on that, though, if it had  
16 passed, it would have prohibited industrial  
17 wind development in the Rural Conservation  
18 District. Isn't that what the last thing you  
19 read said?

20 MS. LYONS: Yes.

21 MS. BAILEY: So it failed. So  
22 that means that people were not completely  
23 opposed to allowing it to go into the Rural  
24 Conservation District. Okay. That's what

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1 I -- I think that's what the argument was.

2 MS. LYONS: Okay.

3 MS. BAILEY: Thanks.

4 MS. LYONS: And just to  
5 continue, so there was another vote in March  
6 of 2012, and it was basically for the first  
7 warrant article I read, to have a process in  
8 place for a large-scale wind process.

9 MS. BAILEY: And they voted  
10 not to have that process in place.

11 MS. LYONS: That's correct.

12 MS. BAILEY: Okay. Thank you.

13 MS. LYONS: Okay. So, back to  
14 the orderly development and to municipal and  
15 regional planning commissions. One of the  
16 key things that was missing is that the  
17 regional planning commission was not included  
18 in the process or reported to be part of the  
19 process in the development of the project.

20 So, quickly, about land use.

21 In their application, Antrim Wind states  
22 several things: That "the project area has  
23 been long used for wood lots and open space";  
24 the location of the wind energy should be" --

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21

1 and that's on Page 48 of the Application --  
2 "location of the wind project should be  
3 consistent with existing land uses" -- which  
4 is also Page 48. And to remind you, this is  
5 a Rural Conservation District that this is  
6 being proposed in. And I also found it very  
7 interesting in the Application, there was a  
8 report that was inserted in from the  
9 Department of Energy, a wind energy report.  
10 It's on Page 1. It's one of the appendices.  
11 I can find out which one that is and put it  
12 in here. But there's a call-out box, and it  
13 talks about different -- the major challenges  
14 to getting to a 20-percent wind scenario for  
15 wind power in the United States.

16 And they talk about many of  
17 the things we're facing here today about  
18 those major challenges. And one of the key  
19 bullets here was addressing potential  
20 concerns about local siting, wildlife and  
21 environmental issues within the context of  
22 generating electricity. So it's the weighing  
23 of the public benefit, you know, of having,  
24 you know, adequate wind power, adequate

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1           electrical power, and also balancing it with  
2           those local and environmental issues.

3                       So, some of the issues I had  
4           around the land-use side to evaluating the  
5           orderliness is, once again, it did not go to  
6           the regional planning commission. So it's  
7           hard to evaluate this particular project in  
8           the context of what's happening in the region  
9           and how does it fit into that larger public  
10          need for reliable energy.

11                      CHAIRMAN IGNATIUS: Ms. Lyons?

12                      MS. LYONS: Yes.

13                      CHAIRMAN IGNATIUS: I may be  
14          getting my cases confused. I had thought  
15          that there had been a reach-out to the  
16          regional planning commission, and it either  
17          responded with sort of "Thank you, we are  
18          aware of it," kind of neutral sort of  
19          response, neither supportive nor opposed,  
20          although I may be getting that way off. So  
21          it didn't actively participate in this  
22          process or very strongly in the community,  
23          but it was aware of it and didn't raise an  
24          issue about being cut out of the process by

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1 any means. Am I right?

2 MS. LYONS: Well, that wasn't  
3 my direction there. My experience is that  
4 regional planning commissions publish all  
5 sorts of reports, are willing to give  
6 information about their region. And I have  
7 no information on what those regional issues  
8 are because it wasn't brought forward.

9 CHAIRMAN IGNATIUS: I see.

10 MS. LYONS: So there's lots of  
11 public information. So when I say "consult,"  
12 I don't just say that they have to be an  
13 active participant in the process. But it  
14 doesn't show that they've actually consulted.  
15 I may have missed it, but I don't -- there's  
16 no reference to any regional studies or  
17 information.

18 CHAIRMAN IGNATIUS: I'm not  
19 sure -- Mr. Iacopino, do you have the actual  
20 exhibit that --

21 MR. IACOPINO: There's not an  
22 exhibit. But around February 9th, 2012,  
23 after this Application was filed, a letter  
24 was sent to the Southwest Regional Planning

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24

1 Commission, inviting them to give their views  
2 and positions -- described the project and  
3 invited them to make their views or positions  
4 known and also informed them of the  
5 requirements if they wanted to intervene as a  
6 full party in the proceeding. I think there  
7 may have been subsequent correspondence to  
8 them as well after the Application was  
9 accepted. I'm looking for that.

10 Now, that's pretty much a  
11 standard thing that the Committee does, is we  
12 send out those types of letters to the  
13 planning -- regional planning commission for  
14 that area, as well as the town in which the  
15 project is proposed, and the abutting towns  
16 as well. I can't find any follow-up letter.  
17 I don't believe in this case, and subject to  
18 check against the record, that we ever  
19 received a response from Southwest Regional  
20 Planning Commission in response to that  
21 letter. But I would have to double-check our  
22 correspondence file to make sure.

23 And for those who are  
24 interested from the public, the letter is on

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25

1 the web site that was sent out to the  
2 Southwest Regional Planning Commission.

3 MS. BAILEY: And it was sent  
4 by us?

5 MR. IACOPINO: Sent by me on  
6 behalf of the Committee. It's standard that  
7 we do it at the beginning of pretty much  
8 every docket.

9 CHAIRMAN IGNATIUS: Thank you.

10 MS. LYONS: So, I also found  
11 there's some other gaps in the land use,  
12 orderly development and land use. And there  
13 seemed to be some information gaps, whether  
14 they were not stated but were brought up in  
15 testimony by many of the other intervenors,  
16 that there's some very significant  
17 conservation efforts going on in the  
18 community that were not addressed at all.  
19 The Quabbin-to-Cardigan Initiative was  
20 probably the one that we heard the most  
21 about. But there's also other conservation  
22 efforts going on in the area: The Forest  
23 Legacy Program. So that just kind of --  
24 there was these information gaps that came

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1 out in other testimony that should have  
2 probably been disclosed about what's  
3 happening in the region, part of that orderly  
4 development again.

5 I know we're going to come to  
6 the subdivision issue as a separate one, but  
7 that also comes to land use. And I'll just  
8 let it sit there. But I think that's also  
9 part of that orderly development side. But  
10 we've reserved subdivision for a separate  
11 conversation.

12 Moving on to Real Estate  
13 Values. That's Appendix 14A in the  
14 Application. The consultants, Magnusson &  
15 Gittell, after lots of modeling and other  
16 studies, they conclude that in arm's-length  
17 transactions there's no support for  
18 diminished property values. And I reread all  
19 that stuff again, and, you know, it was about  
20 as clear as it was the first time. I mean,  
21 it's hard when you have competing studies  
22 that were done and the ways to model. So,  
23 you know, I just kind of let that kind of  
24 roll for a little bit.

1                   The Industrial Wind Action  
2                   group questioned their analysis of the other  
3                   studies and, you know, questioned the small  
4                   sample sizes, especially as it relates to New  
5                   Hampshire real estate values. And those were  
6                   really thoughtful questions. I was concerned  
7                   that the abutters didn't offer independent  
8                   studies or analysis on the impacts of their  
9                   properties. We heard a lot about, you know,  
10                  "What is it going to do to my property?" And  
11                  it goes back to what Magnusson and Gittell  
12                  talked about as "anticipation effect" and  
13                  trying to get at, you know, what is that  
14                  anticipation effect before the wind farm gets  
15                  built? And there's not a lot of quantifiable  
16                  studies that link back to what was the  
17                  anticipated effect to what the true value was  
18                  at the end. This one was really hard for me  
19                  to really think about. Knowing the  
20                  volatility of the recent real estate market,  
21                  it's been -- you know, I don't think any of  
22                  us have homes that are worth more than they  
23                  were, you know, 10 years ago. It is a tough  
24                  one, and I'm not really sure how to crack

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1           that. So I'd be really interested in more of  
2           what other people's thoughts are. We don't  
3           have a large pool in New Hampshire of looking  
4           at data here, and we know that real estate  
5           markets are very regional. So it's even hard  
6           to compare across regions and like  
7           communities. So it is a tough one.

8                         Also, the Economic Benefits  
9           section. That's Appendix 14B. And the  
10          Application and the study cites job creation,  
11          short- and long-term, increased tax revenues  
12          and lease payments to the local landowners.  
13          And that's Page 103 of the Application. The  
14          Industrial Wind Action group testimony  
15          questions the models in their application,  
16          contends that all the calculations are based  
17          on positive outcomes, and all financing  
18          construction costs are unknown and should be  
19          factored into any of the Economic Benefits  
20          section. They also are concerned that  
21          without a Purchase Power Agreement, pricing  
22          is unavailable. So that comes back into the  
23          economic benefits or financial side to this  
24          project.

[DELIBERATIONS]

1                   Just take a look at my notes  
2                   here. So, going back to the creation of  
3                   jobs, increased tax revenues and lease  
4                   payments to local landowners, a bulk of the  
5                   economic benefit -- and there's a total  
6                   benefit of \$55.7 million of direct and  
7                   indirect, you know, the bigger number;  
8                   there's another number thrown out as 2.3  
9                   million dollars annually for indirect and  
10                  direct. But, really, a bulk of that, those  
11                  big monies, are up front during construction.  
12                  The long-term benefits really only come from  
13                  the taxes that would be paid to the town.  
14                  There's very few employees who are on site,  
15                  so there's not a lot of long term. There's  
16                  going to be a big slug in the first year, and  
17                  then it's just going to piddle away.

