

STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

October 16, 2018 - 1:35 p.m. DAY 10  
49 Donovan Street Afternoon Session ONLY  
Concord, New Hampshire

{Electronically filed with SEC 10/29/18}

IN RE: SEC DOCKET NO. 2015-04  
Application of Public Service  
Company of New Hampshire, d/b/a  
Eversource Energy, for a  
Certificate of Site and  
Facility.  
(Adjudicative Hearing)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Patricia Weathersby (Presiding Officer)	Public Member
David Shulock, Esq.	Public Utilities Commission
Elizabeth Muzzey, Dir.	Div. of Historic Resources
Charles Schmidt, Admin.	Dept. of Transportation
Christopher Way, Dep. Dir.	Div. of Economic Dev.
Michael Fitzgerald, Dir.	Dept. of Env. Services
Susan Duprey	Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel for SEC  
Iryna Dore, Esq.  
(Brennan, Lenehan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

WITNESS:                    CHERILYN WIDELL

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1 P R O C E E D I N G S

2 (Hearing resumed at 1:35 p.m.)

3 PRESIDING OFFICER WEATHERSBY: We're  
4 going to get started.

5 Attorney Aslin.

6 MR. ASLIN: Thank you, Madam Chair.

7 CROSS-EXAMINATION

8 BY MR. ASLIN:

9 Q. Good afternoon. As you know, I'm Chris  
10 Aslin. I've been designated as Counsel for  
11 the Public in these proceedings.

12 I wanted to start with just confirming  
13 the scope of the APE, or the area of  
14 potential effect. And as I understand it,  
15 the direct APE is the extent of the  
16 right-of-way corridor itself, which is, in  
17 most places, 100 feet wide; is that correct?

18 A. Yes.

19 Q. And the indirect APE is defined as a  
20 half-mile to either side of the center line  
21 of the right-of-way?

22 A. Yes.

23 Q. And indirect APE is used to look at things  
24 like visual impacts primarily?

1 A. Yes.

2 Q. And did you rely on the LandWorks viewshed  
3 mapping to --

4 A. Yes, for the zone of visual influence.

5 Q. Okay. And you understand that that modeling  
6 uses a 40-foot assumed tree height; correct?

7 A. Yes.

8 Q. Okay. And then the direct APE is supposed to  
9 look at direct effects -- in other words,  
10 kind of physical interaction with resources;  
11 is that correct?

12 A. Yes.

13 Q. In your review of historic resources, did you  
14 include access roads and marshaling yards,  
15 laydown areas, as part of the direct APE?

16 A. Yes.

17 Q. So for those that have been identified, you  
18 did review those for above-ground resources?

19 A. Yes, we did.

20 Q. Thank you.

21 And would you agree that vibration  
22 effects from construction can have direct  
23 impacts on historic resources?

24 A. Yes.

1 Q. And that those direct impacts could occur  
2 outside of the right-of-way corridor itself?

3 A. Yes, they could for a given project.

4 Q. All right. Are you aware of the New  
5 Hampshire Department of Transportation's  
6 vibration policy for construction?

7 A. I've been on the web site and seen some  
8 related to it, but I would not call myself an  
9 expert on the New Hampshire Department of  
10 Transportation's vibration policy.

11 Q. Okay. Well, I will show you on the screen  
12 what's been marked as CFP Exhibit 19, and it  
13 is a section of the New Hampshire DOT  
14 standard specifications, which I'll represent  
15 are for DOT construction projects. And it's  
16 the Section 211, which is titled "Vibration  
17 Monitoring." Do you see that?

18 A. Yes.

19 Q. And are you aware of using this kind of  
20 standard for other projects with regard to  
21 historic resources?

22 A. Yes, I'm familiar with it being used in other  
23 projects.

24 Q. Thank you.

1 A. Not this one particularly, but generally  
2 vibration monitoring, yes.

3 Q. Thank you.

4 And I just wanted to point out, see if  
5 you would agree with this proposition: That  
6 in Section 3.4 of this standard, it does  
7 reference pre- and post-construction  
8 condition surveys and going out as far as  
9 150 feet to look at the potential impacts of  
10 vibrations on structures. Do you see that?

11 A. I see it.

12 Q. And does 150 feet seem like a reasonable  
13 distance to consider potential vibration  
14 effects?

15 A. Yes.

16 Q. Do you think that it could be -- vibration  
17 effects could extend beyond the 150 feet?

18 A. I guess so.

19 Q. Depending on the type of construction?

20 A. Yes.

21 Q. But I think you said --

22 A. Yeah, I was just going to say I'm familiar  
23 with earthquakes. So, yes, definitely.

24 Q. But for this project, I think you testified

1           that you have not considered whether  
2           vibration monitoring would be necessary or  
3           appropriate with regard to historic  
4           resources.

5   A.    I've not considered vibration monitoring.

6   Q.    So, to the extent that the construction  
7           process causes vibration, it would be  
8           possible for it to impact resources that are  
9           outside of the direct APE.

10  A.    It is possible.

11  Q.    Okay.  Thank you.

12           Now, with regard to your identification  
13           process for historic sites, do I understand  
14           correctly that what you looked for were sites  
15           that would -- that are either listed in the  
16           national or state registry or are eligible  
17           for listing?

18  A.    Could you repeat that question again?

19  Q.    I'd be happy to.  I'll try to make it more  
20           clear.

21           In performing your identification of  
22           historic sites for this project, am I correct  
23           that you limited your review to resources  
24           that qualify either as eligible for listing



1           in the National Register of Historic Places  
2           or are actually listed?

3    A.    Yes.

4    Q.    Okay. And in fact, in your supplemental  
5           testimony, which is Applicant's 143, on  
6           Page 8, which is electronic Page 9, starting  
7           at Line 11, you have a critique of  
8           Ms. O'Donnell's interpretation of the SEC  
9           rule defining historic sites. Do you recall  
10          that?

11   A.    Yes.

12   Q.    I'll give you a second to get to the page.  
13          Page 8 of your testimony.

14   A.    Yes, I see it here. Hmm-hmm.

15   Q.    And so you criticized Ms. O'Donnell's  
16          interpretation as being "overly broad." Is  
17          that a fair summary?

18   A.    Yes, overly broad. Yes, the area of  
19          potential effect that she used, which was  
20          6 miles, yes.

21   Q.    I'm sorry. I'm skipping past the APE portion  
22          and looking to the middle of that paragraph  
23          where you're talking about the definition of  
24          "historic sites" under Site 102.23.

1           And would you agree, also, that you felt  
2           Ms. O'Donnell's interpretation was overly  
3           broad?

4    A.    Yes.

5    Q.    Okay. And you're familiar with the  
6           definition in the rules; correct?

7    A.    Yes.

8    Q.    In fact, I think you're citing it there in  
9           your testimony.

10                   MR. ASLIN: If we could flip over to  
11           the Elmo, please.

12   BY MR. ASLIN:

13   Q.    So on the screen I'm showing you the  
14           definition in Site 102.23. Do you see that?

15   A.    Yes.

16   Q.    And as you can see, it refers to the  
17           definition of "historic property" under RSA  
18           227-C:1 Paragraph 6. Do you see that?

19   A.    Yes.

20   Q.    Okay. And then it goes on to say the term  
21           includes, and then it lists the definition of  
22           "historic resources" under the 106 process  
23           essentially; is that correct?

24   A.    Yes.

1 Q. I take it from your testimony that you  
2 interpret this language to mean that, really,  
3 historic sites as intended by the  
4 legislature -- or intended by the SEC is  
5 limited to sites that are eligible or listed  
6 in the national registry?

7 A. No, it's not limited. Its definitions are  
8 different. It's not limiting.

9 Q. Okay. But I believe you just testified a few  
10 minutes ago that you looked only at resources  
11 that would be listed or eligible for listing  
12 in the National Registry.

13 A. That is the only example that is given in  
14 this definition.

15 Q. Okay. But you don't dispute that the term  
16 includes, as used here, would indicate that  
17 there could be other things beyond that one  
18 example that would meet the definition of  
19 "historic sites."

20 A. Yes, but I can't imagine what would not meet  
21 National Register eligibility. I think  
22 there's a broad misunderstanding that things  
23 eligible for the National Register are only  
24 things that are nationally significant. Most

1 things that are on or eligible for the  
2 National Register are locally significant,  
3 are important to a local community, may not  
4 even have anything to do with architecture,  
5 too. And so...

6 Q. Okay. So if I'm understanding your answer,  
7 the realm of resources that might be eligible  
8 for listing in the National Register is quite  
9 broad and includes things of local  
10 significance.

11 A. Yes.

12 Q. Okay. I want to take a look at the rule  
13 promulgated by the Department of -- or the  
14 Division of Historic Resources, rather, that  
15 has to do with the same definition. And so  
16 this is the rule, Cul, C-U-L, H102.15. And  
17 would you agree that this is essentially  
18 defining the same -- well, it's referring to  
19 the same statutory definition of "historic  
20 property" that's used in the SEC rules; is  
21 that correct?

22 A. It would appear so, yes.

23 Q. Okay. Would you accept that this is DHR's  
24 rule as opposed to the SEC's rule?

1     A.    I don't see anything that says "DHR," but I'm  
2           going to trust the Counsel for the Public.

3     Q.    Okay.  Thank you.

4                 And what I wanted to point out was,  
5                 after the recitation of the statutory  
6                 definition, which is in both rules, this rule  
7                 has a rather long recitation of things that  
8                 "historic property" includes, longer than the  
9                 SEC's definition.  Do you see that?  So,  
10                starting here, going all the way to the end.

11    A.    Hmm-hmm.

12    Q.    And so I wanted to get your take on some of  
13           these subcategories and whether they are  
14           things that you would deem as potentially  
15           eligible for listing in the National  
16           Registry, even though they're broken out here  
17           by DHR as separate categories.

18                So the first one is, in fact, National  
19                Registry.  But then it goes on to talk about,  
20                starting right here, properties identified as  
21                "historic properties" by the State of New  
22                Hampshire pursuant to RSA 227-C.

23                Now, in your experience or in your  
24                understanding, is that a separate category,

1 or could it be a broader category than those  
2 listed as eligible or listed in the National  
3 Register?

4 A. Are you referring to the statement,  
5 "properties designated as historically  
6 significant by a local governing body"?

7 Q. No, the prior clause, starting with  
8 "properties identified as historic" right  
9 above that.

10 A. By the state of New Hampshire?

11 Q. Yes.

12 A. Yes.

13 Q. Okay. So you believe that is a sub -- that  
14 could be -- if we did a Venn diagram, would  
15 that bubble be entirely within the bubble for  
16 properties eligible for listing in the  
17 National Register?

18 A. Yes, it may be. I don't know when they meet  
19 the state of New Hampshire who is identifying  
20 them. Are they qualified to be identifying  
21 historic properties? That would be a  
22 question I would have.

23 Q. All right. Fair enough.

24 And then the second -- well, the next

1           clause talks about properties designated as  
2           historically significant by a local governing  
3           body, local legislative body, et cetera, so  
4           essentially local entities. Do you see that?

5   A.    Yes.

6   Q.    And is it again your position that all such  
7           locally designated resources would also be  
8           eligible for listing in the National  
9           Register?

10  A.    No, not necessarily all.

11  Q.    So then you would agree that this definition  
12           of "historic property" could be interpreted  
13           to be broader than just things that are  
14           eligible for listing in the National  
15           Register.

16  A.    No, just different. I do not see the words  
17           "integrity" and "significance" anywhere. And  
18           the reason why that's important is if a  
19           historic property has no integrity or  
20           significance, it would be difficult to have  
21           an adverse effect on it.

22  Q.    Okay. But I'm looking solely at the  
23           definition of "historic sites," which under  
24           the SEC is equal to the definition of

1 "historic property" under the statute.

2 A. I didn't know that this was the definition  
3 for the SEC.

4 Q. It's not.

5 A. Okay. Thank you.

6 Q. And just to review that, this is the  
7 definition of "historic property"  
8 interpreting the statutory definition -- this  
9 is DHR's interpretation. And then the SEC  
10 references the same statutory definition of  
11 "historic property" and has a shorter list of  
12 things that it could include. Is that a fair  
13 summary?

14 So, kind of wrapping that up, if I  
15 understand your testimony, you looked at  
16 things that were either eligible or listed in  
17 the National Registry and did not consider  
18 things that wouldn't meet the criteria for  
19 listing.