18                         One of the things I had to  
19                         read really carefully, and it took me a  
20                         little bit to find, is they talked about  
21                         local area economy. And we're asking, you  
22                         know, the Town of Antrim to make, you know, a  
23                         significant commitment in their community.  
24                         So I wanted to know what that local area

[DELIBERATIONS]

1           economy was going to be. And I was surprised  
2           to find that it's basically all the counties  
3           in southern New Hampshire. So we're then  
4           taking that money and stretching it across  
5           all the southern counties, from Rockingham to  
6           Cheshire. So that economic benefit dilutes,  
7           other than the direct tax revenues that stay  
8           within the community. So it really doesn't  
9           look like a big number any longer when you  
10          realize what is it covering. I don't really  
11          think, even with the tax revenue -- and I  
12          went back and looked at a lot of the  
13          information on the PILOT and the Alt PILOT.  
14          And I went back to other recently permitted  
15          certificated projects to find out what --  
16          because I'm not, you know, a real estate  
17          person, I'm not a tax person. So I didn't  
18          really know -- you know, I know what a PILOT  
19          is because state agencies pay PILOTS to  
20          towns. But I didn't really know what the  
21          difference between PILOT and ad valorum was  
22          and what would be the pluses and minuses.  
23          And as far as I can tell -- and I can be  
24          corrected, because I had to go back and take

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1 a look at this -- but the Lempster project is  
2 the only project that has ad valorem, which  
3 is based on real value of the investment. So  
4 the -- Mike's shaking his head, so I might be  
5 corrected --

6 MR. IACOPINO: I'm just trying  
7 to remember. I'm not shaking my head. I'm  
8 just cocking it.

9 MS. LYONS: It's based on real  
10 property; whereas, PILOT is an agreement that  
11 is something less than real property.

12 And so the Lempster project is  
13 the only one that's ad valorem in the state  
14 right now. Everything else has been  
15 negotiated into a PILOT. And I'm not really  
16 sure what that means. I don't really know  
17 how that helps or hinders economic benefits  
18 to a community. And the Allen and Brooks  
19 panel talked a lot about that and the issue  
20 that's ahead of the superior court right now.  
21 It's a little over my head, but I wanted -- I  
22 don't really understand why the tax model was  
23 changed or presented that way. So that is  
24 the other thing that's been kind of, you

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1 know, bothering me. Is it really meeting  
2 community needs, the tax structure for the  
3 economic benefit? It's put in as an economic  
4 benefit, but I don't know what that economic  
5 benefit is or is not to the community.

6 So that kind of summarizes my  
7 thoughts. We can see where that brings us.

8 CHAIRMAN IGNATIUS: Thank you.  
9 Does anyone have additional evidence, issues  
10 that you recall on this subject to put out  
11 before we get to discussing it, on economic  
12 benefits as a result of the project or on the  
13 development of the region? Ms. Bailey.

14 MS. BAILEY: I thought it was  
15 interesting, what Ms. Lyons started with, is  
16 that we have to look at or take advice from  
17 the municipal planning commission and the  
18 municipal government body, or something like  
19 that. And we have briefs from the Antrim  
20 Conservation Commission and the Antrim  
21 Planning -- not planning board. We had one  
22 from them, too -- the Board of Selectmen.  
23 And they come to different conclusions. The  
24 board of selectmen say that this goes along

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1 with the orderly development of the region,  
2 and the Antrim Conservation Commission talks  
3 about the conservation efforts that have  
4 occurred in Antrim, starting with 1989 when  
5 they established the Rural Conservation  
6 District, the Open Space Conservation Plan.  
7 So I think there's a long history in Antrim  
8 of conserving land. And notwithstanding that  
9 vote where everybody -- the town decided they  
10 weren't going to prohibit industrial wind in  
11 the Rural Conservation District, I think  
12 there is evidence that shows that there is a  
13 long history of conservation efforts. And  
14 also, the testimony, the oral testimony of  
15 Ms. Carey Block, I was struck by that. At  
16 least some of the people that we have heard  
17 from have developed a record that seems to  
18 suggest that Antrim has been very careful  
19 about conservation.

20 CHAIRMAN IGNATIUS: I think  
21 that's a good point. I think the flip side  
22 is also clear, that there's been a long  
23 tradition of use of the land and not  
24 conservation in a sort of pristine way where



[DELIBERATIONS]

1                   CHAIRMAN IGNATIUS: We have,  
2 then, to make sense of the kind of differing  
3 points of view that came out. And Ms. Lyons  
4 did a nice job of bringing forward -- and  
5 some of these are sort of unanswerable  
6 questions that we get the job of having to  
7 answer.

8                   On the question of the real  
9 estate values and the conflicting views that  
10 were brought forward, my sense of it was that  
11 there were small numbers of data to be able  
12 to assess, and because of that, it leads you  
13 either to conclude that there isn't enough  
14 data to demonstrate a problem, or there isn't  
15 enough data to give you comfort that you know  
16 what's really going on. I mean, I think you  
17 can come to opposite conclusions from the  
18 same problem with a very limited data set of  
19 real estate transactions in a small area.  
20 And in a period of a down economy, there just  
21 aren't going to be a lot of examples to work  
22 with.

23                   But given that difficulty, did  
24 people have a conclusion about whether you

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1 found evidence to support that real estate  
2 properties would be harmed, or evidence to  
3 support that there's no indication that real  
4 estate properties would be harmed with the  
5 project? Or did you find it was an open  
6 question that would have to play out, and  
7 they didn't have evidence to be able to reach  
8 either way? I'm getting some nods on the  
9 third alternative. Anybody want to speak to  
10 that? Dr. Boisvert.

11 DR. BOISVERT: I would say I  
12 was left with the idea that it's an open  
13 question, mostly because the real estate  
14 market over the last several years has been  
15 very atypical in my lifetime and -- at least  
16 in my lifetime when I'm looking at real  
17 estate. And I find it hard to separate the  
18 noise from the signal.

19 CHAIRMAN IGNATIUS: Anyone  
20 else want to speak to that? Mr. Simpkins.

21 MR. SIMPKINS: Well, yeah, I  
22 guess the comment you made earlier about a  
23 small data set, that was -- I mean, to me,  
24 the data set is so small, it's very hard to

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1 draw any substantial conclusions from that.  
2 And the fact that New Hampshire's first  
3 commercial-size wind turbine facility went  
4 operational in the fourth quarter of 2008, so  
5 right when the economy was tanking, it's very  
6 hard to say we have sufficient data to draw a  
7 conclusion about what will happen to real  
8 estate values.

9 CHAIRMAN IGNATIUS: Anyone  
10 else on that?

11 (No verbal response)

12 CHAIRMAN IGNATIUS: I  
13 certainly can't conclude that it will have an  
14 undue impact on real estate values. I guess  
15 I'm not certain I can find that it will have  
16 no impact. But if we're asked under the  
17 statute, "Will there be undue interference --  
18 or unreasonable impact," I guess I don't see  
19 that that's been demonstrated, personally.

20 On the larger question of the  
21 development of the region, I didn't see any  
22 way in which this project violated any  
23 standards of the community or would be in  
24 contravention of a vision plan that's been

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1           adopted by the community. Again, it seemed  
2           as though there is this balance within the  
3           municipality to have both preservation of  
4           rural characteristics on or all of those that  
5           they bring, natural open space, but also to  
6           allow uses of that land for commercial  
7           purposes. And so I didn't see evidence that  
8           would make me conclude that there was an  
9           undue interference with that development of  
10          the region. There are certainly individuals  
11          and certain aspects of it that people didn't  
12          like, and we're going to get to more of those  
13          specifics and others. But sort of the  
14          concept of planning and vision, I guess  
15          that's where I came out, that I didn't find  
16          undue interference with the orderly  
17          development of the region by this  
18          Application.

19                           Anyone else who had a view on  
20                           that and want to speak to that? Ms. Lyons.

21                           MS. LYONS: I agree with you.  
22                           I mean, that was broadly -- probably doesn't  
23                           have -- the project doesn't have an impact on  
24                           real estate values individually perhaps, but

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1 still not even quantified that it could have  
2 individual effects.

3 CHAIRMAN IGNATIUS: Any other  
4 discussions on this? I don't know if that's  
5 a yes or a no. Are people comfortable with a  
6 straw vote on this question?

7 All right. This would be on  
8 whether we have evidence to conclude that the  
9 project would have an undue interference with  
10 the orderly development of the region.

11 All right. Why don't you read  
12 that again a little bit louder.

13 MR. IACOPINO: The issue is  
14 whether or not the project -- whether the  
15 project will not unduly interfere with the  
16 orderly development of the region, with due  
17 consideration having been given to the views  
18 of municipal and regional planning  
19 commissions and municipal governing bodies.

20 CHAIRMAN IGNATIUS: Thank you.  
21 And you're reading from the statute itself.

22 MR. IACOPINO: R.S.A.  
23 162-H:16,IV(b).

24 CHAIRMAN IGNATIUS: For those

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40

1           who feel that the evidence presented  
2           demonstrates that it will not unduly  
3           interfere, as you've read that out, please  
4           raise your hands. Will not interfere.

5                         (Subcommittee members indicating by  
6                         show of hands.)

7                                 CHAIRMAN IGNATIUS: Anyone who  
8           has the opposite view, that it will? All  
9           right. Have we got everybody? Anybody else  
10          with uncertainty? All right. Thank you.

11                                Anything else on that issue?  
12          If not, then let's move to the next one,  
13          which is on aesthetics -- again, tracking  
14          from the statute. And Mr. Dupee has been  
15          asked to lead the discussion on that one.