20 A. We looked at everything. We looked at all of  
21 the properties that were brought forward by  
22 the Durham Historic Association. And a key  
23 part of the process of identifying historic  
24 properties is to fill out an inventory form.



1           That is part of the memo and direction that  
2           we have received, everyone has received, from  
3           the Division of Historic Resources. It's how  
4           you go through the SEC process, the Section  
5           106 process. So we looked at everything.  
6           But you have to be able to fill out an  
7           inventory form.

8       Q.   Yes, but you did not fill out an inventory  
9           form for things you didn't feel were eligible  
10          for listing on the National Registry; is that  
11          correct?

12      A.   No, that's not accurate. We filled out an  
13          inventory form for everything that we were  
14          directed by the Division of Historic  
15          Resources to look at and consider, and that  
16          is based by the Division of Historic  
17          Resources on the preparation of a Project  
18          Area Form, which is this, which is where you  
19          pretty much begin the process in New  
20          Hampshire for both the SEC and for Section  
21          106. And that gives you the universe of  
22          area, project area. It's even beyond the APE  
23          for what historic properties might be out  
24          there, whatever they may be. And then there

1           are recommendations made once you do that to  
2           the Division of Historic Resources, and it is  
3           they who decide what needs to be inventoried,  
4           or sometimes we call it "surveyed." But it's  
5           not surveyed like you think. It's documented  
6           as historic properties.

7                       So we didn't choose what was surveyed.  
8           We were directed and at all times in  
9           consultation with the Division of Historic  
10          Resources.

11   Q.     Okay. Thank you.

12                       But do I understand correctly you made  
13          recommendations to DHR as to what resources  
14          had been identified within the Project Area  
15          Form?

16   A.     Yes. And they changed those recommendations  
17          and added some and subtracted some.

18   Q.     Yes. But what I was trying to get at is your  
19          interpretation and your recommendations were  
20          limited to things that you felt were eligible  
21          for listing in the National Registry?

22   A.     No. When we received the report from the  
23          Durham Historic Association, as is shown in  
24          my testimony, we very carefully took each and

1 every one of those sites that was pointed out  
2 to us and revisited them, looked at them in  
3 relationship to our Project Area Form. And  
4 so we considered everything that we were  
5 aware of or was brought to our attention.

6 Q. And when you took another look at those sites  
7 identified by the Durham Historic  
8 Association, did you recommend to DHR that  
9 any of them should receive further review or  
10 be labeled as a historic resource?

11 A. Yes. All of the historic walls that were in  
12 the Project, the direct project area, direct  
13 APE in the historic districts.

14 Q. So let's talk about stone walls for a little  
15 bit then. When you performed your analysis  
16 of the impacts or the effects of the Project  
17 on historic resources, you completed effects  
18 tables; is that correct?

19 A. Yes.

20 Q. And I believe you have ten resources that you  
21 created effects tables for?

22 A. Yes.

23 Q. And in your analysis of those effects, you  
24 found adverse effects for two of those

1 resources?

2 A. No, there are four adverse effects.

3 Q. Yes, but in the effects tables that you  
4 submitted to DHR initially, I believe --

5 A. Oh, initially.

6 Q. -- there were two. We can go through them.  
7 See if I can find it quickly.

8 A. No, I'm finding originally there were four  
9 adverse effects in my testimony.

10 Q. Well, let me -- am I correct that your  
11 initial prefiled testimony was filed before  
12 the effects tables were completed?

13 A. Yes.

14 Q. Okay. And your supplemental testimony was  
15 filed after DHR made its recommendations?

16 A. Yes.

17 Q. Okay. And in between those two times, you  
18 submitted effects tables to DHR.

19 A. That's correct.

20 Q. And that's Applicant's 164? Well, I'll  
21 represent that it is.

22 A. It's this.

23 Q. Okay.

24 MR. ASLIN: Dawn, if you could switch

1 back to the computer, please.

2 BY MR. ASLIN:

3 Q. Okay. So what I've got on the screen right  
4 now is Applicant's 164, which is labeled  
5 "Historic Properties Effects[sic] Tables."  
6 And we're in the middle of the document right  
7 here. But would you agree that this exhibit  
8 has all the effects tables you submitted to  
9 DHR? It's 111 pages.

10 A. Yes.

11 Q. We could go through it, but I'll represent  
12 that only two of them found adverse effects,  
13 and those were the Pickering Farm and the  
14 Newington Center Historic District. Does  
15 that seem accurate? We can look through --

16 A. Yes, because it was brought to our attention,  
17 through the Durham Historic Association,  
18 their concerns for the stone walls.  
19 Eversource then responded immediately and  
20 very openly and strongly, went and met with  
21 representatives of the Durham Historic  
22 Association, took a complete walk of those  
23 stone walls where they were located, mapped  
24 them, identified their concerns and then

1 identified a way. So, yes, those were not  
2 originally included because we did not  
3 believe that there would be an effect on  
4 those. So I believe that those are the  
5 adverse effects to the historic districts  
6 you're talking about. So I think we're in  
7 agreement, but I now understand what you  
8 mean, because they were not originally in the  
9 effects tables, although discussion of their  
10 significance was in the description of the  
11 districts.

12 Q. Okay. So what I want to do is look at those  
13 two historic districts in your effects  
14 tables, and those are the Durham Point Road  
15 District and the Newmarket and Bennett Roads  
16 Farm Historic District.

17 A. Hmm-hmm.

18 Q. So the first one I have on the screen -- and  
19 this is the effects table for the Durham  
20 Point Road Historic District, and we're on  
21 electronic Page 21 of Applicant's  
22 Exhibit 164. Does that look correct, that  
23 I'm referring to the right effects table?

24 A. Yes.

1 Q. Okay. The first subcategory -- well, let me  
2 back up.

3 There's seven categories that you  
4 address for effects under Section 800.5 --

5 A. I'm not sure I numbered them. But yes, that  
6 sounds correct.

7 Q. And so the first one's physical destruction  
8 of or damage to all or part of the property.  
9 And here we're talking about a historic  
10 district. So it's a large area; correct?

11 A. Yes.

12 Q. And I just highlighted portions of your  
13 evaluation that have to do with stone walls.  
14 So, you know, at the top here you're talking  
15 about potential construction impacts to one  
16 stone wall and an historic archeological  
17 site. Then you have a more specific  
18 description of impacts to stone walls here.

19 So would I be correct that, at the time  
20 you completed your effects tables, you were  
21 aware of the stone walls within the district  
22 and that there could be some impacts?

23 A. Yes, but we thought we would be avoiding  
24 them. But yes, yes.

1 Q. And you say you thought you'd be able to  
2 avoid them. But you do know here in the  
3 middle that one wall may be impacted --

4 A. Yes.

5 Q. -- among other potential impacts.

6 So if we skip down to the bottom of the  
7 effects table, you have your ultimate  
8 recommendation for that historic district; is  
9 that correct?

10 A. Yes.

11 Q. And that's in this box, "Recommended  
12 Finding"?

13 A. Hmm-hmm.

14 Q. Okay. And you found at this time no adverse  
15 effect.

16 A. Hmm-hmm.

17 Q. And you state that the Project will not have  
18 a direct or indirect adverse effect on the  
19 Durham Point Historic District,  
20 notwithstanding the fact there could be some  
21 impacts to at least one of the stone walls;  
22 is that fair?

23 A. Yes.

24 Q. So at that time you didn't feel impacting



1 even one stone wall would rise to the level  
2 of an adverse effect?

3 A. That's correct.

4 Q. Given that stone walls are contributing  
5 elements to the historic districts, and you  
6 listed it in the Direct Effects section,  
7 there is a direct effect if you impact a  
8 stone wall; is that right?

9 A. Yes. And that's why the Durham Point  
10 Historic District is listed as an adverse  
11 effect.

12 Q. Correct. And that was after input from the  
13 DHA and also from DHR.

14 A. Yes.

15 Q. We'll look at that in a second. I want to  
16 take a quick look at the other historic  
17 district, the Newmarket and Bennett Roads  
18 Farm Historic District, which is on  
19 electronic Page 54 of Applicant's 164.

20 So, again, we're referring to the, you  
21 can see at the top of the page, the effects  
22 table for the Newmarket and Bennett Roads  
23 Farms Historic District; correct?

24 A. Hmm-hmm.

1 Q. Again you've identified in the Physical  
2 Destruction section that there may be some  
3 impacts to stone walls within the  
4 right-of-way. And in fact, there are nine  
5 stone walls that would be in the district.  
6 And I think you say that displacement of the  
7 walls to widen existing breaches may be  
8 required and that they will be rebuilt.

9 (Court Reporter interrupts.)

10 Q. So you're again noting that there will be  
11 some direct effects to stone walls within  
12 this historic district; is that correct?

13 A. Yes.

14 Q. And, you know, at the bottom of that section  
15 you say, "minimal physical damage to the wall  
16 segments in one or two locations will not  
17 affect the overall integrity of the large  
18 district." Is that why you again didn't find  
19 an adverse effect at that time?

20 A. Yes.

21 Q. So, in other words, you felt that the direct  
22 impacts to stone walls was not large enough  
23 to impact the overall historic district's  
24 integrity.

1     A.     "Large" might not be the right -- we felt we  
2           might be able to avoid them and that we would  
3           not have an adverse effect on the historic  
4           district.

5     Q.     Okay. And so, again, your recommended  
6           finding here was no adverse effect. And you  
7           say that it will not alter, either directly  
8           or indirectly, any of the significant  
9           characteristics that qualify the historic  
10          district for inclusion in the National  
11          Register in a manner, et cetera.

12                 So your opinion, at that time at least,  
13                 was that impacting stone walls would not  
14                 impact directly or indirectly any of the  
15                 significant characteristics of the district.

16    A.     No, I wouldn't exactly characterize that --  
17           we really felt we would be able to avoid them  
18           mostly.

19    Q.     Notwithstanding there being some direct  
20           impacts listed.

21    A.     Yes, yes.

22    Q.     And so following the submission of your  
23           effects tables to DHR, DHR eventually came  
24           back on August 1st with this letter, which

1           has been marked as Applicant's 167, giving  
2           the final report on their decision about what  
3           adverse effects there might be; is that  
4           right?

5    A.    Yes.

6    Q.    And at that time, on Page 2, they did find  
7           that there would be adverse effects to those  
8           two historic districts; is that right?

9    A.    Yes.

10   Q.    And based on that, the Applicant has done  
11          some work to try and address the impacts to  
12          stone walls and come up with mitigation  
13          measures; is that correct?

14   A.    Yes. But I would say, remember this process  
15          really is lead by the Division of Historical  
16          Resources, as is indicated here by your line  
17          of questioning. They asked the Applicant  
18          about it, and the Applicant met, as I  
19          indicated, with the DHA and walked and  
20          identified every stone wall within the direct  
21          APE and then formulated, carefully formulated  
22          processes particular for either avoiding or  
23          using existing breaching or timber matting or  
24          building a platform. So the DHR definitely

1           lead this process for identifying the adverse  
2           effects. And we were -- I think we responded  
3           extremely carefully and extremely  
4           thoughtfully and included the whole community  
5           every step of the way in that process.

6    Q.    Okay. Thank you.

7                   In your analysis of effects, and in  
8           terms of identifying resources in general,  
9           would a stone wall be qualified as a historic  
10          resource by itself, or must it be part of a  
11          historic district or other property?

12   A.    It is possible that a historic stone wall  
13          could qualify by itself. Sitting here, I  
14          can't think of one particularly. But it  
15          would be something like in our battle fields  
16          where it is a point of battle, or the wall in  
17          Berlin, or of particularly fine trades,  
18          craftsmanship that in its own right is a work  
19          of art. Perhaps Robert Frost's stone wall  
20          would be one of the ones that would also have  
21          great significance by itself. Usually,  
22          however, it would contribute to the  
23          significance of a district or an individual  
24          property or a landscape.

1 Q. And is that the reason that stone walls don't  
2 take a leading role in your Project Area  
3 Form? They're mentioned in context but not  
4 as a separate category of resources. Is  
5 that --

6 A. Yes.

7 Q. Now, you mentioned a minute ago that the  
8 mitigation for stone walls is proposed here,  
9 and that is outlined in part in the  
10 Memorandum of Understanding with DHR; is that  
11 correct?

12 A. Yes, for those that are in the historic  
13 districts of Newmarket and Bennett Road and  
14 Durham Point Historic District.