16                                MR. DUPEE: So, thank you,  
17          Madam Chair.

18                                Starting off where we left in  
19          the last discussion, going back to the  
20          statute that guides this Committee, under  
21          162-H:16, Findings and Certificate Issuance,  
22          under IV we have to find, "after considering  
23          available alternatives and fully reviewing  
24          environmental impact of the site or route and

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1 other relative factors bearing on whether the  
2 objectives of this chapter will be best  
3 served by the issuance of a certificate, must  
4 find that the site and its facility" -- I'm  
5 only going to read (c) -- "will not have an  
6 unreasonable adverse effect on aesthetics,  
7 historic sites, air and water quality, the  
8 natural environment, and public health and  
9 safety." I will be confining my review to  
10 the aesthetics piece of this.

11 We've certainly heard from  
12 testimony within the record some opposing  
13 thoughts as to what sort of aesthetic impact  
14 the introduction of wind turbines would have  
15 to the area of interest here.

16 So, going back to AWE 10, the  
17 Guariglia testimony -- it's actually his  
18 supplemental testimony -- he was asked if the  
19 potential visual impacts to receptors, such  
20 as Willard Pond, "would you basically" -- I'm  
21 sorry. "If there is a potential visual  
22 impact to receptors such as Willard Pond, why  
23 have you concluded the project would not have  
24 an unreasonable adverse impact?"

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1                   And Mr. Guariglia's answer  
2                   was, "Generally, there is limited potential  
3                   visibility of the project within the 5-mile  
4                   study area, therefore limiting the potential  
5                   for visual impact. The project will have  
6                   some impacts on a limited number of  
7                   resources. However, given the relatively  
8                   small affected viewshed area, the collective  
9                   impact of the study area will be low. Taking  
10                  into account the entire study area, the  
11                  project will not result in an unreasonable  
12                  adverse impact to the aesthetics of the  
13                  Antrim region."

14                  I'd asked Mr. Guariglia in his  
15                  testimony to elaborate for me on the  
16                  quantitative method that he used to draw on  
17                  that conclusion. I don't have that citation  
18                  for you, but I'm sure we can find it if we  
19                  look. But his answer back to me was,  
20                  essentially, it's not like adding two and two  
21                  and getting four, the mathematical concept  
22                  that every person who understood mathematics  
23                  would derive exactly the same answer. It was  
24                  not that neatly easy to do, which is why I

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1 think we reached perhaps a separate  
2 understanding under one of the other  
3 witnesses who spoke to us, which is Ms.  
4 Vissering, who was a witness for Counsel for  
5 the Public. She was asked a very similar  
6 question: Basically, would she believe there  
7 would be an impact, based upon her analysis  
8 of a more focused viewshed that focused on  
9 the Willard Pond area? So, sort of the  
10 contrast here is the 5-mile, large, sort of  
11 macro view versus a more micro view. And she  
12 said, and I quote, "The impacts would be  
13 significant because of the existing condition  
14 which is entirely natural, with no  
15 development currently visible from the pond.  
16 Because this is a wildlife sanctuary and  
17 Audubon preserve, there's an expectation that  
18 one would experience a natural setting that  
19 would be different from settings such as  
20 Gregg Lake."

21 I believe Ms. Vissering has  
22 made an important point here, and that is the  
23 expectation for aesthetics is going to be  
24 different in an area which is recognized as a

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1 wildlife sanctuary from an area where there  
2 was other commercial activities undergoing.

3 I'd like to quote again from  
4 PC 1, again, Ms. Vissering. She describes a  
5 bit about Willard Pond. She talks about it  
6 being "a scenic 108-acre pond known for its  
7 pristine setting, extremely clean water and  
8 excellent fishing. No petroleum motors are  
9 permitted, and there's no development on the  
10 pond. There's a small put-in for canoes and  
11 kayaks, and it's a popular swimming park,  
12 even though technically swimming is not  
13 permitted. The pond is owned by the State,  
14 but is completely surrounded by the  
15 dePierrefeu-Willard Pond Wildlife Sanctuary,  
16 which consists of 1700 acres owned by the New  
17 Hampshire Audubon Society, which abuts the  
18 proposed Antrim project to the south. From a  
19 well-used parking area set back from the  
20 pond, one can access a number of trails."  
21 And I want to quote from her, "Nine turbines  
22 plus a meteorological tower are visible in  
23 the simulation provided by the Applicant from  
24 the dam on Willard Pond. This area is a

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1 popular destination for walkers and swimmers.  
2 All 10 turbines will be visible from various  
3 points around the pond, and most turbines  
4 will be visible from nearly all points on the  
5 pond. The turbines will be seen in  
6 relatively close proximity, with distances  
7 ranging from 1.4 to 3.2 miles away." So,  
8 again, contrasting sort of the larger  
9 viewshed taken by the Applicant's witness to  
10 more of a micro sort of view.

11 Then she goes on to say, "The  
12 impacts will be significant because of the  
13 existing condition which is entirely natural,  
14 with no development currently visible from  
15 the pond. Because this is a wildlife  
16 sanctuary and Audubon preserve, there's an  
17 expectation that one will experience a  
18 natural setting that will be different from  
19 settings of Gregg Lake," similar to what I  
20 read to you before.

21 So then she was asked the  
22 question about the proposed easements -- in  
23 other words, were going to be perhaps less  
24 intrusive viewshed -- "will change your

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1 findings and conclusions as described in your  
2 visual assessment report?"

3 She says, "No, they would not.  
4 Please note that additional conservation  
5 measures were noted as one of the several  
6 recommendations, which together would be  
7 necessary for the project to avoid an  
8 unreasonable adverse impact on aesthetics.  
9 Even with removal of the two southernmost  
10 turbines and introduction of most nighttime  
11 hazard lighting through radar-activated  
12 lighting control, the project would result in  
13 an unreasonable adverse effect on  
14 aesthetics."

15 I'd like to move on now to testimony  
16 ASNH 23, testimony of Frances Von Mertens.  
17 She sort of reiterates for us the status of  
18 this Willard Pond area, which she says "was  
19 an original 3,000-acre parcel in 1985" --  
20 that's roughly 30 years ago -- "now consists  
21 of over 30,000 acres under protection." And  
22 the individuals who were party to that  
23 protection are numerous. They would be the  
24 Harris Center, the Nature Conservatory,

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1 Audubon Society itself, New Hampshire Fish &  
2 Game, and Society for the Prevention of the  
3 New Hampshire Forests.

4 She mentions meeting on the pond a  
5 certain individual who worked for EPA, and he  
6 asked her -- or she asked him what he was  
7 doing there. And he mentioned back to her in  
8 an e-mail that Willard Pond is one of a  
9 hundred lakes nationally selected by EPA as a  
10 reverence site because of the minimal  
11 disturbance, no shoreline development that  
12 would compromise water quality. A quote from  
13 an e-mail she received from Mr. Fabot,  
14 quoting, "It is one of the few lakes that has  
15 minimum waterfront and watershed disturbance,  
16 specifically [sic] in Southern New  
17 Hampshire."

18 I want to turn now to the ASNH  
19 post-hearing memorandum, dated 1/14. They  
20 make a number of points. I'm going to read  
21 not all, but rather some of them, which may  
22 be, again, responses what we already talked  
23 about.

24 As part of its mission, Audubon owns in

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1 fee and currently manages 39 wildlife  
2 sanctuaries throughout New Hampshire, with a  
3 total acreage of about 7400. Nearly 1700  
4 acres, dePierrefeu-Willard Pond Wildlife  
5 Sanctuary is Audubon's largest property. The  
6 distance between the property line of the  
7 sanctuary nearest the site and the nearest  
8 proposed turbine is roughly less than one  
9 mile. In addition, Audubon holds  
10 conservation easements on about 1300 acres of  
11 lands adjacent to the sanctuary, bringing the  
12 total of Audubon's protected lands in the  
13 region to about 3,000 acres. As we mentioned  
14 earlier, the 3,000 acres is part of a larger  
15 "Supersanctuary" that totals over 30,000  
16 acres of protected land in the area. Willard  
17 Pond lies in the interior of the sanctuary.  
18 The pond is a state-designated "Great Pond"  
19 and pristine water body of approximately 100  
20 acres, with considerable aesthetic values,  
21 including an undeveloped shoreline. So  
22 again, sort of a repetition of its value  
23 because of the fact it is not developed.

24 We heard mentioned earlier in a

1 conversation today the Quabbin-to-Cardigan  
2 Initiative, the fact that this would be sort  
3 of an integral part of that interstate  
4 effort.

5 The Audubon Society's post-hearing  
6 memorandum goes on to say that the federal  
7 government has invested approximately \$3.5  
8 million in the Forest Legacy Program, and the  
9 State of New Hampshire has invested roughly  
10 \$400,000 in matching funds, and that clearly  
11 other organizations have spent money to  
12 provide this sort of protection.

13 So I note, going back to the record, the  
14 Willard Pond Wildlife Sanctuary area has been  
15 in existence from a time well predating the  
16 application that we have before us today.  
17 1985 I believe is when it began. The Audubon  
18 Society has openly and publicly during that  
19 period of time made the Willard Pond area one  
20 of its sanctuaries well known to anybody who  
21 comes and visits that area, that that's what  
22 it is used for. I believe that the fact that  
23 it was a wildlife sanctuary was known to the  
24 Applicant, as I believe the record shows that

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1           it reached out to the Audubon Society. I  
2           don't have the cite in front of me, but I'm  
3           sure we can find it.

4                        So I guess it goes back, to me, that  
5           it's important to reiterate that the  
6           Applicant was aware of the existence of the  
7           sanctuary and that it was clear to the  
8           Applicant what type of sanctuary it was and  
9           that it is an uninhabited wilderness area  
10          designed to attract a clientele whose  
11          aesthetics are focused on the beauty of  
12          nature in its natural state.

13                       So the question, I guess to me, and I've  
14          been wrestling with this one a little bit,  
15          is: Aesthetically, can there be a  
16          co-location of an industrial wind facility  
17          with a pre-existing wildlife sanctuary that  
18          was built over the years for the expressed  
19          purpose of providing a wild and natural  
20          environment? And I struggled with this,  
21          because on one hand it seems to me that these  
22          concepts are antithetical, like light and  
23          dark or wet and dry; if one condition exists,  
24          then the other cannot. But I'm hoping my

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1           fellow Committee members will weigh in on  
2           this, as maybe there's some things here I've  
3           not thought of or not seen that would help me  
4           understand how these could be considered  
5           compatible uses. So I would stop there,  
6           Madam Chairman.

7                           CHAIRMAN IGNATIUS: All right.  
8           Thank you very much. That's helpful as a  
9           starting point.

10                           Additional comments people  
11           want to make as sort of the factual basis  
12           before we get into what to make of all of it  
13           that we want to bring forward? Ms. Bailey.

14                           MS. BAILEY: Can anybody  
15           summarize the testimony of Mr. Guariglia, who  
16           took the position, I think, that Willard Pond  
17           wasn't significant enough to consider it --  
18           consider the visual impact on it? I think,  
19           and this is what I want people to tell me if  
20           I'm right or wrong, that his position was  
21           that, since Willard Pond wasn't a  
22           state-designated regional something or other,  
23           then we couldn't find that the aesthetic  
24           impact on that pond had an unreasonable

[DELIBERATIONS]

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1           adverse effect on aesthetics because it  
2           didn't really matter. Is that what his  
3           testimony was?

4                       MR. DUPEE: Certainly the idea  
5           that it wasn't a state park was part of his  
6           testimony. I don't recall that he thought  
7           that because -- he certainly indicated it was  
8           not a state park. But whether it meant they  
9           could never be considered aesthetically  
10          significant, I don't recall that part of his  
11          testimony.

12                      CHAIRMAN IGNATIUS: I agree.  
13          I think there was a hierarchy in his mind  
14          that, if it had been designated by a  
15          government entity, federal or state  
16          government, it was a higher-value property  
17          warranting more concern. And if it was  
18          designated by a municipality, as in the case  
19          of Gregg Lake, or just by a private entity  
20          such as Audubon, it doesn't seem, in his  
21          mind, to rise to that level of concern. And  
22          as I recall, when pushed on where those  
23          standards came from, why he ranked them the  
24          way he did, or what tests he used to decide

[DELIBERATIONS]

1           what kind of government entity was on one  
2           side of the line and what was on the other,  
3           it seemed not to be all that clear.  Although  
4           he had taken issue with Ms. Vissering's use  
5           of more subjective criteria, I had the sense  
6           it was fairly subjective in his mind of what  
7           to put in the category of sort of singled out  
8           by the government entities and wasn't all  
9           that cut-and-dry a standard that he had  
10          presented.  That was my take on it.  And the  
11          more questions that were pushed on it, the  
12          less clear those lines seemed to be, by my  
13          read of it.  Mr. Simpkins.

14                       MR. SIMPKINS:  Yeah, this is  
15                       an area that kind of bothered me, too.  So I  
16                       went back and looked at -- I have the  
17                       transcript open from the afternoon of Day 5.  
18                       And I was asking some questions of  
19                       Mr. Guariglia.  I'll just read just a brief  
20                       section here.

21                               I was questioning him about  
22                               this issue of if it's owned by the State or  
23                               whatever, it has a higher significance.  So I  
24                               asked him specifically about privately owned

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1 lands that have an easement held by the  
2 State. And his answer was, "Well, if the  
3 easement is owned by the State, then that  
4 would level some sort of look at."

5 So then I -- and I'm kind of  
6 paraphrasing here. I asked specifically  
7 about conservation easements held by the  
8 State of New Hampshire, but the ownership is  
9 still in private lands, and his answer was,  
10 "Well, that could be. I know we have  
11 considered stuff like that." Then he says,  
12 "In our experience, a lot of times it has to  
13 do with hunting, you know, where the State  
14 goes in to a farm and... they make a deal,  
15 and then they open it up to hunting."

16 So then I asked if he was  
17 familiar with the federal Forest Legacy  
18 Program and the ranking, both the state and  
19 national ranking that they go through. His  
20 answer was, "I'm aware of the concept. I  
21 didn't know the specific name of the  
22 legacy... So that's something that we'd look  
23 at, too."

24 So I said, "Is that an example

[DELIBERATIONS]

1 of something that may rise to the level of  
2 state significance?"

3 And his answer was, "Again,  
4 the easement is owned by the State, so it  
5 would be considered a statewide." Then he  
6 goes on to talk about the purposes of it.  
7 "But it would at least warrant an additional  
8 look."

9 So my last question was, "Did  
10 you find any of those when you were reviewing  
11 this area?"

12 His answer was, "From my  
13 recollection, all the easements that I  
14 remember were more of not-for-profits. Or  
15 there may have even been like Boston  
16 University or Boston College had some sort of  
17 easement, too. I don't remember seeing that  
18 come across."

19 So the issue I had was, in  
20 questioning about easements, specifically in  
21 this case, Forest Legacy easements, where  
22 both state and federal money was put into it,  
23 he seemed to indicate that, yes, that would  
24 be certainly something we would look at, and

[DELIBERATIONS]

1           that could have statewide significance. But  
2           he never identified those when he was doing  
3           his review, and there's at least two of them  
4           in close proximity, within 5 miles, let alone  
5           10 miles. So I think that was very  
6           inadequate for him to really talk about that,  
7           because he didn't even identify them. So he  
8           couldn't talk about whether they were of  
9           statewide significance or not, because he  
10          missed them. So that's a concern.

11                         The other comment I would  
12          have, as far as, you know, whether something  
13          is more important because it's a State  
14          property or federal property versus local  
15          property, is I think that's very subjective.  
16          There could be an area that has very  
17          substantial statewide importance.

18                         But speaking as a state  
19          agency, when we look at something whether to  
20          invest money in to, you know, put an easement  
21          or conserve it, if someone has already gone  
22          through that process and it's already  
23          conserved, we don't need to do it. So that  
24          doesn't mean it's not important to us. It

[DELIBERATIONS]

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1 means someone else has already done it. So  
2 it could have very important statewide  
3 significance. Just the fact that the State  
4 isn't the one who owns the easement does not  
5 mean it's not significant. It's just that  
6 someone else happened to have the funds to  
7 purchase that easement before us. So this  
8 whole section about statewide significance  
9 and the -- those things troubled me. I  
10 didn't find it very satisfying.

11 CHAIRMAN IGNATIUS: Other  
12 comments?

13 MS. BAILEY: Can I ask?

14 CHAIRMAN IGNATIUS: Ms.  
15 Bailey, yes.

16 MS. BAILEY: Does the  
17 designation of the pond as a "Great Pond"  
18 have any significance? Is that something  
19 that the State does?

20 MR. SIMPKINS: That would  
21 probably be a question more for Mr. Stewart,  
22 because I believe, under law, if a pond is  
23 more than 10 acres in size, it's  
24 automatically a "Great Pond" and falls under

[DELIBERATIONS]

1 a state jurisdiction.

2 DIRECTOR STEWART: That's  
3 right. It's really based on the size of the  
4 pond and has nothing to do, you know, with  
5 the --

6 MS. BAILEY: The significance.

7 DIRECTOR STEWART: Well, the  
8 amount of development or anything of that  
9 sort. And there's no criteria other than  
10 size that establishes a pond as a "Great  
11 Pond."

12 CHAIRMAN IGNATIUS: Ms.  
13 Bailey.

14 MS. BAILEY: I was also  
15 troubled by Mr. Guariglia's testimony. To  
16 say that Willard Pond is not significant, I  
17 think that there's a lot of testimony that  
18 refutes that point, and that's why I brought  
19 it up. I think that Willard Pond does seem  
20 like a significant area, that we should  
21 consider whether this project would have an  
22 unreasonable adverse effect on its  
23 aesthetics, despite the fact that it's not,  
24 in his definition, "of statewide

[DELIBERATIONS]

1           significance."

2                           CHAIRMAN IGNATIUS: Ms. Lyons.

3                           MS. LYONS: The other issue  
4           that was brought up, I believe in the  
5           post-hearing briefs, is about cumulative  
6           effects. And when I was -- when we were  
7           going through the testimony -- and I was  
8           thinking, a lot of us always think from the  
9           forest floor, you know, looking up. But we  
10          also have lots of high peaks, and so it's  
11          also getting on top of those peaks and  
12          looking around. And I think it was a little  
13          weak in that aspect, to not get to the  
14          mountaintops and see what we could see out  
15          there as aesthetics also. And there's -- we  
16          have Pitcher Mountain, which is a conserved  
17          area, which you can see another wind farm  
18          from there. So I think we were kind of  
19          land-based, ground-based, valley floor, but  
20          we have to think about all different  
21          elevations when we think about aesthetics.