15 Q. Right. And so for those stone walls within  
16 the two historic districts that have been  
17 identified as having adverse effects, DHR has  
18 agreed to mitigation. And that's outlined on  
19 Page 3 and 4 of the MOU, which is  
20 Applicant's 200; correct?

21 A. Yes.

22 Q. For those stone walls that are not in those  
23 two historic districts, I think there are two  
24 categories. Let me know if you disagree.

1           One would be stone walls within the other  
2           historic district that's been identified, the  
3           UNH Historic District, and then the second  
4           category would be all other stone walls that  
5           are not in the historic district. Is that a  
6           reasonable way of dividing them out?

7    A.    Actually, if I could, there are all other  
8           stone walls. But they have also been  
9           defined. So all other stone walls that are  
10          outside of the historic districts in Durham  
11          are being dealt within an agreement with the  
12          Town of Durham and UNH. So, although they  
13          may be in the UNH Historic District, they're  
14          all being looked at as part of that agreement  
15          document that is still being discussed.

16   Q.    Right.

17   A.    There is also a letter of commitment from  
18          Eversource to the Town of Newington for  
19          historic districts -- I mean, excuse me --  
20          stone walls that are within the area of  
21          potential effect.

22   Q.    Thank you. And I agree that I think there's  
23          been testimony already that Eversource has  
24          committed to protecting stone walls

1 throughout the Project corridor.

2 What I was trying to get at is, does the  
3 fact that some of these stone walls that have  
4 been identified are within an identified  
5 historic district play a role? They were not  
6 included in DHR's review as an adverse  
7 effect, but they are a part of the  
8 character-defining features within the UNH  
9 Historic District. Is that a fair  
10 assessment?

11 A. Yes, they can be or maybe not be. Given the  
12 significance of the University of New  
13 Hampshire, which is primarily for  
14 architecture and education, there are some  
15 stone walls in the University of New  
16 Hampshire Historic District which actually  
17 predate the University of New Hampshire; so  
18 their significance is kind of separate from  
19 the reason why the University of New  
20 Hampshire is eligible for the National  
21 Register. But they may be in the area of  
22 potential effects, so they have been  
23 carefully mapped and included in that letter  
24 with the University -- I'm sorry. I'm



1           confusing that with Newington. Excuse me.  
2           They are part of the discussion of the  
3           agreement document with the University of New  
4           Hampshire.

5   Q.    Okay. Thank you.

6                   And with regard to the mitigation  
7           proposal of using timber matting either to  
8           bridge over walls or put work pads elevated  
9           above walls, have you ever been involved in a  
10          Project that has used that type of  
11          mitigation?

12   A.   Not directly, but I had quite a thorough  
13          discussion with construction crews with  
14          Eversource and through a series of  
15          photographs was able to understand the  
16          process.

17   Q.    Okay. And it's your assessment as a historic  
18          resource expert that that will be adequate to  
19          protect the stone walls?

20   A.    Yes.

21   Q.    Thank you.

22                   The MOU also has mitigation for the  
23          Pickering Farm, and that is, at this point,  
24          production of a historic booklet about

1           agriculture on the farms in the Newington  
2           area; is that correct?

3    A.    Yes.

4    Q.    Can you explain to me the relationship  
5           between that booklet and the impacts to  
6           Pickering Farm?  In other words, in what way  
7           does creation of the booklet mitigate the  
8           impact of the Project on Pickering Farm?

9    A.    The only mitigation actually -- meaning you  
10          lessen the effect -- that we've proposed,  
11          meaning Eversource, is planting, with the  
12          permission of the property owner, on the  
13          south side of the corridor, which might  
14          diminish the visual effect of the new  
15          structure.

16                 The booklet is -- was suggested as  
17                 mitigation at a meeting in Newington with the  
18                 Division of Historic Resources.  I do not  
19                 know precisely why that was chosen.  So it  
20                 can -- the booklet itself can't lessen the  
21                 visual appearance of the structure.  But in  
22                 the field of historic preservation and  
23                 historic resource mitigation, it is not  
24                 uncommon for an educational product or

1 something else to be used as mitigation for  
2 and unmitigatable adverse effect. And that's  
3 what we have here.

4 Q. Okay. And do you know who proposed this  
5 particular mitigation?

6 A. I believe it was the DHR themselves, but I'm  
7 not sure of that completely. I was not at  
8 that meeting.

9 Q. So you were not directly involved?

10 A. No, I was not.

11 Q. On Page 5 of the MOU there's a section for  
12 Monitoring. And again, this is Applicant's  
13 Exhibit 200. And the first bullet is that  
14 there would be monitoring each year following  
15 execution of this MOU until it expires or is  
16 terminated. Can you help me understand when  
17 the MOU would expire or be terminated?

18 A. If you scroll down further, I think it says.  
19 But from my memory, I believe it is when the  
20 adverse effects are dealt with or when the  
21 Project is finished, completed. We can look  
22 at that for the precise language that's in  
23 there.

24 Q. Sorry. There's a section on termination,

1           which is different than expiring.

2       A.    Yeah, that's not termination. Termination is  
3           a different thing. This is when the work is  
4           completed. Would you like me to find it?

5       Q.    If you can do it quickly, sure.

6                   (Witness reviews document.)

7       A.    It's on Page 4 under... let's see. Sorry,  
8           sorry. Page 3. This agreement shall be null  
9           and void if its terms are not carried out  
10          within five years from the date of the New  
11          Hampshire Site Evaluation Committee written  
12          approval. Prior to such time, Army Core of  
13          Engineers may consult with the other  
14          signatories to reconsider the terms of the  
15          MOA. That's the MOA, which is attached to  
16          the Memorandum of Understanding. Excuse me.

17      Q.    Would it be correct that your general  
18           understanding is that it continues until the  
19           latter of the Project being completed or the  
20           adverse effects being mitigated through  
21           whatever mitigation is required?

22      A.    Actually, I would just say this generally,  
23           not as -- it's improperly placed under  
24           Termination, which is upon completion of the

1 measures outlined in the Stipulation section  
2 of this agreement. Eversource's obligation  
3 under this agreement shall be considered  
4 complete and this agreement shall terminate.  
5 So it kind of has two things in that clause.  
6 You're the attorney, not I am. But to me, as  
7 a state preservation officer, I would say  
8 they're obligated to do all the stipulations  
9 within five years.

10 Q. Five years. Okay. Because what I was  
11 struggling with was the monitoring was  
12 supposed to be yearly. But it sounds like  
13 monitoring may end as soon as the Project's  
14 built.

15 A. That may be, yes. Looks like everything will  
16 be completed within five years.

17 Q. Okay. Thank you.

18 The MOU also includes a number of plans  
19 that are to be implemented as part of the  
20 Project: A Historic Property Monitoring  
21 Plan, the Unanticipated Discovery Plan --

22 A. Yes.

23 Q. -- and the Training Plan.

24 (Court Reporter interrupts.)

1 A. Yes.

2 Q. And those are part of, I think it's Appendix,  
3 some part of this document. So that starts  
4 at Page 38 of Applicant's Exhibit 200.

5 And do I understand the Historic  
6 Properties Monitoring Plan correctly, that  
7 essentially environmental monitors do all the  
8 monitoring? And there's a plan for who they  
9 report to and what happens, but that's the  
10 core of the monitoring plan?

11 A. Yes.

12 Q. Okay. And that's outlined in the section  
13 called "Environmental Monitors" on electronic  
14 Page 43.

15 And you've referenced a few times the  
16 Unanticipated Discoveries Plan as sort of the  
17 protection against impacting other unknown or  
18 unexpected resources; is that fair?

19 A. Yes, and human remains.

20 Q. Right, which would fall under the purview of  
21 Dr. Bunker.

22 A. Not necessarily. We can review that if you  
23 would like. There is -- it would be reported  
24 out from the field to the state archeologist

1           and, I'm sorry, the person in charge of  
2           deaths for the state --

3    Q.    Coroner.

4    A.    The coroner.  Thank you.

5    Q.    So what I wanted to ask you about  
6           specifically was on Page 47 of the PDF, and  
7           that's this category of Procedures for  
8           Unanticipated Effects on Historic  
9           Architectural Properties.  And I'm trying to  
10          understand what that is.  Is it that you  
11          might unexpectedly have an indirect effect on  
12          an architectural structure?

13   A.    These would be direct effects.  It might be  
14          possible that you would find a stone wall,  
15          and not the kind that we've been talking  
16          about, but a building.

17   Q.    Like a cellar hole or something?

18   A.    Yeah, a cellar hole would probably be  
19          archeological but... what else?  This is  
20          certainly beyond my experience.  But it could  
21          be a part of a building that you find because  
22          it has been buried.  Yeah, a bridge abutment,  
23          something like that would be an architectural  
24          feature.  And then you let the archeological

1 historians and the archeologists fight over  
2 it because it's underground. But it is  
3 things like that.

4 Q. So this is really looking at direct effects,  
5 not indirect effects.

6 A. Yeah. I guess it might be possible to find  
7 something that had been overlooked and it  
8 would be treated the same way. It could be a  
9 cabin. I found that in my experience, where  
10 there are miners cabins or a stove from a  
11 cabin that you find suddenly in the woods.  
12 It is an occupation site that you didn't know  
13 existed until someone was working in that  
14 area and found it.

15 Q. Okay. And have you ever in your experience  
16 done any sort of post-construction review for  
17 indirect effects to look for those kinds of  
18 resources that might have visual impacts that  
19 wasn't anticipated?

20 A. Post-construction review. Can you help me  
21 understand what you mean by that?

22 Q. Sure. Going back after the project is built  
23 to see if there is any visual impact on  
24 historic resources that was unanticipated.



1 A. No, I have no experience doing that.

2 Q. So you were relying on your estimation of  
3 visibility to historic resources that you do  
4 at the beginning of the process.

5 A. Yes.

6 Q. Thank you. Just a couple more questions.

7 There was some testimony earlier today  
8 about Beech Hill Road and whether it  
9 qualifies as a historic resource. And I  
10 wasn't clear on what your answer was. You  
11 seem to be describing the area that the road  
12 is in as something that was reviewed for  
13 historic value. But do you consider historic  
14 roads themselves to be potential historic  
15 resources?

16 A. Yes, they could be.

17 Q. Okay. And was that assessment made for Beech  
18 Hill Road, for the road itself?

19 A. It was considered, but it was not found to be  
20 a historic road unto itself, and we were not  
21 requested by the Division of Historic  
22 Resources to complete an inventory form on  
23 that historic resource.

24 Q. Okay. And is that why the proposal to use it

1 as an access road is not any sort of adverse  
2 effect on the road itself because it's not --

3 A. Yes.

4 Q. -- been identified as a resource?

5 (Court Reporter interrupts.)

6 A. Yes.

7 Q. And am I correct that the proposal is to lay  
8 gravel over that historic road for access  
9 purposes?

10 A. I don't know that.

11 Q. You don't know. Okay. Thank you. I have no  
12 further questions.

13 A. Thank you.

14 PRESIDING OFFICER WEATHERSBY: Off  
15 the record.

16 (Discussion off the record.)

17 PRESIDING OFFICER WEATHERSBY: Thank  
18 you very much. So we'll take some questions  
19 from the Committee now. Any questions?

20 Mr. Fitzgerald.

21 MR. FITZGERALD: I have a couple.

22 QUESTIONS BY SEC MEMBERS AND COUNSEL:

23 BY MR. FITZGERALD:

24 Q. Good afternoon.

1 A. Hello, Mr. Fitzgerald.

2 Q. Michael Fitzgerald. I'm the assistant  
3 director of the Air Resources Division at  
4 DES.

5 (Discussion off the record.)

6 Q. One of the earlier questioners asked you some  
7 questions about your qualifications. I  
8 believe your resume indicated that you meet  
9 the requirements of the Secretary of  
10 Interior's -- you were asked specific  
11 questions about degrees that you had. But  
12 does your experience, combination of  
13 experience and education, meet the  
14 requirements that were listed under the  
15 Secretary of the Interior's requirements?

16 A. Yes, sir. If you looked at that more  
17 closely, you would see that it also includes  
18 an associated field or related field, which  
19 history certainly is. And you also get  
20 credit, if you will, for practical  
21 experience.

22 I have been in the field of historic  
23 preservation since 1976, which was a great  
24 time to get into it. And further, my

1           experience and knowledge has been recognized  
2           by federal agencies, such as the National  
3           Park Service, the Department of Defense, also  
4           Governor Pete Wilson of California, Governor  
5           Kean of New Jersey, Governor Harry Hughes of  
6           Maryland. So I believe that I meet the  
7           Secretary of Interior's standards for  
8           professionals in both history and  
9           architectural history. And I appreciate the  
10          opportunity to clarify that. Thank you.