22                           CHAIRMAN IGNATIUS: Although,  
23          we certainly had some visual simulations from  
24          some vistas. There's the Bald Mountain photo

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1 sim that was, I think, Exhibit 16.  
2 Attachments 7A and 7B was the Bald Mountain  
3 one. And I think what I've got up right now  
4 is another one of those... the Gregg Trail  
5 Overlook, another kind of higher elevation  
6 looking out at a fairly distant ridgeline,  
7 with barely discernible turbines there.  
8 That's at Attachment 13A and B to Mr.  
9 Guariglia's testimony.

10 But I think your point was the  
11 cumulative impact of multiple sites and even  
12 multiple projects in the region; is that  
13 correct?

14 MS. LYONS: Right. And it  
15 goes back to my constant concern that we  
16 don't have a regional context for it. So I'm  
17 speculating: What can I see? What can I not  
18 see?

19 CHAIRMAN IGNATIUS: All right.  
20 Other comments on the aesthetics issue? Dr.  
21 Boisvert.

22 DR. BOISVERT: I, too, had  
23 problems, very clearly, with his testimony.  
24 And I took issue with the public ownership

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1 being the yardstick for significance. I  
2 would point out that in the realm of historic  
3 preservation of cultural resources, that's  
4 completely irrelevant, and made a point  
5 there. But in pursuing it further, and I  
6 don't have it front of me right now, but I  
7 believe I asked, "So what would be an  
8 unreasonable adverse visual impact?" And he  
9 conceded that there wasn't much. Possibly if  
10 you put something right on top of a pyramid  
11 right there, something like that, right on a  
12 very significant property, that would be the  
13 visual trigger. And I found that to be a  
14 standard that was no standard all. By his  
15 reckoning, it would be virtually impossible,  
16 under his system, his methodology, to find  
17 there was ever any unreasonable adverse  
18 effect in the aesthetics. And for me, that  
19 is such a prejudged, prejudicial approach,  
20 that I could not find much utility in what he  
21 had to offer. It was such an extreme  
22 position, from my point of view. And that  
23 leaves me with my position and my judgment,  
24 which I have, anyway, obviously, in this

[DELIBERATIONS]

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1 hearing. But I did not find a way that you  
2 could fairly and equitably use his  
3 methodology to determine that there were,  
4 indeed, any possible cases of adverse -- or  
5 unreasonable adverse effect, and that  
6 troubled me.

7 CHAIRMAN IGNATIUS: Mr. Dupee.

8 MR. DUPEE: Thank you, Madam  
9 Chair. I did find testimony from Day 5 of  
10 John Guariglia, where I asked him a question  
11 about the quantitative nature of his method  
12 of doing his evaluation, with the intention  
13 of being able to understand how it was used  
14 and could apply it towards this situation and  
15 perhaps others. So, my question was: "What  
16 could I take from your testimony that would  
17 give me a way to say I can apply a reasonable  
18 set of principles and guidelines that would  
19 allow me to distinguish between an  
20 unreasonable adverse effect and a reasonable  
21 effect for this particular site, recognizing  
22 you can't speak to the Committee's broader  
23 authority?" And his response to me... "Well,  
24 I think there is no true definition for where

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1           you go from no adverse effect to, you know,  
2           an impact."

3                           CHAIRMAN IGNATIUS:  So as sort  
4           of an analytical model, that wasn't very  
5           helpful.

6                           MR. DUPEE:  Correct.

7                           CHAIRMAN IGNATIUS:  I also  
8           found this issue to be very troubling.  And  
9           my starting point was the context that these  
10          turbines would be in.  It is in a small  
11          community with a ridgeline that sort of runs  
12          throughout and around the community, as  
13          opposed to a remote area.  You know, you  
14          think of things like Granite Reliable, where  
15          you've got a ridgeline that's in a fairly  
16          remote part of the state.  Roads don't go  
17          near there.  It's hard to find those turbines  
18          from a lot of vantage points.  And these are  
19          the same size as that.  They're the largest  
20          models that we have yet to see proposed in  
21          this state, and yet in a very, very small  
22          community setting, ringing around the Willard  
23          Pond and rising up over Gregg Lake, which is  
24          part of the community recreation area.  It

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1           seemed very, very different to me than other  
2           projects that I'd seen before, where you may  
3           have some impacts, but they're away from kind  
4           of the majority of the community, and they  
5           don't overwhelm the location. And my sense  
6           in looking at some of the photo simulations  
7           were that they really overwhelmed the  
8           location. The Willard Pond photographs, 8A  
9           and 8B of his testimony in particular, was  
10          just -- it's just radically different from  
11          any of the simulations that I'd seen in other  
12          contexts, and I found it very troubling.

13                           And I found his testimony to  
14          be -- you know, similar frustrations I think  
15          that you had, Mr. Dupee, that he didn't seem  
16          helpful in finding an analytical method to  
17          make it make sense of it. It seemed more  
18          reaching conclusions and then defending the  
19          conclusions, rather than something that was a  
20          more thoughtful approach to the reality of a  
21          community like this that's going to have  
22          significant construction of turbines very  
23          close at hand. And that didn't seem to be in  
24          his thinking at all. It was just, well, is

[DELIBERATIONS]

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1           it owned by the State or not, as if that's  
2           really the -- to me, it wasn't -- I just  
3           couldn't understand why that should be so  
4           significant. And when asked if that was some  
5           sort of standard that people in his  
6           profession used, it didn't sound as though it  
7           was. It's something he uses sometimes, but  
8           it wasn't like it was a requirement or the  
9           way everyone's taught to do these sorts of  
10          analyses. So it just did not come together  
11          for me, for a community that's -- that the  
12          ridgeline is really an integral part of the  
13          community as it's grown up. So I couldn't  
14          conclude that there would be no unreasonable  
15          impact on the aesthetics. There's a lot of  
16          negatives in that. But I was not persuaded  
17          by Mr. Guariglia that this was an appropriate  
18          level of impact for this community.

19                           Other comments? Ms. Lyons.

20                           MS. LYONS: And building on  
21          your comments there, it really kind of -- I  
22          think it focuses on there's some mitigation  
23          that needs to be applied here. It is really  
24          the most public thing, I guess, that every --

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1           because it can be focused -- be seen from  
2           many locations. I think there's some  
3           mitigation that could be thought about here.

4                           CHAIRMAN IGNATIUS: For  
5           example?

6                           MS. LYONS: Well, I think the  
7           conservation easements are too little. They  
8           basically conserve land that furthers their  
9           business. So it's whole lots of land that  
10          they're leasing from people, and it's really  
11          whatever is in conservation, the remainder is  
12          not needed for the project.

13                          So, to get at the larger  
14          aesthetics or conservation values, we need to  
15          look at what is the context of -- there seems  
16          to be a community who is dedicated to  
17          conservation. What are their conservation  
18          goals in the community? And so I think that  
19          there's some mitigation that needs to be  
20          offered on this one.

21                          CHAIRMAN IGNATIUS: Mr. Dupee.

22                          MR. DUPEE: Madam Chair, I was  
23          just wondering if there was any way one can  
24          mitigate the visual impact of those towers on

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1 an area that's been set aside as a wildlife  
2 sanctuary. I understand the concept of you  
3 can't save everything, and there may be  
4 reasons why, for example, when building a  
5 highway you may need to set aside wetlands  
6 for commercial business reasons. But if one  
7 has a wildlife sanctuary of longstanding  
8 that's been the effort of many, many people,  
9 when people go to that pond -- there's  
10 actually been members of this Committee that  
11 did stand down at the water and looked up at  
12 those hill points. If your intention was to  
13 go there to have a wildlife original  
14 experience, I guess I'm not positive how a  
15 mitigation strategy could work.

16 CHAIRMAN IGNATIUS: Any other  
17 comments? Mr. Green.

18 MR. GREEN: I don't want to be  
19 the skunk at the end, but I just want to be  
20 fair that we're treating this like we've  
21 treated other wind turbines. And this is my  
22 first time on this, so if I'm stepping out of  
23 line, just let me know.

24 One of the things that was put

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1 in the Applicant's post-hearing brief  
2 regarding Mr. Guariglia's testimony, they  
3 noted that the SEC has similarly noted that  
4 turbines are tall structures that will extend  
5 beyond tree-top level but has nonetheless  
6 concluded that the evidence does not support  
7 a finding that turbines themselves are  
8 aesthetically displeasing. And that's in the  
9 Application of the Granite Reliable Power,  
10 LLC, Docket 2008-04. This is granting of  
11 certificate of site and facility with  
12 conditions.

13 I don't know that I support  
14 one way or the other on this position. But I  
15 just want to make sure we have that in front  
16 of us so that we're not -- I haven't been --  
17 I also haven't visited the Granite Reliable  
18 Power, so I don't know what was involved in  
19 that particular discussion.

20 CHAIRMAN IGNATIUS: It's a  
21 good reminder, and I appreciate you doing  
22 that. I mean, there is no question that  
23 anything standing, you know, nearly 500 feet  
24 tall is an imposition on the location that

[DELIBERATIONS]

1           it's in. And we have cited many of those and  
2           are not saying that the fact of a turbine  
3           alone must mean an adverse impact, because  
4           that would make no sense in the context of  
5           all the other projects that have been  
6           approved. I think what we've been hearing in  
7           the discussion here is a combination of two  
8           things: The scale in the context of the  
9           community, as opposed to those towers in a  
10          remote ridgeline and higher elevations and  
11          that sort of thing, which is what you have in  
12          Granite Reliable; and the other is the  
13          conditions or the circumstances of the land  
14          on which those towers are being erected and  
15          that the location of Willard Pond in  
16          particular being different from some other  
17          situations where it might be a ridgeline that  
18          is beautiful, but it's simply a ridgeline,  
19          and in some cases owned by the person who's  
20          consenting to the location of many of the  
21          towers, as we saw in the Lempster case, and  
22          that it's not quite so deeply embedded into  
23          the community itself, the way it seems to  
24          fall in this context. Those are my concerns.