11   Q.     Thank you.

12                 Do they provide documentation, or that's  
13                 just a requirement that you certify that you  
14                 meet? Do they send you a letter saying you  
15                 have met these requirements, or is there  
16                 certification, so to speak?

17   A.     They don't give you certification. We don't  
18             have letters after our -- but I was the state  
19             historic preservation officer for California.  
20             And although key to that is appointment by  
21             the governor, you must meet the professional  
22             standards as well. So it has been  
23             acknowledged quite publicly for decades.  
24             Thank you.

1 Q. All right. Thank you. Appreciate that.

2 Stone walls. What general  
3 characteristics make a stone wall of historic  
4 significance?

5 A. Generally you would be looking for it to be  
6 50 years old or older. But that isn't an  
7 absolute requirement. It would have to have  
8 integrity. And so it would have to be a  
9 recognizable entity of the characteristics of  
10 the stone wall. So, the materials, the  
11 workmanship, its location, purpose of either  
12 being a boundary wall or a separating wall,  
13 those are the sorts of things that you would  
14 look at.

15 Q. Okay. In general, are stone walls over 50  
16 years old?

17 A. In general, my understanding is that they  
18 are. I guess we are making new ones, but the  
19 methodology is probably somewhat different  
20 except for the highest-level craftspeople  
21 today.

22 Q. There's been a lot of discussion today  
23 relative to both stone walls and roads, I  
24 think, being in a historic district and being

1           considered historical. So could you sort of  
2           clarify that. I think I heard you say that  
3           if a stone wall is within a historic  
4           district, it's considered a historic stone  
5           wall. Is it considered as part of the  
6           historic district or considered in and of  
7           itself as a historic resource? Bear with me.  
8           I have no knowledge of this area, so --

9    A.    No problem. I'll be happy --

10   Q.    And the same thing for roads.

11   A.    I think you heard me say that it is what we  
12           call a "contributor" or "contributing  
13           element," meaning it adds to the  
14           significance. Now, when I say that, a  
15           historic district normally has a period of  
16           significance, meaning it dates to a  
17           particular time. And so a stone wall in a  
18           historic district that was built last year  
19           would not be considered something that  
20           contributes to understanding the history of  
21           the historic district. But other stone walls  
22           that are from that time period would be  
23           considered significant in a historic  
24           district.

1 Q. Okay. Thank you.

2 So was your testimony that if a stone  
3 wall or a historic feature is within a  
4 historic district, it is considered, for lack  
5 of a better term, as part of that historic  
6 district --

7 A. Yes.

8 Q. -- overall?

9 A. Yes.

10 Q. But does that individual feature, does it  
11 receive attention in terms of it's in the  
12 historic district, it's a -- is a stone wall  
13 outside of a historic district treated any  
14 differently than a stone wall inside a  
15 historic district?

16 A. Yes, when we are adding in the fact that we  
17 have a project here. So, remember we talked  
18 about the area of potential effect, direct  
19 one and indirect one. So that comes into  
20 play as to whether the project will have an  
21 adverse effect on any of those elements  
22 within the historic district to tell you  
23 what's important about that place. And you  
24 might have a direct effect on a wall if it's

1           in the way of having to put something in  
2           place for a project, or it may be the  
3           district may visually see one of the  
4           structures in the Project. So that's direct  
5           and indirect.

6    Q.    Okay. Roads. If a road is considered a  
7           historic resource, as opposed to, you know, a  
8           stone wall is a configuration or whatever, a  
9           road particularly may have been paved over  
10          or, you know, paved numerous times, might  
11          have been created a hundred years ago, but so  
12          how do you make a determination that a road  
13          is historic? Is it the corridor that it  
14          travels in, or is it some characteristic of  
15          the road itself?

16   A.    It could be all of those things. Once again,  
17          you go back to those things that we mentioned  
18          about materials, workmanship, setting,  
19          location. And how that would apply to a road  
20          is, is the road visibly following the same  
21          pattern? Has it not changed? Are there  
22          attributes about integrity of that road that  
23          are able to convey its significance and age  
24          and that sort of thing?



1           Roads can also be an important part of  
2           historic districts. Within the historic  
3           district, Nimble Hill Road would be an  
4           example of where maybe in some part of the  
5           road it has been changed by the addition of a  
6           brand new fire department on Nimble Hill  
7           Road, but within the boundaries of the  
8           Newington Center Historic District, Nimble  
9           Hill Road has integrity and significance and  
10          value.

11   Q.    I believe that takes care of my questions.  
12          Thank you.

13   A.    Thank you.

14                   PRESIDING OFFICER WEATHERSBY: Any  
15                   questions?

16                   Attorney Duprey.

17                   MS. DUPREY: I have one. Thank you.

18   QUESTIONS BY MS. DUPREY:

19   Q.    My question is about the transition structure  
20           relating to Ms. Frink's house. I think  
21           initially you had said you didn't think it  
22           would be seen from the house, or maybe just  
23           over the top. And then I felt like in later  
24           questioning you were equivocating over that.

1           So I guess I'd like to just be clear as to  
2           what you believe. I think that, and I'm  
3           asking if I'm correct in my understanding,  
4           that the full transition structure would not  
5           be seen from the house.

6    A.    Yes, that is true. I believe that the full  
7           transition structure would not be visible  
8           throughout the historic district, as I  
9           indicated earlier. The photographs from  
10          the --

11   Q.    Let me interrupt you. I'm not asking from  
12          the full historic district. I'm asking about  
13          from her home.

14   A.    I cannot speak from inside her home, which  
15          she asked me to do. I don't have knowledge  
16          from the information and viewshed simulations  
17          that we have seen. Further, the photographs  
18          that she provided for the location of that in  
19          the corridor and the surrounding of the  
20          vegetation, I do not believe that it will be  
21          seen from the rear of that house, of the  
22          Frink Farm house.

23   Q.    Thank you. So the transition structure is  
24          set in --

1 A. Yes.

2 Q. -- a corridor of trees on either side --

3 A. A hundred feet. Yes, it is.

4 (Court Reporter interrupts.)

5 Q. And the house would look towards that  
6 corridor and trees?

7 A. If we looked at a map, you would see that  
8 that house is, what, southeast of the  
9 corridor. And I'm afraid to estimate exactly  
10 how much, but it is a substantial field.

11 Q. Okay. And it's your belief that if you were  
12 standing just inside the house or just  
13 outside the house, that what you would see is  
14 possibly something over the tops of the  
15 trees?

16 A. Just rear of the -- yes.

17 Q. Okay. Thank you.

18 MS. DUPREY: That's all.

19 QUESTIONS BY PRESIDING OFFICER WEATHERSBY:

20 Q. Hello, Ms. Widell.

21 A. Hello.

22 Q. I have some questions here just following up  
23 on some of your testimony. I just want to be  
24 sure I understand your testimony.

1           The SEC's definition of "historic sites"  
2           that Attorney Aslin had on the screen, it's  
3           my understanding that you now agree that a  
4           property could be included in that definition  
5           even if it is not listed or eligible in the  
6           National Historic Register?

7   A.    Oh, yes, we would consider that.  We always  
8           have, yes.  Yes.

9   Q.    Okay.  And so could you tell me the process  
10          you used to determine if there were any  
11          properties identified as historic by the  
12          State of New Hampshire, the state itself.  
13          Attorney Aslin put different definitions from  
14          the DHR -- or I know it's different  
15          initials -- but the historical resource's  
16          definition, those properties identified by  
17          the state or local governing bodies, boards,  
18          commissions, et cetera.  And I'm trying to  
19          understand the process that you went through,  
20          if any, to determine properties that might be  
21          included in that definition which are not  
22          National Register properties or eligible for  
23          the National Register.

24   A.    Well, the process for identifying historic

1           properties which is laid out in the -- for  
2           the SEC is laid out in a memo which I  
3           attached to my testimony. But I'll give a  
4           very brief -- the first part of that would be  
5           to fill out an inventory form of the historic  
6           property. And it must have basically  
7           integrity and significance. And so then it  
8           is likely to be eligible for the National  
9           Register if it has sufficient integrity and  
10          significance to be included on an inventory  
11          form that is accepted by the Division of  
12          Historic Resources. Not everything is, but  
13          it is likely that it's --

14   Q.    To get to that step to know which properties  
15          to inventory, forgetting about APE and all of  
16          that, just which ones -- I mean, did you  
17          reach out to Durham or Newington, Madbury,  
18          Portsmouth, and say, hey, this corridor's  
19          coming through. Are there historic  
20          properties that we should be aware of? What  
21          kind of involvement did you have with the  
22          local communities?

23   A.    We are instructed by the Division of Historic  
24          Resources to complete a Project Area Form.

1           And the first step in developing that is to  
2           first see what exists, what does the Division  
3           of Historic Resources already have in their  
4           files. Also, there are themes. So believe  
5           it or not, there is a great deal of  
6           information, probably files, on stone walls  
7           that are significant. But certainly on  
8           engineering, on agriculture, on all of that  
9           sort of stuff that you would also access and  
10          look at. And then research the area itself:  
11          The documents that DHA spoke of today, the  
12          stack pole history, the history completed by  
13          the Durham Historic Association, 1985;  
14          there's a 1670 John Scott map of the area.  
15          Those are looked at for the Project Area  
16          Form. So the material that is in the  
17          community is used to figure out what to look  
18          at.

19       Q.    So in those early days, did you reach out to  
20           the affected communities, or did you wait  
21           until, say, Durham Historical Association  
22           said, hey, you're missing this stuff, and  
23           they sent all the information to you?

24       A.    In this case, Durham contacted Eversource,

1           yes.

2   Q.    So in the early days --

3   A.    And I believe the Division of Historic  
4          Resources as well.

5   Q.    The early days of deciding which to  
6          inventory, you relied on state resources and  
7          your own investigation, but you didn't reach  
8          out to the local communities to get their  
9          input.

10   A.   We looked very much at the exact same  
11          documents that they provided in the material  
12          they gave us later on, the bibliographies and  
13          materials, yes.  Yes.

14   Q.   Okay.  Concerning the booklet that's  
15          essentially mitigation for the impacts to  
16          Pickering Farm, if a booklet like that  
17          already exists, we heard some comment  
18          earlier, if that information has already been  
19          gathered in a booklet similar exists, would  
20          that reduce its effect as a mitigation  
21          measure?

22   A.   I cannot speak to that.  But there's always  
23          opportunity to amend an agreement if a  
24          community or the Division of Historic

1 Resources believes that is not appropriate.

2 But my understanding is that there was  
3 support for this by the Division and the  
4 community.

5 Q. Do you have a --

6 A. Or some of the community, yes.

7 Q. Sorry to interrupt. Do you have other  
8 suggestions for mitigation for the Newington  
9 Historic District if that booklet perhaps  
10 isn't effective or it's decided there should  
11 be something else?

12 A. Not specifically, no. There are a whole  
13 variety. And DHR is very experienced in  
14 looking at mitigation projects, and I'm sure  
15 they could be very helpful in coming up with  
16 some suggestions.

17 Q. Quick question about the APE. I understand  
18 that the direct effects, it was the width of  
19 the right-of-way, and then for visual  
20 effects, it was a half-mile to each side of  
21 the corridor --

22 A. Yes.

23 Q. -- for the one-mile APE. And that one mile  
24 was based on our rules for an urbanized



1 areas; is that correct?

2 A. I do not know why it was chosen. The  
3 Division of Historic Resources chose it based  
4 on their experience of this type of project  
5 and this type of environment.

6 Q. And did they direct you to use that both for  
7 the Section 106 process as well as the SEC  
8 process? Or in what context was that  
9 recommendation made?

10 A. It was in the context of the SEC process to  
11 determine visual effects. The 106 process,  
12 which was lead by the Army Corps of  
13 Engineers, the federal permit area was  
14 limited to wetlands.

15 Q. The various plans -- there were four plans  
16 prepared: The Historic Properties Monitoring  
17 Plan, Unanticipated Discovery Plan, Historic  
18 Properties Training Plan, and the Curation  
19 and Repatriation Plan. Each of those plans  
20 has been completed; is that correct?

21 A. Yes.

22 Q. And have those been accepted or approved by  
23 the Department of Historical Resources?

24 A. Yes.

1 Q. And have key personnel for those plans been  
2 identified? There was testimony about some  
3 environmental monitors, but I'm sure there's  
4 some key personnel, and I'm wondering if  
5 those have been identified yet.

6 A. No, not to my knowledge.

7 Q. And who selects those key personnel?

8 A. I believe there's a process. And once again,  
9 you would need to meet the professional  
10 standards for the Secretary of Interior for  
11 key things, for archeology, for architectural  
12 history.

13 Q. And does the Department of Historical  
14 Resources sign off or have a part in  
15 selecting those personnel?

16 A. I believe, yes, they do.

17 PRESIDING OFFICER WEATHERSBY: I know  
18 it's called something else. I apologize,  
19 Director Muzzey. Department of Cultural --

20 DIR. MUZZEY: Division of Historic  
21 Resources.

22 BY PRESIDING OFFICER WEATHERSBY:

23 Q. I think that's all the questions. That's all  
24 my questions. Thank you.

1 A. Thank you.

2 PRESIDING OFFICER WEATHERSBY: Mr.  
3 Way.

4 QUESTIONS BY MR. WAY:

5 Q. Good afternoon. How are you?

6 A. Hi. Good, Mr. Way. Nice to see you again.

7 Q. Nice to see you.

8 A. Thank you.

9 Q. Make sure that I'm clear on the MOU. The  
10 next steps for the MOU -- it's a signed  
11 document?

12 A. Yes, it is.

13 Q. But I notice it has signature blocks for the  
14 communities as well, Newington and Durham.  
15 Do they have to sign that? Can it be  
16 implemented without their signature or --

17 A. Yes, it can be implemented without their  
18 signature.

19 Q. But you certainly would want their  
20 signature --

21 A. Yes.

22 Q. -- I would expect.

23 A. Yes, they have been invited and are aware of  
24 the document, yes.

1 Q. And in terms of I think what Ms. Weathersby  
2 was asking about, the booklet, I'm kind of  
3 interested in a little bit more detail, just  
4 a little bit on the booklet, but maybe on the  
5 genesis of how that came to be.

6 We were at a public hearing the other  
7 night, and the booklet was mentioned, not  
8 really in a flattering way. I'm not sure  
9 it's going to be a best seller. But it was  
10 sort of a point of derision, not necessarily  
11 because of the booklet itself, but because in  
12 their minds it started out as something  
13 larger with mitigation and then it got less  
14 and less and less, and then it got to a  
15 30-page black-and-white, hundred-copy  
16 booklet.

17 And I'm also -- because I had seen your  
18 supplementary testimony. And what you had  
19 taken out -- I believe you took out the  
20 \$5,000 in funding. So at some point someone  
21 thought that that was a good idea. And you  
22 mentioned that you had talked with community  
23 leaders, but you seemed to kind of gloss over  
24 that. Was that original plan crafted with

1 the community?

2 A. I have to tell you that I was not in the room  
3 when any of this was discussed or decided.  
4 Eversource has been very open to  
5 recommendations from the community and the  
6 Division of Historic Resources as to  
7 appropriate mitigation for the Alfred  
8 Pickering Farm. The original recommendation  
9 that was received was for up to \$5,000 to be  
10 used for appointing of contributing buildings  
11 that are listed in my testimony. That was  
12 accepted, and it was ready to be moved  
13 forward. And then my understanding is that  
14 Division of Historic Resources, and perhaps  
15 some community leaders, but I don't know who  
16 or why, decided that something else would be  
17 more appropriate, and this was what was  
18 agreed upon. I can't really give you any  
19 more information than that. I think  
20 Eversource has worked very hard to figure out  
21 what would be appropriate mitigation,  
22 acceptable to the Division of Historic  
23 Resources and the Town of Newington for this  
24 adverse effect.

1 Q. With all due respect to my friend here at the  
2 Division of Historic Resources, but in terms  
3 of this booklet, do you think that that's an  
4 appropriate mitigation strategy?

5 A. It can be. There can be all kinds of things  
6 for mitigation. And I have found that the  
7 more creative, the better. Something that's  
8 long-lasting I think is an excellent choice  
9 because you're adding to the long-term  
10 preservation of the historic resources for  
11 something that is affecting a historic  
12 resource. But there's so many things, I'd be  
13 hesitant to actually name any, because I  
14 think it really needs to come from the  
15 community and the state historic resource  
16 officer and the Project proponent.

17 Q. So you're convinced that the idea in part  
18 came from the community was somewhat with  
19 Division of --

20 A. Yes.

21 Q. -- Historic Resources --

22 A. Yes.

23 Q. -- was agreed upon?

24 A. But I was not there, so I'm not going to be

1 helpful in that.

2 Q. Too bad.

3 A. Thank you.

4 Q. I mean, I also understand the question about  
5 the outreach to the communities. I never  
6 understand the hesitancy to reach out to the  
7 communities, to just call them up, the  
8 historical representatives of a community,  
9 and just to talk, just to find out their  
10 perspective. What is the hesitancy to do  
11 that?

12 A. I do not know. I certainly, in my government  
13 capacity, have done it many, many, many  
14 times.

15 Q. Did you have the liberty to do that?

16 A. You mean in this particular -- actually, it  
17 probably would not have been appropriate,  
18 given the work I was doing with the  
19 consultant who knew and has been working in  
20 this.

21 I think Lynn Monroe, who is the  
22 executive director or president of  
23 Preservation Company, has been working in  
24 historic preservation in New Hampshire for at

1           least 40 years and began her career in this  
2           area documenting Rockingham County and that  
3           sort of thing. So I think she's extremely  
4           familiar with local resources, as well as  
5           other resources.

6   Q.   Well, yeah, I have no doubt that there is a  
7           familiarity.

8   A.   Yeah.

9   Q.   Just I guess I still just never understand  
10          that one hesitancy.

11               All right. Thank you.

12   A.   Thank you.

13                       MR. FITZGERALD: Can I ask a  
14          follow-up on that?

15                       PRESIDING OFFICER WEATHERSBY: Yes.

16   BY MR. FITZGERALD:

17   Q.   Could you clarify for me the role of a  
18          consulting party versus a party who is a  
19          direct party of the MOA or MOU and whether --  
20          how communication of those consulting parties  
21          is handled?

22   A.   Yes. I'd be happy to do that. In the  
23          Section 106 process, which is always run by  
24          the federal agency -- in this case, it's the



1       Army Corps of Engineers because they're  
2       issuing what we call a Clean Water Act 404  
3       Permit -- the signators all have certain  
4       responsibilities in an agreement document.  
5       And consulting parties are those that are  
6       invited, that are interested in the outcome,  
7       and they have different roles. Normally they  
8       are involved in participating in the public  
9       meetings, invited to the public meetings,  
10      invited to provide information, and kept  
11      informed by the federal agency through  
12      e-mails, letters and invitations to the  
13      public meetings, and then being offered an  
14      opportunity to sign the agreement document.

15             The signators are the ones as you saw  
16      that are responsible for carrying it out. A  
17      signator always has some kind of  
18      responsibility in the agreement document and  
19      often also has an ability to terminate the  
20      document, amend the document. That's just a  
21      quick --

22    Q.     So in this case, I believe the two towns,  
23             Newington and Durham -- I believe Ms. Frink  
24             indicated that she was also a consulting

1 party. I don't know if there were others or  
2 not. Are they invited to review or to help  
3 participate in crafting the MOU in any way,  
4 or are they just given a final copy and  
5 said -- given the opportunity to either sign  
6 or don't sign?

7 A. They are definitely provided with a draft of  
8 the document and informed along the way as it  
9 is developed.

10 Q. Okay. So I thought I heard Ms. Frink testify  
11 this morning that she was not invited to  
12 meetings discussing this, or was unaware of  
13 them. Is that -- why would that have  
14 happened?

15 A. I can't speak to that. It would have been  
16 the responsibility of the Army Corps of  
17 Engineers for the Memorandum of Agreement.

18 Q. And that would be the same for the towns  
19 also?

20 A. Yes, for that document. Yes.

21 Q. Are there any other private parties that are  
22 consulting on this issue?

23 A. No. It was the Frink Family and Town of  
24 Newington, I believe.

1                   MR. FITZGERALD: May I ask a question  
2                   of Ms. Frink?

3                   (Discussion off the record between  
4                   Presiding Officer and SEC counsel.)

5                   MR. IACOPINO: Sure.

6                   MR. FITZGERALD: Was it your  
7                   testimony this morning that you were not  
8                   informed of meetings relating to the  
9                   development of this MOU and had no ability to  
10                  participate in it? Is that -- I know you  
11                  aren't testifying. But is that what you  
12                  indicated?

13                  MS. FRINK: Yes, you are correct, Mr.  
14                  Fitzgerald.

15                  MR. FITZGERALD: Thank you.

16                  MR. WAY: And if I could, just one  
17                  follow-up on that.

18 BY MR. WAY (CONT'D):

19 Q. And I think as she, Ms. Frink, mentioned, she  
20                  was removed from the process, too. Did I  
21                  understand that?

22 A. I had understood that as well. And I do not  
23                  know how or why that happens.

24 Q. So there seems to be a lot of just sort of

1           gray areas for how things may have evolved or  
2           how something like that fell through the  
3           cracks, the end result being that she didn't  
4           get to have that consultant role. How do you  
5           get the answer to that? Why was she removed?  
6           I mean, you must be wondering. How does one  
7           find that out?

8       A.    In my experience, it would be the state  
9           historic preservation officer would inquire  
10          to the Army Corps of Engineers' cultural  
11          resources representative that was responsible  
12          for complying with Section 106 for this  
13          process because they are the ones responsible  
14          for the Memorandum of Agreement. It is the  
15          Army Corps of Engineers. And for the SEC  
16          process, it would be the Division of Historic  
17          Resources.

18   BY MR. FITZGERALD:

19   Q.    So were the towns invited to play a role and  
20          had the ability -- were they notified of  
21          these meetings and had the ability to  
22          participate?

23   A.    Yes.

24   Q.    But Ms. Frink was not --

1     A.    Yes.  Yes, I did see notices of public  
2           meetings, yes.  And there were a number of  
3           them.  And they referred in the Memorandum of  
4           Agreement to specifically the dates when they  
5           were held and where.

6     Q.    Has there been communication with the towns?  
7           They have not signed these MOAs.  They chose  
8           not to, apparently.  Has there been  
9           communication with them as to why or why not  
10          they --

11    A.    I don't know that.

12    Q.    I guess we'll find out.

13    A.    Thank you.

14                       PRESIDING OFFICER WEATHERSBY:

15          Director Muzzey, do you have any questions?

16                       DIR. MUZZEY:  I do.  Thank you.

17    QUESTIONS BY DIR. MUZZEY:

18    Q.    Good afternoon.

19    A.    Hello.

20    Q.    I'd like to talk a little bit more about  
21           stone walls and, in particular, timber  
22           matting.

23                       Earlier today you described that you had  
24           been given a description of how the timber

1 matting operation would work to protect a  
2 wall. And I'm wondering, could you describe  
3 for us what a timber mat looks like, how big  
4 is it, how heavy, what's it made of, that  
5 type of thing?

6 A. Yeah. Strange. The pieces of wood are kind  
7 of lined up parallel to one another,  
8 connected, so that it can go over a stone  
9 wall. So I guess things can be moved or  
10 carried over a stone wall. I don't know how  
11 heavy it is.

12 Q. Do you know how big the timbers are?

13 A. They looked 6-foot maybe to me.

14 Q. Are they planks --

15 A. They look like planks.

16 Q. -- or big square things?

17 A. Yeah, they look like planks. Yeah, yeah.

18 Q. And so once the timber mats are placed, what  
19 goes over the timber mats?

20 A. I guess equipment, people, carrying --

21 Q. Trucks? Do trucks go over the timber mats?

22 A. No, I did not get the feeling that trucks  
23 went over them, no. But perhaps. No.

24 Q. And in your experience, are you aware of how

1 timber mats were developed? Were they  
2 developed specifically for stone wall  
3 mitigation?

4 A. No, I don't know how they were developed.  
5 And I seriously doubt that they were  
6 developed for stone wall mitigation.