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1 A big, tall structure in and of itself isn't  
2 the problem. You know, to me, it's sort of  
3 the context in which it appears. And I grant  
4 you, that is a subjective analysis.

5 Other discussion of this, or  
6 do people feel ready to take a straw vote on  
7 the aesthetics question? Mr. Simpkins.

8 MR. SIMPKINS: Just one thing  
9 I did want to add for the record since it was  
10 brought up was about the Quabbin-to-Cardigan.  
11 That certainly is beyond a state; that is a  
12 regional. When I say "regional," not within  
13 the state, but among the states project by  
14 definition, includes two states. But I would  
15 also mention that there are already two  
16 approved wind projects within the Q-to-C.  
17 Both the Town of Groton and Town of Lempster  
18 are within the Quabbin-to-Cardigan area. So  
19 I just want to put that on the record since  
20 it came up. But it is certainly a regionally  
21 significant initiative.

22 CHAIRMAN IGNATIUS: Thank you.

23 All right. If people feel  
24 ready to have a straw vote show of hands, the

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1 question would be whether the project, as  
2 requested by the Applicant, would have an  
3 unreasonable and adverse effect on the  
4 aesthetics of the community. So those who  
5 think that it would have an unreasonable  
6 adverse effect on aesthetics, please raise  
7 your hands.

8 (Subcommittee members indicating by  
9 show of hands.)

10 CHAIRMAN IGNATIUS: Those who  
11 think it would not have an unreasonable  
12 adverse effect?

13 (Subcommittee members indicating by  
14 show of hands.)

15 CHAIRMAN IGNATIUS: And anyone  
16 who's uncertain or not prepared to vote at  
17 this point?

18 (Subcommittee member indicating.)

19 CHAIRMAN IGNATIUS: Ms.  
20 Bailey. Thank you.

21 All right. I think our next  
22 area we're going to move to is on historic  
23 resources. Dr. Boisvert is going to lead us  
24 through that one. Why don't we take a

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1 10-minute break before we do that.

2 And also, I just want to  
3 remind people. A number have asked, "Are we  
4 going to go all night?" No, we're not,  
5 because we don't have the need to get through  
6 witnesses before they have to get back on the  
7 plane and things like that, and there's no  
8 hurricanes bearing down on us. We will  
9 conclude somewhere between 4:00 and 4:30,  
10 depending where the issues break.

11 So let's take a 10-minute  
12 break right now, and then we'll pick up again  
13 with historic resources issues. Thank you.

14 (Whereupon a recess was taken at 2:45  
15 p.m. and deliberations resumed at 3:00  
16 p.m..)

17 CHAIRMAN IGNATIUS: All right.  
18 We're going to resume, please. The next  
19 category we're going to take up is addressing  
20 historic resources, and Dr. Boisvert is going  
21 to lead us in that discussion.

22 DR. BOISVERT: Thank you.  
23 Hopefully this will be relatively short.

24 Historic resources, for our

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1 purposes here, fall into two fundamental  
2 categories. They're investigated in  
3 different ways and are evaluated in different  
4 ways. The archeological resources, the  
5 archeological sites, are, with rarest of  
6 exceptions, very low to ground and are not  
7 seen. And in order to identify them, people  
8 have to go out and do a close inspection of  
9 an area. Prior to that, there's a general  
10 inspection to determine whether or not the  
11 area in question has any reasonable  
12 possibility of having archeological sites on  
13 them. In our jargon, it's "Phase 1A and 1B  
14 surveys" to discover if something is there.

15 The Phase 1A and 1B were  
16 executed. Personnel went out and looked at  
17 the areas of direct physical impact. And  
18 this is because the significance of  
19 archeological sites, again with rare  
20 exceptions, is their ability to yield data  
21 that are significant, and it is what is  
22 contained within the site that is important.  
23 Visual impacts on archeological sites  
24 generally do not apply. The only ones that

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1           might be relevant would be, say something  
2           like a petroglyph, where the visual --  
3           looking at a rock carving, that visual impact  
4           on a piece of art is -- one can understand  
5           how that could be an impact. There were no  
6           rock carvings found.

7                               The area was surveyed. A  
8           determination was made and agreed upon by the  
9           Division of Historical Resources that there  
10          were no significant resources present and no  
11          further work needed to be done. So that  
12          portion of the project vis-a-vis compliance  
13          with Section 106 of the Historic Preservation  
14          Act was completed. The Army Corps of  
15          Engineers need to issue a permit. That  
16          invokes a separate process that runs parallel  
17          to and independent of this process.

18                              The other half of the  
19          resources are the built environment, or the  
20          above-ground, as archeologists like to look  
21          at it. And that is different because the  
22          setting for historic properties can be a  
23          major component of why that property is  
24          significant. You can take an extreme example

[DELIBERATIONS]

1 and look at Monticello. Putting something  
2 like a wind turbine onto the front lawn of  
3 Monticello would be a visual intrusion. It's  
4 historic, but it has no aesthetic meaning.

5 The survey for the  
6 above-ground resources was initiated.  
7 Results from that survey was presented.  
8 However, that process is not complete. I  
9 mentioned that the Phase 1A and 1B was  
10 completed for the archeological sites. There  
11 are indeed Phases 2 and 3 that need to follow  
12 as well for other cultural resources in  
13 addition to archeological sites. And the  
14 determination of effect has not yet been  
15 made. The process of compliance is longer,  
16 more complicated for the built environment,  
17 and it's ongoing.

18 The Applicant has proposed  
19 that completion of the Section 106 process  
20 could be undertaken as a condition of the  
21 permit. And this has been done and accepted  
22 in other projects. Groton Wind is an  
23 example. And it is a process that historic  
24 preservation often accepts, in that projects

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1 are allowed to be initiated before the  
2 historic preservation compliance is  
3 completed, so long as there are firm  
4 agreements that it will be complete and that  
5 there will be no adverse effect. There is a  
6 different standard for historic resources.  
7 We are charged with identifying and treating  
8 "adverse effects," not "unreasonable adverse  
9 effects." So the standard is different, and  
10 in a certain sense lower. So, arguably, if  
11 the adverse effects are all mitigated or  
12 treated in some fashion, then that would  
13 subsume the unreasonable adverse effects.

14 So, that is the status.  
15 There's still work to be done. There's no  
16 effects judgment that's been offered yet to  
17 DHR, and there's been no viewshed mapping for  
18 the impacts on the historic structures. That  
19 still needs to be done. If there are  
20 determined to be significant properties  
21 present and the impact is considered to be  
22 adverse, then there will be mitigated  
23 measures. And that's it.

24 CHAIRMAN IGNATIUS: Thank you.

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1 Can you -- I get a little bit lost on the  
2 terminology, I guess, and where things are in  
3 the evaluation. You said that on the  
4 below-ground, sort of natural non-built  
5 environment, there's no pending issues  
6 remaining; right?

7 DR. BOISVERT: Correct.

8 CHAIRMAN IGNATIUS: And on the  
9 built environment, there's no finding of  
10 anything adverse, but there is not yet a full  
11 report on all --

12 DR. BOISVERT: Right. They're  
13 not at the point yet in the process where  
14 they could make a finding of adverse effect.  
15 They're not there yet.

16 CHAIRMAN IGNATIUS: Any  
17 expectation for how long that will be before  
18 a conclusion on whether there is or there is  
19 not anything adverse will be?

20 DR. BOISVERT: No, I don't  
21 have any expectation. And I'm somewhat  
22 surprised that there has not been more  
23 movement coming in. I asked my colleagues,  
24 "What have you seen coming in?" They have

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1 not seen anything coming in. Unlike  
2 archeology, it is actually a little bit  
3 easier to do evaluations in the wintertime  
4 for above-ground resources because there are  
5 fewer leaves in the way and you can actually  
6 photograph things a little easier, et cetera;  
7 whereas, for archeology, frozen ground gets  
8 to be a problem. So, to be perfectly honest,  
9 I have not been given a sense of the  
10 completion, when this will be completed.

11 CHAIRMAN IGNATIUS: And can  
12 you remind us again? Let's assume that there  
13 are a couple of locations where there is a  
14 finding of adverse effect. What might the  
15 response be to resolve that problem?

16 DR. BOISVERT: Mitigated  
17 measures have varied. They may be something  
18 along the order of the town center has not  
19 yet been fully evaluated for its eligibility  
20 to the National Register of Historic Places  
21 and preliminary determination that it is;  
22 therefore, the Applicant would go forward and  
23 make that nomination to the National Register  
24 of Historic Places. I believe this was done

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1 in Rumney for Groton Wind. So that would be  
2 another measure executed that will be viewed  
3 as being a mitigation to adverse effect.  
4 There are situations where there may be  
5 attempts at screening, that certain  
6 vegetative areas might be in place, such that  
7 the view to the historic resource, if it  
8 happened to be, if you will, in front of the  
9 intrusion, you might put something behind it  
10 to screen it so that you wouldn't notice it  
11 anymore. This is a little problematic  
12 because one needs to have an understanding of  
13 what vegetation will be appropriate to that  
14 resource. If in the 1880s, if this is a  
15 period of significance, the area was  
16 completely cleared because it was an active  
17 dairy farm, then putting in a row of  
18 vegetation, something that would never have  
19 been there to begin with, might not be  
20 appropriate. But vegetative screening is a  
21 hypothetical kind of mitigation measure.  
22 Developing historic context for the  
23 community -- and historic context is a  
24 specific kind of document held by our office,

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1 where it would be appropriate to develop a  
2 context on fulling ponds, a pond where you  
3 put the sheep skins in and you process them  
4 chemically, pull them out and turn them into  
5 wool for felting -- it occurs -- it was  
6 economically a very important thing in some  
7 areas. The Town of Gilmanton has one. The  
8 pond is virtually intact. It was an  
9 important activity at a point in time  
10 forgotten now in modern day. It may be  
11 appropriate to develop a written document, a  
12 monograph, if you will, a small one, that  
13 would outline why these ponds are important,  
14 and so that context could be used if another  
15 one was identified in another community. It  
16 would make it that much easier to say, yes,  
17 this is significant; this is why we go  
18 forward. It would become a useful tool in  
19 preservation. There are other kinds of  
20 mitigated measures. But basically, it's  
21 adding to our fund of knowledge about these  
22 various portions of the past that we didn't  
23 have before, so that they can be there to be  
24 used, intellectually somewhat similar to

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1           creating or purchasing a wetland to mitigate  
2           the loss of another wetland.

3                           CHAIRMAN IGNATIUS:   But  
4           excepting your example of a turbine right  
5           smack in the middle of Monticello, these  
6           findings aren't likely to lead to a  
7           prohibition against building a turbine.

8                           DR. BOISVERT:   Correct.  
9           Prohibition against building or "introducing  
10          visual, audible or atmospheric intrusions,"  
11          which is the technical phraseology, are rare.  
12          They do occur, but they usually occur on  
13          something that is demonstrably, unequivocally  
14          significant.   An example would be Perry's  
15          Victory and International Peace Memorial on  
16          South Bass Island in Lake Erie.   It's a  
17          300-some-odd tall Corinthian column that was  
18          placed there to be a point of contemplation  
19          and peace because it was the last arm of  
20          conflict between the United States and  
21          Canada, and it's dedicated to peace after  
22          that.   Putting a marina at the foot of it  
23          introduced visual and audible intrusions up  
24          against the memorial, and that Corps of

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1 Engineers permit was eventually denied for  
2 that reason.

3 But it needs to be something  
4 that is a very dramatic situation for it to  
5 be large enough to be a prohibition.

6 CHAIRMAN IGNATIUS: Other  
7 questions? Ms. Bailey.

8 MS. BAILEY: So, Dr. Boisvert,  
9 you would know, then, by now -- or the agency  
10 would know by now if there was something that  
11 was going to have that amount of impact.

12 DR. BOISVERT: I would expect  
13 so. There's always that surprise out of  
14 nowhere that one can have as the "never say  
15 never" business. But it is -- I do not  
16 anticipate there would be that level of  
17 discovery at this stage of the game, because  
18 there has been a review of the history of the  
19 community and so forth and there has been an  
20 inspection of the community. While there are  
21 some questions about accuracy here and there  
22 that could be resolved, none of them rise to  
23 that level.

24 MS. BAILEY: Thank you.

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1                   CHAIRMAN IGNATIUS: Anything  
2 else? Are people comfortable with moving to  
3 a straw vote on -- yes, I'm sorry. Before we  
4 do that, Mr. Iacopino?

5                   MR. IACOPINO: I would just  
6 point out one thing. It's in your record.  
7 It is Committee Exhibit 11. It is a letter  
8 from the Department of -- actually, it's a  
9 memo from the Department of Historical  
10 Resources. And the pertinent part I just  
11 want to point out to the Committee is the DHR  
12 requests that the SEC condition approval to  
13 include completion of the 106 process. "This  
14 will include the finalization of the  
15 identification of resources, assessment of  
16 effects, and avoidance, minimization or  
17 mitigation of impacts to historic resources  
18 if adverse effects to historic properties  
19 result from the undertaking." I just wanted  
20 to point that out, that we do have the  
21 request from that agency to condition any  
22 approval on the completion of the 106  
23 process.

24                   CHAIRMAN IGNATIUS: And we've

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1 done that in a number of other projects as  
2 well.

3 DR. BOISVERT: Yes.

4 CHAIRMAN IGNATIUS: So, with  
5 that reminder of a possible condition as  
6 requested by the agency, are people  
7 comfortable with a determination that this  
8 project does not have an unreasonable adverse  
9 impact on historic resources? If we're ready  
10 for a straw vote on that, all who conclude  
11 that there is no evidence of unreasonable  
12 adverse impact to historic resources as a  
13 result of this project, with the  
14 understanding that any ultimate certificate  
15 would be conditioned on the finalization  
16 under the 106 section that Mr. Iacopino just  
17 read, please raise your hand?

18 (Subcommittee members indicating by  
19 show of hands.)

20 CHAIRMAN IGNATIUS: Any of you  
21 find there is an unreasonable adverse effect?

22 (No response.)

23 CHAIRMAN IGNATIUS: Appears  
24 not. All right. Thank you.

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1 DR. BOISVERT: Oh, excuse me.  
2 I apologize. I should have mentioned that,  
3 in our conditions to that effect, there's  
4 also the unanticipated discovery of  
5 archeological artifacts, sites and so forth,  
6 because they are buried and things that are  
7 found that are completely unanticipated, that  
8 is written in there. It simply depends upon  
9 the good luck and the integrity of the people  
10 in the construction area to let us know if  
11 something's been found.

12 CHAIRMAN IGNATIUS: And that's  
13 a good reminder. If someone in the field  
14 discovers something, they're excavating for,  
15 say a turbine pad, and they come across  
16 something, they are instructed to stop  
17 immediately; correct?

18 DR. BOISVERT: They are  
19 instructed to contact the Division of  
20 Historic Resources so that we can do some  
21 evaluation. There are provisions in the  
22 Historic Preservation Act for unanticipated  
23 discoveries during construction. The  
24 specific wording is available. It's used

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1 rarely, but it does occur. And we attend to  
2 them very quickly. Again, they tend to be  
3 very dramatic situations. The African Burial  
4 Ground in Portsmouth would be an example.  
5 There was also human remains, so that puts it  
6 on a totally different plane. But it is  
7 there. There's a response. There are  
8 procedures for it.

9 CHAIRMAN IGNATIUS: How about  
10 a 16th Century King of England?

11 DR. BOISVERT: Well, we would  
12 have to check into his descendants. Yeah, I  
13 think if we find a 16th Century King of  
14 England over here, I think we would stop.  
15 But it's also a reminder that just because an  
16 area is developed, there can be something  
17 under the pavement or next to the road. Some  
18 prior disturbance is no guaranty there's  
19 nothing left.

20 CHAIRMAN IGNATIUS: Okay.  
21 Thank you.

22 MR. IACOPINO: Madam Chair, do  
23 I understand that it's the sense of the  
24 Committee, then, at least at this point, that

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1 archeological conditions should be added to  
2 the vote?

3 CHAIRMAN IGNATIUS: That was  
4 my sense. But if anyone has a different  
5 view -- thank you for being clear about that.  
6 It sounds like everybody was --

7 DR. BOISVERT: I apologize for  
8 not bringing it up earlier.

9 CHAIRMAN IGNATIUS: That's  
10 okay.

11 All right. The next issue on  
12 our list is air quality, and Mr. Stewart is  
13 going to lead us through that.

14 Are you prepared to take us  
15 there?

16 DIRECTOR STEWART: I will.  
17 Yes, I am.

18 Well, first I reference the  
19 Application. I'm speaking from AWE 1,  
20 Page 64; AWE2, which is the combined  
21 testimony, Page 121; and more pertinent is  
22 the avoided emissions from the Antrim Wind  
23 Project report by RSG, which was AWE 13,  
24 Appendix 10.

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1                   So, basically with regard to  
2                   air emissions. First of all, it's pretty  
3                   clear that AWE will not produce air  
4                   emissions. There's no need for an air permit  
5                   in this case. So the next level of question  
6                   is what might be avoided in annual air  
7                   emissions if this wind energy facility were  
8                   put online, should it be approved. And  
9                   basically what the avoided emissions report  
10                  determined was, assuming a mix of gas,  
11                  coil -- excuse me -- coil? My God -- gas,  
12                  coal and oil -- 80 percent gas, 11 percent  
13                  coal and 10 percent oil -- of the facilities  
14                  that would be avoided in terms of energy  
15                  production, and assuming 102,000 megawatt  
16                  hours per year of generation by the facility,  
17                  that the carbon dioxide emissions that would  
18                  be avoided would be on the order of  
19                  60,000 tons per year. There's also some  
20                  smaller amounts of sulfate compounds and  
21                  methane and nitrogen compounds that also  
22                  would be avoided.

23                                So, basically, the overall  
24                                assessment is that there will be -- if the

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1 facility is approved -- air emissions would  
2 not occur due to the displacement caused by  
3 the wind energy facility.

4 Now, Ms. Linowes, in IWAG 1,  
5 basically disputed, I think, not so much that  
6 there would not be any emissions, but the  
7 amount of benefit that might occur from  
8 putting this facility online. She questioned  
9 the percentage of the energy mix of the  
10 facilities that would be displaced and also  
11 whether the benefit would be as much as  
12 claimed, because wind tends not to blow as  
13 much in the summer; hence, the ozone days  
14 that would be -- have a -- where the facility  
15 would have a positive effect, which is in the  
16 summer, would not be so great. So those are  
17 really the challenges. And ultimately -- and  
18 capacity factor, you know, how much -- how  
19 many megawatt hours are ultimately going to  
20 be generated.