7 MR. FITZGERALD: If I could just  
8 follow-up on that?

9 BY MR. FITZGERALD:

10 Q. The timber mat then lays directly on the wall  
11 and activities occur over it. I grew up with  
12 a stone wall in my yard, and I know that  
13 especially over time they become unstable and  
14 rocks will wobble and so on. So the laying  
15 of a timber mat over this and then having  
16 activities go on over that, does that  
17 generally have an impact on the stability of  
18 the wall? I gather it's intended to protect  
19 the wall, but --

20 A. It is intended to protect the wall. And  
21 these treatments were identified in  
22 consultation with the Division of Historic  
23 Resources and Eversource for the stone walls  
24 in the Durham Point Historic District and

1           Newmarket and Bennett Road. I can only  
2           assume that the cultural resource  
3           professionals who are negotiating this  
4           agreement, including Mark Dobrowolski of  
5           Eversource, who was cultural resources  
6           manager and now is actually with the Division  
7           of Historic Resources, has had extensive  
8           experience with these treatments for avoiding  
9           damage to stone walls from construction.

10                       MR. FITZGERALD: Thank you.

11 BY DIR. MUZZEY (CONT'D):

12 Q.    I'm wondering -- I share Mr. Fitzgerald's  
13        concern for the stone walls. I'm wondering,  
14        is there a way to test whether timber matting  
15        is an effective mitigation tool prior to it  
16        being implemented on the large number of  
17        stone walls in this project area?

18 A.    Yes, I'm sure there would be. If we take a  
19        look in the monitoring plan and training  
20        plan, there is a great opportunity for  
21        teaching all those that are involved in and  
22        around the cultural resources to learn how to  
23        identify them, how to protect them. That  
24        might be an excellent place to do exactly



1           what you're talking about, Ms. Muzzey.

2       Q.    Although it's not specifically part of those  
3           plans, right now.

4       A.    I don't think that the actual training plan  
5           has been formulated. So I think it would be  
6           very possible to include that. And I think  
7           it would be a great idea.

8       Q.    Is there any recourse in the plans, or  
9           anywhere else in the Project documentation,  
10          if a property owner feels that a stone wall  
11          has not been reconstructed properly or has  
12          been irreparably damaged by timber matting or  
13          the reconstruction process that happens in  
14          some cases? What would a property owner or  
15          community do in that case?

16      A.    There is opportunity and a provision in the  
17          Memorandum of Understanding for any  
18          property -- any individual to bring to the  
19          attention concerns about the implementation  
20          of this agreement. So that's pretty wide  
21          open and strong and good for that.

22      Q.    Could you point that out to us and tell us  
23          what the exhibit number is?

24      A.    Yeah, yeah.

1 Q. Thank you.

2 A. May take me a little...

3 (Witness reviews document.)

4 A. It's on Page 4 of the Memorandum of  
5 Understanding. Dispute Resolution under  
6 No. 2. "If at any time during the  
7 implementation of the measures stipulated in  
8 this Memorandum of Understanding an objection  
9 should be raised by an interested member of  
10 the public, the parties will consult to  
11 determine the appropriate response."

12 Q. So this is the Memorandum of Agreement.

13 A. No. I'm sorry. This is the --

14 Q. This is the MOU.

15 A. Yes, this is the MOU.

16 Q. Okay.

17 A. So this includes the Memorandum of Agreement  
18 as well. And it also includes the plans, the  
19 monitoring and the training, the curation  
20 and ...

21 Q. So we know that stone wall protection is  
22 sprinkled throughout a number of  
23 agreements --

24 A. Yes.

1 Q. -- and Memorandums --

2 A. Yes.

3 Q. -- of Understanding.

4 This is an MOU that deals with the  
5 Newmarket and Bennett Roads Historic District  
6 stone walls and the Durham Point Historic  
7 District stone walls.

8 A. Yes.

9 Q. So we heard a lot this morning about the  
10 stone walls that are in the larger UNH  
11 district.

12 A. Yes.

13 Q. Would there be some recourse for property  
14 owners or the community in the case of there  
15 being concerns about the reconstruction and  
16 the protection of those?

17 A. I don't know precisely because that's still  
18 in draft form. But it certainly would be  
19 possible to include such a provision.

20 Q. Now, that document is not signed. For some  
21 reason, the Applicant and the community of  
22 Durham cannot come to an agreement. Does  
23 that leave those stone walls unprotected?

24 A. I can't speak to that directly. But having

1           worked with Eversource, I can't imagine that  
2           they would not also care for the stone walls  
3           within the area of potential effect through  
4           that and in the direct area of potential  
5           effect. They have been committed to caring  
6           for stone walls and have gone a great way  
7           with letters signed by Mr. Quinlan himself.  
8           So this has not been dealt with at a very low  
9           level. It has been done at the highest level  
10          of this company. And I just, from my  
11          experience working with them, I think they  
12          would take that responsibility very  
13          carefully, even without a signed agreement.  
14          I speak for myself, but --

15   Q.     Sure, sure. Well, and thank you for your  
16          opinion.

17                 Although there isn't -- if that document  
18                 is not signed, there is no legal obligation  
19                 and there's no recourse for property owners.

20   A.     I'm not the one who can answer that.

21   Q.     I understand.

22   A.     If there was an adverse effect to a historic  
23           property, there might be something that could  
24           be done, but...

1 Q. Do you think the Applicant would be amenable  
2 to sort of amalgamating all of these various  
3 commitments into one condition that would  
4 provide the public and the communities and  
5 the property owners some reassurance? Right  
6 now it does seem sort of a confusing path as  
7 to how this is all going to happen.

8 A. I don't know.

9 Q. Okay. Thank you.

10 My other stone wall question is these  
11 documents seem to address construction.  
12 Although, we do know that this project, if  
13 constructed, will be in place for some time,  
14 there may be need for maintenance on the line  
15 long after we're all involved with this  
16 project.

17 A. Hmm-hmm.

18 Q. Do you know whether the Applicant would be  
19 amenable to having some sort of condition  
20 that would address operations in the years  
21 ahead and how historical resources, and in  
22 particular, stone walls, foundations, that  
23 type of thing, how they are treated in  
24 operations going forward?

1     A.    I do not know, and I have not had  
2           conversations related to that.  So I can't  
3           speak to that, no.

4     Q.    Okay.  Thank you.

5     BY MR. FITZGERALD:

6     Q.    Continuing our tag-team approach, is timber  
7           matting, in your experience, a generally  
8           accepted method of protection for stone walls  
9           that are going to be in the corridor and  
10          possibly traversed by equipment and so on?

11    A.    I cannot speak to that as well as perhaps the  
12          Division of Historic Resources, which  
13          included it in this document.  So I bow to  
14          their knowledge and experience, certainly  
15          with the treatment and care of stone walls  
16          since it is certainly one of the most iconic  
17          things in New Hampshire landscape.

18                   MR. FITZGERALD:  This may have been  
19          the subject of the construction panel.  But Mr.  
20          Needleman, can the Applicant point to a place  
21          where there's information on experience with  
22          the use of timber matting for stone walls?  I  
23          know it's used for wetlands in general.  But is  
24          there anyplace in the Application that has some

1 information on experience in using this for  
2 stone walls?

3 MR. NEEDLEMAN: I can't recall off  
4 the top of my head if that's somewhere in the  
5 record. But we will look and let you know.

6 MR. FITZGERALD: Thank you.

7 PRESIDING OFFICER WEATHERSBY: Can I  
8 also add to that request? I think there's some  
9 confusion as to what this looks like. We've  
10 heard of boards leaning against the stones.  
11 I'm picturing a bridge, you know, going up on  
12 either side and crossing over and not touching  
13 the wall. So I think if we knew what timber  
14 matting looked like as it crossed a stone wall,  
15 either a picture or a description of that would  
16 be helpful. So I'd like to add that to that  
17 request as well.

18 MR. FITZGERALD: I believe there was  
19 a picture during some of the discussion with  
20 the Construction Panel. So if that could -- if  
21 that could be referenced, I believe they're  
22 almost like the concrete mattresses. They're  
23 articulating. They're just pieces of wood  
24 connected together but --

1                   MR. SCHMIDT: I think they actually  
2 bridge the wall.

3                   PRESIDING OFFICER WEATHERSBY: So  
4 obviously there's some confusion here. So  
5 perhaps if the Applicant could enlighten us as  
6 to the construction of timber matting over a  
7 stone wall.

8                   MR. NEEDLEMAN: Sure. I think Mr.  
9 Fitzgerald's recollection is correct, that  
10 there were pictures. But we'll get them to  
11 you.

12                  PRESIDING OFFICER WEATHERSBY: Thank  
13 you.

14                  MR. ASLIN: And madam Chair, if I  
15 could just direct you. This is Chris.

16                  PRESIDING OFFICER WEATHERSBY: Yes,  
17 Mr. Aslin.

18                  MR. ASLIN: Applicant's 127 has a  
19 photograph and discusses this mitigation.

20                  PRESIDING OFFICER WEATHERSBY:  
21 Applicant's 127?

22                  MR. ASLIN: Yeah. So if you look at  
23 that, that might help.

24                  MR. FITZGERALD: What page? Oh,



1           there's only four pages.

2                   MR. ASLIN:   It's only four pages.

3           But the discussion on stone walls starts on the  
4           first page and there's a photo on Page 2.

5                   MS. BROWN:   If you don't mind if  
6           Durham Residents Counsel also chimes in.   The  
7           mats were also referenced on Durham  
8           Residents 13 but did not have stone walls.

9                   MR. FITZGERALD:   So, based on this  
10          picture, it appears the timber mat is actually  
11          supported above the wall.   Does it apply on the  
12          wall directly?   Is that the case?

13                   (Court Reporter interrupts.)

14                   MR. FITZGERALD:   This appears to show  
15          that there's blocks or something on either side  
16          so that the mat doesn't rest on the wall.   Is  
17          that -- can you confirm that also?

18                   MR. NEEDLEMAN:   Yes, we will do that.

19                   MR. FITZGERALD:   'Cause I believe I  
20          heard testimony earlier that it didn't just lay  
21          across the wall.

22                   MR. NEEDLEMAN:   I believe the  
23          explanation up there may help.   I'm not  
24          positive.

1                   MR. FITZGERALD: Yeah. Okay. Thank  
2                   you.

3                   PRESIDING OFFICER WEATHERSBY: Are  
4                   there any further questions for Ms. Widell?  
5                   Yes, Director Muzzey.

6 BY DIR. MUZZEY (CONT'D):

7 Q. Sort of on a similar line of thought. We've  
8       heard concern from the Town of Durham about  
9       some of the small roads, such as Beech Hill  
10      Road, and the historic nature of that road.  
11      Perhaps its significance in history is part  
12      of the Province Road. But the suggestion has  
13      been that it will be protected by gravel and  
14      then the gravel removed after the  
15      construction and where access is no longer  
16      needed.

17                In your experience, have you seen this  
18                type of measure used to protect a small,  
19                narrow, dirt road such as this one, and how  
20                successful was it?

21 A. No, I have not actually had experience with  
22      gravel on a road such as this. I can't speak  
23      to that. I'm sorry.

24 Q. We also heard about the historic quarry in

1           the Durham Point Historic District this  
2           morning and concern for a bench that didn't  
3           seem to be within the sensitive area that's  
4           been defined. And you seem to agree that  
5           this aspect of the quarry, as well as the cut  
6           ledge that was mentioned, were beyond the  
7           sensitive area that's been delineated?

8       A.    Yes. And I have learned from my colleagues  
9           that that is part of the discussion of the  
10          agreement with the Town of Durham to extend  
11          that sensitive area to include that.

12       Q.   Do you know how that would work, how it would  
13          be mapped, which sets of maps we've been  
14          looking at?

15       A.    I can't speak directly to that. You can see  
16          the sensitive area. And Ms. Muzzey, I would  
17          assume that that sensitive area would be  
18          expanded to include Quarrymen's Bench?

19       Q.    But we don't know if that's beyond the stone  
20          wall mapping or the environmental mapping,  
21          the construction mapping?

22       A.    It's all in one map, as far as the cultural  
23          resources. The stone walls and that sort of  
24          sensitive cultural areas are on one map. So

1 I would imagine that it would be that one.

2 And those are the Project maps.

3 Q. Well, I believe we were looking at the  
4 environmental mapping this morning when she  
5 mentioned that. It was on environmental  
6 mapping, not the stone wall mapping.

7 And that also raises a more general  
8 question I have. I don't know about other  
9 people here on the Committee today, but I  
10 have about 12 or 15 exhibits open that cover  
11 the various types of maps, the agreements,  
12 that cover the very historic nature of this  
13 project area. We've seen errors in some of  
14 those maps, whether boundaries are incorrect  
15 or data layers are used to identify where  
16 historic districts are. And I do have a  
17 concern how this will all get wrapped up into  
18 something where environmental managers that  
19 may be trained but don't have a cultural  
20 resources background will be out in the field  
21 trying to make sure all of these very good  
22 ideas are actually implemented.

23 Again, in your experience, can you think  
24 of a more straightforward tool or process

1           that could be used with this project in order  
2           to ensure all this diverse information is  
3           actually implemented in an efficient and  
4           accurate way?

5       A.   Well, I have to agree with you that those  
6           corrections that we talked about need to be  
7           made. And then in reviewing these plans in  
8           the training program, I think will, and using  
9           them on a regular basis will, they need to be  
10          ready for that process. And the materials  
11          that are used for the training will be  
12          reviewed, I'm sure, by the Division of  
13          Historic Resources. And I think that that  
14          would be an excellent check to make sure that  
15          those things have been incorporated into the  
16          documents.

17       Q.   It was not my understanding that the Division  
18           of Historic Resources had a role to play in  
19           the training of field staff.

20       A.   I can't imagine that there wouldn't be some  
21           role as far as -- because it is the chief  
22           archeologist that would be called if there's  
23           some unanticipated discovery. So I would  
24           think there would be some coordination in

1           that training program.

2   Q.    If that is not present -- well, I wouldn't  
3           want to commit a state agency into stretching  
4           its resources in this situation --

5   A.    Fair enough.

6   Q.    -- so I'm going to stop my questioning on  
7           that topic right here.

8   A.    Fair enough. But through the -- Eversource  
9           has had an outstanding cultural resources  
10          manager. I believe they're in the process of  
11          hiring a new one because the Division of  
12          Historic Resources now has that individual.  
13          So I can't imagine that individual would not  
14          be in a position of responsibility and  
15          obligation to make sure that the documents  
16          accurately reflect the location of the  
17          sensitive areas and the stone walls and make  
18          sure that that is properly done.

19   Q.    Thank you.

20                Just a question about the transition  
21                structure at the Frink Farm in Newington. We  
22                have a couple of visual simulations that have  
23                been created. One is in the effects tables,  
24                Page 88 of Exhibit 164, and then one is in

1           the, actually, the Visual Assessment for  
2           Aesthetics, Exhibit 142, Page 19. And in  
3           those views, and I know they're simulated  
4           views, it appears that the transition  
5           structure is not within the tree line. It  
6           appears to be in front of the tree line in an  
7           area that is potentially more visible.

8       A.    It is definitely intended to be placed  
9           100 feet back -- and that's in the effects  
10          tables -- from the edge of the wood line  
11          there on the corridor. If it doesn't exactly  
12          show that, that is the placement of it.

13       Q.   And that was 100 feet back into the wooded  
14          corridor?

15       A.   Hmm-hmm. Corridor, yes.

16       Q.   Thank you. And I believe you said this  
17          morning that you had recommended that  
18          vegetation be placed, was it along Nimble  
19          Hill Road, to potentially block the view of  
20          that transition structure?

21       A.   Yes. In one portion Nimble Hill Road is  
22          actually vegetated for most of it going along  
23          the east-end edge of the Frink Farm. There  
24          are a couple of locations where there are

1           openings. They're not very wide, but they  
2           are almost directly across from the view down  
3           that corridor. So I had recommended to  
4           Eversource that they consider placing some  
5           vegetation in those couple areas where there  
6           is no vegetation.

7    Q.   And do you know whether the property owners  
8           agreed with that or --

9    A.   I do not know that.

10   Q.   So that's not really a mitigation measure in  
11           place --

12   A.   No.

13   Q.   -- at the moment.

14   A.   No, it was not indicated. It's not on the  
15           effects tables. But it was a recommendation  
16           that I provided to the Company.

17   Q.   Was there any consideration of vegetative  
18           screening closer to the actual structure?

19   A.   I don't know if that's possible, no. I  
20           certainly did not do that.

21   Q.   We also had some discussion this morning  
22           about the stone walls that appear to be  
23           between the Frink and Pickering Farms. They  
24           would therefore cross the utility



1 right-of-way. Is that your understanding of  
2 those walls as well?

3 A. No. I am not sure of the location of the  
4 photograph that Ms. Frink showed this  
5 morning. They do not appear to be in the  
6 right-of-way. They appear to be on the south  
7 side of the right-of-way separating the Frink  
8 Farm and the Alfred Pickering Farm. That  
9 appeared to be the location, but I do not  
10 know precisely.

11 Q. So they may be walls that don't have a  
12 treatment plan yet prepared for them?

13 A. That's possible. They're boundary walls.  
14 It's a boundary wall as well, yeah.

15 Q. And we don't have a process yet in place if  
16 that type of thing comes up?

17 A. No, there is an agreement letter for those  
18 that are in the area of potential effect.  
19 And the boundary wall, there is an existing  
20 state law, that if there's any effect  
21 between, the property owners must be  
22 consulted.

23 Q. And what was the letter you had mentioned?

24 A. There is a letter with the Town of Newington

1 with Eversource that specifically identifies  
2 the walls in Newington that would be cared  
3 for through the Project. It is attached to  
4 my testimony. I can tell you --

5 Q. But we don't know if this wall was part of  
6 that letter.

7 A. I do not know that. That's right, yes.

8 Q. All right. Thank you. I think that is all  
9 my questions. Thank you very much.

10 A. Thank you very much.

11 PRESIDING OFFICER WEATHERSBY:

12 Attorney Needleman.

13 Attorney Iacopino, do you have any  
14 questions?

15 [No verbal response]

16 PRESIDING OFFICER WEATHERSBY:

17 Nothing else from the Committee?

18 Attorney Needleman, redirect.

19 MR. NEEDLEMAN: So, Director Muzzey,  
20 you had mentioned the multiple maps. And I  
21 think that Ms. Allen, when she was testifying,  
22 indicated that they would all be combined and  
23 updated prior to the start of construction. We  
24 can confirm that.

1 REDIRECT EXAMINATION

2 BY MR. NEEDLEMAN:

3 Q. Ms. Widell, let me start with some questions  
4 that Mr. Patch asked you earlier. With  
5 regard to the MOU that we talked about, he  
6 asked questions about involvement of  
7 consulting parties. And you initially said  
8 that the consulting parties here were Durham  
9 and in Newington, and I think you corrected  
10 that later when you were talking to Mr.  
11 Fitzgerald. But just to be clear, who are  
12 the actual consulting parties?

13 A. The Frink Family and the Town of Newington.

14 Q. And to your knowledge, did Durham request  
15 consulting party status?

16 A. Not to my knowledge.

17 Q. They had the opportunity to do so; is that  
18 right?

19 A. Yes. Pretty much anyone that has an interest  
20 in a project, yes.

21 Q. And are you aware of the fact that, even  
22 though Durham didn't request consulting party  
23 status, they had the opportunity to comment  
24 on both MOUs, and in fact did so?

1 A. Yes, I believe they did. Yes.

2 Q. Can you describe for the Committee your  
3 understanding of the efforts that DHR and  
4 Corps made here during this entire process to  
5 solicit public input and provide  
6 opportunities for the public to participate?

7 A. Well, as I said earlier, both the Corps and  
8 DHR have a responsibility to invite the  
9 public to participate in looking at  
10 identification, the assessment, the agreement  
11 documents, and through e-mails and the public  
12 meeting minutes and notifications have seen  
13 extensive work by the federal and state  
14 agency to bring in the public. And that is  
15 recorded in the agreement documents in the  
16 "whereas" clauses.

17 Q. Let me go back to stone walls again. This  
18 was again an issue that Mr. Patch raised.  
19 And he asked you about the difference between  
20 the list of stone walls that the Durham  
21 Historic Association came up with versus the  
22 narrower list of stone walls included in the  
23 MOU. Do you recall that?

24 A. Yes.

1 Q. And am I correct that in layman's terms,  
2 there's the universe of stone walls and then  
3 there's a narrower subset which are historic  
4 stone walls? Is that right?

5 A. Yes.

6 Q. And it's the historic stone walls that are  
7 included within the MOU; is that correct?

8 A. Yes. And specifically, in the two historic  
9 districts, Durham Point and Newmarket and  
10 Bennett Road.

11 Q. And so those other stone walls that are not  
12 considered historic stone walls, are you  
13 aware of whether there are generally any  
14 regulatory obligations that relate to those  
15 walls?

16 A. No, other than boundary walls where there's a  
17 requirement if there's an effect, to talk to  
18 the property owners.

19 Q. But notwithstanding that, those additional  
20 stone walls in Durham are going to be  
21 included in this MOU that the Applicant and  
22 Durham are working on. Is that your  
23 understanding?

24 A. Yes. As I stated earlier, Eversource is

1           going way beyond, frankly, their  
2           responsibilities to include care for those  
3           stone walls during the construction work  
4           within the area of potential effect where  
5           they might be directly affected.

6    Q.   Mr. Patch asked you, and others have asked  
7           you about the granite quarry site and the  
8           stone bench there. And he asked you about  
9           the expansion of the flagging, and I think  
10          Ms. Muzzey asked you about that as well. Is  
11          it correct that that is another topic that is  
12          going to be addressed in the Durham MOU, and  
13          in fact, I believe Durham and the Applicant  
14          have agreed to the expansion of that as  
15          Durham wants? Is that your understanding?

16   A.   Yes, that is my understanding.

17   Q.   And we'll turn to that later.

18                 So I want to ask you a couple questions  
19                 related to what Ms. Boepple was talking  
20                 about. She asked you about the Knights Brook  
21                 corridor. Do you remember that?

22   A.   Yes.

23   Q.   Put a description up. And according to her  
24          description, I think it included the Frink

1 property. Do you remember that?

2 A. Yes.

3 Q. And the description ended by saying that  
4 every effort should be made to preserve this  
5 open space. Do you remember it saying that?

6 A. Yes.

7 Q. In your opinion, is the Project as proposed  
8 consistent with that goal?

9 A. It definitely fulfills that goal and does  
10 expand open space within that field behind  
11 Frink Farm in a way that it hasn't had since  
12 I believe 1948 when those distribution lines  
13 were placed there.

14 Q. So, going back to that for a minute. If the  
15 Project is approved as proposed, the  
16 distribution lines currently in the Frink  
17 field would be removed; is that correct?

18 A. Yes.

19 Q. So in that case, is it your opinion that this  
20 proposal is not only consistent with the  
21 goal, but actually advances it?

22 A. It does advance it, yes.

23 Q. We talked quickly about the signatures of the  
24 MOU. And I think you said that you believed

1           that Newington did have the opportunity to  
2           sign the MOU; is that right?

3    A.    Yes.

4    Q.    Would you agree that Newington has had  
5           extensive opportunity for involvement in this  
6           historic assessment process here?

7    A.    Yes. From the materials I have seen, yes.

8    Q.    I want to go to some questions that Mr. Aslin  
9           asked you a few minutes ago.

10                I think he began his questioning by  
11           asking you about your criticism of Ms.  
12           O'Donnell's testimony, and in particular,  
13           about your view that her definition of  
14           "historic sites" was overly broad. Do you  
15           remember that?

16   A.    Yes.

17   Q.    Regarding that criticism, Ms. O'Donnell  
18           included things in her definition of  
19           "historic resources" like "current use  
20           properties," for example; is that right?

21   A.    Yes.

22   Q.    Now, and she also included I think other  
23           types of properties that you felt didn't meet  
24           the definition of "historic resources"; is



1           that correct?

2    A.    Yes.

3    Q.    So, setting aside the disagreement that you  
4           have with Ms. O'Donnell, was there ever a  
5           point in this process where DHR indicated to  
6           you that you should expand your analysis to  
7           include current use properties?

8    A.    No.

9    Q.    Was there ever a point in the process where  
10          DHR indicated that the way in which you were  
11          identifying historic resources was too  
12          narrow, or did they criticize that approach?

13   A.    No.

14                       MR. NEEDLEMAN:  I want to call up  
15          Applicant's Exhibit 224, if we could, Dawn.

16   BY MR. NEEDLEMAN:

17   Q.    This is a May 31st, 2016 DHR letter.  And in  
18          this letter, about halfway down, it indicates  
19          that the resource identification process is  
20          essentially complete, subject to one other  
21          form being submitted.  Do you see that?

22   A.    Yes.

23   Q.    And so this is DHR's indication that you  
24          completed that process.  And in making that

1           indication, they actually specifically refer  
2           to RSA 162-H:7, IV. Do you see that?