21 So, at the end of the day, I  
22 think that it's a question of how much  
23 benefit there is and whether there would be a  
24 benefit, in terms of whether the Applicant's

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1 analysis or Ms. Linowes' critiques and  
2 assumptions are correct. So I guess that  
3 completes my presentation on air.

4 CHAIRMAN IGNATIUS: Thank you.  
5 Any questions, clarifications, additional  
6 factors to include? Obviously, in a wind  
7 project, the air emissions, air quality  
8 issues are a lot more straightforward. So  
9 your summary really helps us to see that you  
10 see no evidence to support any deterioration  
11 of air quality, and, in fact, improvement to  
12 air quality because of avoided emissions.

13 DIRECTOR STEWART: Right. The  
14 question is how much benefit, I think.  
15 Should I go on to water?

16 CHAIRMAN IGNATIUS: Well,  
17 let's hold off for a second. Mr. Iacopino,  
18 the language on the air quality finding is --  
19 help me with this.

20 MR. IACOPINO: "Will not have  
21 an unreasonable adverse effect on air and  
22 water quality."

23 CHAIRMAN IGNATIUS: All right.  
24 Why don't you go to water then. I didn't

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1 remember that they were joined. We'll do one  
2 vote together.

3 DIRECTOR STEWART: Nor did I.  
4 I was just trying to get my part behind me.

5 The water issue really has  
6 multiple components. Again, I think it's  
7 fairly straightforward relative to some of  
8 these projects. The question of erosion and  
9 sedimentation control -- in other words, the  
10 potential impacts to water during  
11 construction from movement of sediment, the  
12 blasting, and storm water management after  
13 the fact and during construction -- as we  
14 discussed earlier today, those issues are  
15 addressed through the alteration of terrain  
16 permit that the department issues. That  
17 permit and the recommendations for conditions  
18 to the Committee have fairly extensive  
19 specifications, in terms of applying "best  
20 management practices" to address all of these  
21 issues, and importantly, having a monitor on  
22 site during -- a professional engineer  
23 monitor on site during the construction to  
24 ensure that the practices are being

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1 implemented during construction.

2 The other element of the water  
3 issue is -- I'm back to the avoided emissions  
4 report by Resource Systems Group, RSG. And  
5 basically along the same lines as the air  
6 analysis, they've provided an analysis that  
7 shows that when these oil, gas and coal  
8 facilities are not generating electricity,  
9 they're not using water for cooling, and it's  
10 not going up the stack as vapor. So the  
11 estimate, in terms of the savings for water  
12 consumption, is -- well, they did it two  
13 ways: It's either 20.8 million gallons per  
14 year or 17.5 million gallons per year of  
15 avoided water consumption if this facility  
16 were put in place. That's basically based on  
17 some assumptions from the literature as to  
18 how much water is required for those types of  
19 energy generation.

20 CHAIRMAN IGNATIUS: So is that  
21 the range, that there was somewhere between  
22 17 and 20 million gallons per year not used?

23 DIRECTOR STEWART: Yes,  
24 that's -- exactly -- from the other

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1 facilities.

2 CHAIRMAN IGNATIUS: All right.

3 Thank you.

4 DIRECTOR STEWART: Assuming  
5 megawatt hours for each of the gas, oil and  
6 coal.

7 CHAIRMAN IGNATIUS: All right.  
8 Anything else on water quality? You've  
9 already said your understanding of the  
10 permits that were in place and the conditions  
11 that were imposed were reasonable, from your  
12 understanding, even though you didn't  
13 participate in those particular permit  
14 applications.

15 DIRECTOR STEWART: Yeah.

16 CHAIRMAN IGNATIUS: That they,  
17 together with those conditions, will protect  
18 the water quality in the construction area.

19 DIRECTOR STEWART: Yes. There  
20 were three permits -- alteration of terrain,  
21 wetlands and subsurface disposal, which is  
22 the septic system -- that are issued by DES.  
23 And there were conditions recommended for  
24 each of those in the DES response with a

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1 final decision and conditions, dated  
2 August 31st, 2012.

3 CHAIRMAN IGNATIUS: All right.  
4 And any other comments? Ms. Bailey.

5 MS. BAILEY: Just a question.  
6 I don't remember if it was specifically  
7 addressed or not. But was there anything  
8 having to do with wetlands and the impact on  
9 wetlands, and does that have to do with  
10 water?

11 DIRECTOR STEWART: Yes. And  
12 there actually is a wetlands permit -- or  
13 recommendations related to the wetlands  
14 permit application, which I'm looking for.

15 MR. IACOPINO: Committee 12.

16 DIRECTOR STEWART: Yeah, I'm  
17 in there. I'm just flipping the pages. The  
18 wetlands impact was 9,755 square feet of  
19 palustrine forested and scrub-shrub wetlands  
20 So, basically, there was an impact in the  
21 fill. And the impact -- I'm interpreting  
22 now, I apologize -- was during construction.  
23 And there's permanent fill of 452 square  
24 feet. It's a pretty small number, actually,

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1 for a project of this order. And then the  
2 project's specific conditions for the  
3 wetlands permit.

4 CHAIRMAN IGNATIUS: As I  
5 recall, there was also discussion of benefits  
6 of keeping the road as natural as possible by  
7 having an area that could be revegetated, not  
8 maintained as an impervious surface, which  
9 would be to the advantage of the area as  
10 well. Less runoff and all, so that the built  
11 road, both to be able to withstand heavy  
12 construction during the road building and  
13 delivery of the turbine units phase, but then  
14 allow it on a longer term basis to be not  
15 fully paved after that extent and keep it as  
16 natural as possible with more natural  
17 drainage.

18 DIRECTOR STEWART: Yeah, I  
19 think that's correct.

20 CHAIRMAN IGNATIUS: Anything  
21 else before a straw vote on the issues of air  
22 and water quality then? If not, the question  
23 would be: Is there evidence to find that the  
24 project as proposed would not have an adverse

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1 impact on the air and water quality of the  
2 area? And all those who find that evidence  
3 that it would not have an adverse impact,  
4 please raise your hands.

5 (Subcommittee members indicating by  
6 show of hands.)

7 CHAIRMAN IGNATIUS: Anyone  
8 concluding that it would have an adverse  
9 impact?

10 (No response.)

11 CHAIRMAN IGNATIUS: Anyone  
12 uncertain of a vote at this point?

13 (No response.)

14 CHAIRMAN IGNATIUS: All right.  
15 Thank you.

16 The next item that we were  
17 going to take up is the natural environment.  
18 But Mr. Robinson, who was going to head that  
19 section up, is not back, and we haven't heard  
20 yet from him whether he's going to be back  
21 tomorrow. Fortunately, we had a quorum  
22 without him, so we're lucky there. So we'll  
23 put that off.

24 We have three remaining

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1 issues: Public health and safety, which in  
2 turn comprises 9 or 10 different issues; the  
3 question of decommissioning, and then the  
4 subdivision land-use authority issue.

5 Would you be prepared to take  
6 on the decommissioning issue at this point?  
7 I know you were probably assuming it was  
8 tomorrow. So if not --

9 DR. BOISVERT: I was assuming  
10 it was tomorrow. And if we do it, it will be  
11 very clumsy. I may not do a better job  
12 tomorrow, but I would hope to.

13 CHAIRMAN IGNATIUS: That's  
14 fine. See, now the pressure's on.

15 And public health and safety,  
16 are there any of those issues we should start  
17 on, or do we want to put all of that off?

18 MS. BAILEY: I was thinking I  
19 was going tomorrow. So I think I'd be better  
20 prepared tomorrow.

21 CHAIRMAN IGNATIUS: That's  
22 fine. Let's go off the record for one  
23 minute.

24 (Off-the-record discussion among

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1                   Committee Members.)

2                   CHAIRMAN IGNATIUS: Let's go  
3 back on the record. I think we are going to  
4 have to call it quits at this point now and  
5 resume tomorrow morning. The areas remaining  
6 are: Natural environment, which includes the  
7 avian and wildlife issues, habitat  
8 fragmentation, plants, natural communities,  
9 threatened species and easements -- it's  
10 obviously it's a big one; then public health  
11 and safety is sort of the broad category that  
12 would cover noise, shadow flicker,  
13 construction issues, turbine safety, fire  
14 issues and protection, hazardous waste  
15 control, stray voltage and aviation issues;  
16 and then the decommissioning and subdivision  
17 questions.

18                   So I think rather try to pick  
19 them up piecemeal and jump into them before  
20 we're quite as organized as we should be,  
21 let's call it a day on these and begin  
22 tomorrow at 9:00. And hopefully Mr. Robinson  
23 will be back. And if not, we will have  
24 someone else designated to lead that

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1 discussion. So unless there's anything else  
2 Committee members have questions or  
3 comments -- anything, Mr. Iacopino?

4 MR. IACOPINO: I was just  
5 asking Mr. Simpkins, if Mr. Robinson cannot  
6 be here tomorrow, if he could pick up on  
7 leading the natural environment.

8 CHAIRMAN IGNATIUS: All right.  
9 We'll work that out. Or we may subdivide it  
10 and share it among some others.

11 So with that, we'll suspend  
12 until tomorrow at 9:00. And I appreciate all  
13 of the hard work of the Committee in getting  
14 ready for this, and we'll look forward to  
15 seeing everybody tomorrow morning. Thank  
16 you.

17 (Whereupon the Deliberations Day 1  
18 Afternoon Session adjourned at 3:35  
19 p.m.)  
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[DELIBERATIONS]

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C E R T I F I C A T E

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Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)

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