3    A.    Yes.

4    Q.    And is it your understanding that 162-H is  
5           actually the New Hampshire state law that  
6           governs this siting process?

7    A.    Yes.

8    Q.    So did you understand that DHR believed that  
9           you had correctly identified historic  
10          resources under the siting process?

11   A.    Yes, most definitely.

12   Q.    And then just -- well, we'll go to the next  
13          one. So let me turn to stone walls again. I  
14          want to clarify something.

15                You at one point answered a question  
16          about stone walls in relation to the MOU, I  
17          think it was Ms. Muzzey's question, and said  
18          that Eversource in the MOU had committed to  
19          avoidance for five years. Do you remember  
20          that?

21   A.    Yes.

22   Q.    Now, I want to turn your attention to Section  
23          D.2 of the MOU. And we don't need to put it  
24          up. But that's actually not correct. There

1 is no limitation on the amount of time that  
2 Eversource will avoid stone walls in the  
3 corridor under the MOU; is that correct?

4 A. I am corrected.

5 Q. And finally, I guess it's not a question for  
6 you but a representation. Ms. Muzzey asked  
7 what happens if the Durham MOU is not  
8 executed. And Eversource, I can represent  
9 that Eversource would be willing to have all  
10 of the conditions of the MOU that have been  
11 agreed to thus far made conditions of the  
12 Certificate even if we don't ultimately agree  
13 on those last few. And when Mr. Selig  
14 testifies later, we'll understand what the  
15 "last few" are.

16 MR. NEEDLEMAN: Nothing further.

17 PRESIDING OFFICER WEATHERSBY: Thank  
18 you.

19 MR. FITZGERALD: Madam Chair. If I  
20 could just ask Mr. Needleman?

21 There was one point today where I  
22 believe Ms. Frink indicated a problem in one  
23 of the maps identifying the proximity of the  
24 Frink Farm to the historic district. Can you

1           have someone take a look into that and see  
2           and give us feedback on whether that's  
3           accurately portrayed on the map or if there's  
4           a problem that needs to be resolved there?

5                       MR. NEEDLEMAN:   Sure.   Yes.   My  
6           recollection is it was already covered.   I  
7           think it was pointed out when Ms. Allen  
8           testified.   And I believe Ms. Allen agreed with  
9           Ms. Widell that the historic district  
10          representation needed to be extended over  
11          further on the map.   And I think that's one of  
12          the number of corrections to the maps that we  
13          understand needs to be made before they're  
14          finalized so that they're all accurate.

15                     MR. FITZGERALD:   I wish I could  
16          remember that far back.

17                     MR. NEEDLEMAN:   Well, somebody sent  
18          me an e-mail a few minutes ago, so...

19                     MR. FITZGERALD:   Thank you.

20                     PRESIDING OFFICER WEATHERSBY:   Thank  
21          you, Ms. Widell, for your testimony.

22                     WITNESS WIDELL:   Thank you very much  
23          for the opportunity to do that today.

24                     PRESIDING OFFICER WEATHERSBY:   Let's

1 take a break, and we'll come back at quarter of  
2 four. At that time Mr. Selig will be our next  
3 witness. I think it's highly unlikely  
4 Mr. Hebert will be reached today, but we will  
5 get to Mr. Selig. Thank you.

6 (Brief recess was taken at 3:34 p.m.,  
7 and the hearing resumed at 3:50 p.m.)

8 PRESIDING OFFICER WEATHERSBY: Let's  
9 get started. If the witness could be sworn in,  
10 please.

11 (WHEREUPON, TODD SELIG was duly sworn  
12 and cautioned by the Court Reporter.)

13 PRESIDING OFFICER WEATHERSBY:  
14 Attorney Patch.

15 DIRECT EXAMINATION

16 BY MR. PATCH:

17 Q. Mr. Selig, could you please state your name  
18 and your address for the record, and your  
19 position.

20 A. Yes. My name is Todd Selig. I'm the  
21 administrator with the Town of Durham, New  
22 Hampshire. I live in Durham, at 3 Nobel K  
23 Peterson Drive.

24 Q. If you could pull your microphone a little

1 closer, too, so we can hear you.

2 How long have you been in that position?

3 A. I'm in my 18th year as the administrator for  
4 the Town of Durham.

5 Q. And could you give the Committee just a brief  
6 summary of your qualifications.

7 A. Yes. I've been in the public sector doing  
8 either municipal or school administration for  
9 the last 25 years. I'm originally from  
10 Laconia, New Hampshire. I have a bachelor's  
11 degree in history and medieval renaissance  
12 studies from Syracuse University and a  
13 master's degree in public administration from  
14 the University of New Hampshire. In addition  
15 to that, I've done some specialized study  
16 programs at Harvard University's Kennedy  
17 School of Government. I've done two of  
18 those.

19 Q. And you submitted prefiled testimony in this  
20 docket, dated July 28th of 2017, which, along  
21 with the four attachments, has been marked as  
22 TD-UNH Exhibit 1; is that correct?

23 A. Yes.

24 Q. Do you have any corrections to that

1 testimony?

2 A. I do not.

3 Q. And if you were asked the same questions  
4 contained in that exhibit today, would your  
5 answers be the same?

6 A. They would.

7 Q. During this morning's testimony and this  
8 afternoon, actually, in fact, there has been  
9 some -- there have been some references to an  
10 MOU between Durham and Eversource. Are you  
11 familiar with that?

12 MR. NEEDLEMAN: Madam Chair, I  
13 object. This is additional direct examination  
14 and it's not appropriate.

15 MR. PATCH: Mr. Needleman asked  
16 questions about the MOU of Mr. Bowes. I can  
17 cite you the specific place in the testimony.  
18 If you'd prefer, if you want to ask questions  
19 about it. But there have been some  
20 misrepresentations this morning about the MOU  
21 and the status of it, so we were trying to be  
22 helpful to the Committee. But it's really up  
23 to you.

24 PRESIDING OFFICER WEATHERSBY: I'll

1           sustain the objection. If it does come up in  
2           cross, you can address it again on redirect.

3                   MR. PATCH: Okay. Thank you.

4 BY MR. PATCH:

5 Q. And Mr. Selig, did you take some pictures of  
6 Little Bay?

7                   MR. NEEDLEMAN: Same objection. This  
8 is just additional direct examination. I don't  
9 think it's appropriate.

10                  MR. PATCH: There's an exhibit that  
11 we offered, which we presented yesterday to Mr.  
12 Raphael, and I wanted to substantiate that he  
13 took those pictures.

14                  MR. IACOPINO: Exhibit 25?

15                  MR. PATCH: Yes.

16                  PRESIDING OFFICER WEATHERSBY: The  
17 objection's overruled. You may continue.

18 BY MR. PATCH:

19 Q. Are you familiar with the pictures that we  
20 have put in as Exhibit 25, TD-UNH 25?

21 A. I am, yes.

22 Q. And did you take those pictures?

23 A. I did take those pictures.

24 Q. And when did you take them?



1     A.     I took them on the late afternoon/early  
2           evening of Friday, October 5th, 2018.  They  
3           were taken at approximately 4:30 p.m.

4     Q.     And we also introduced an Exhibit No. 26  
5           which shows the tidal chart for that day.  
6           Are you familiar with that?

7     A.     Yes.

8     Q.     And that essentially shows you took the  
9           pictures during, it was approximately low  
10          tide?

11    A.     Yes, that's correct.  Low tide was around  
12          3:30 that day, and the earliest we could get  
13          out on the water was 4:00, which got us out  
14          to the location at 4:30.

15    Q.     Okay.

16                         MR. PATCH:  I would like to ask him  
17                         more questions, but my sense is you don't want  
18                         to hear them.

19                         PRESIDING OFFICER WEATHERSBY:  That's  
20                         correct.

21                         MR. PATCH:  Thank you.

22                         WITNESS SELIG:  Thank you.

23                         PRESIDING OFFICER WEATHERSBY:  First  
24                         cross-examiner will be Attorney Geiger from the

1           Town of Newington.

2                           CROSS-EXAMINATION

3   BY MS. GEIGER:

4   Q.    Good afternoon, Mr. Selig.  For the record,  
5           my name is Susan Geiger, and I represent the  
6           Town of Newington.  I'd like to ask you a  
7           couple of questions about those photographs  
8           that have been marked as TD-UNH Exhibit 25.  
9           Are they photographs of Little Bay along the  
10          approximate location of the proposed crossing  
11          by this project?

12   A.    Yes, they are.

13   Q.    And why did you take those photographs?

14   A.    I thought it would be important to get out on  
15          the water once more with all of the most  
16          recent information to ascertain the potential  
17          impacts to the shoreline and the estuary,  
18          both on the Newington side and on the Durham  
19          side.  I thought that by doing so, I could  
20          help this Committee understand what it's like  
21          out on the bay and potential impacts.  You've  
22          heard a lot from abutters, you've heard from  
23          citizens, you've heard from the Applicant,  
24          and you've heard from intervenors.  But I

1 thought it might be useful to get firsthand  
2 feedback from me in a timely way in the midst  
3 of the proceedings.

4 So I arranged the tour with the Great  
5 Bay Waterkeeper. And unfortunately, her boat  
6 broke down, and so we obtained a ride with  
7 Fred Short, who's a professor scientist at  
8 the Jackson Lab Estuary at the University of  
9 New Hampshire. And he brought myself and the  
10 Great Bay Waterkeeper, Melissa Paly, and town  
11 engineer, April Talon, out. And we spent  
12 about two hours on the water looking at both  
13 sides, Newington and Durham, the middle  
14 channel, trying to gauge aesthetic impacts as  
15 well as natural impacts to the Project. And  
16 we also spent a little time on the Little Bay  
17 and went around the corner into the Great Bay  
18 as well to evaluate the difference between  
19 the two areas.

20 Q. Mr. Selig, I'm going to show you the first  
21 photograph in TD-UNH Exhibit 25. Could you  
22 please explain what that depicts.

23 A. Yes. So if you look on the far left side --  
24 and it looks as though it's been cut off of

1           this particular image -- the far left is the  
2           cable house on the Newington side of the bay.  
3           That's the historic cable house. And I  
4           thought it would be helpful to get a sense of  
5           what it looked like on the Newington  
6           shoreline. And I have a host of other  
7           photographs. Some of them proceed farther to  
8           the right where the shoreline is  
9           significantly more natural. This is really  
10          the most developed part of the Newington  
11          side. And what you can see are some homes  
12          along the route dock and the approximate  
13          location of where the proposed concrete mats  
14          and exit point from the bay would be of this  
15          project if it was approved.

16   Q.    I know it's hard for you sitting there, but  
17          could you please -- I'm not going to try to  
18          point to it because I'm not exactly sure I  
19          know, but --

20   A.    I believe it would be --- there's a white  
21          house that's sort of left of center, and it  
22          would be left of that in that clearing of  
23          trees. That's approximately the location.

24   Q.    Now, turning to the second photograph that I

1           have in the same exhibit, TD-UNH 25, could  
2           you please explain what this is.

3       A.    I can.   This was taken to show how shallow it  
4           was from a vantage point of one of the other  
5           photographs that you probably have there.  
6           There's a second photo as well that shows a  
7           crab crawling on the ground.  And there's a  
8           photograph of an oar with mud on it, and  
9           there's the oar.  And in essence, at this  
10          point, which is again an hour off of low  
11          tide, approximately, there was about 9 inches  
12          of water below us in this location.  And if  
13          you show the tall picture, which is sort  
14          of -- thank you.  That's it.  And if you --  
15          can you rise, go the other way?  Yeah, a  
16          little bit farther to the very bottom.  You  
17          can see the bottom left corner is the gunnel  
18          of our boat, okay.  And now you can see it's  
19          quite shallow in this location.  And now,  
20          again, if you slide the photograph down so we  
21          can see the shoreline, you can see how far we  
22          are from the shore.

23                Now, the white building you see here is  
24                the property that Eversource purchased on the

1           Durham side of the shoreline. And you can't  
2           really see it here. It's in shadow. But  
3           between that white house and the shoreline is  
4           the historic brick cable house on the Durham  
5           side. But this gives you a sense of how  
6           rural that shoreline is on the Durham side.  
7           And here is the brick cable house with the  
8           white home above that Eversource purchased.  
9           You can also see the historic distribution  
10          line stanchion or poles which were used to  
11          support the line that went underneath the  
12          bay, which is no longer operable at this  
13          time.

14                 So it gives the Committee, I think, a  
15          sense of what this shoreline is like. And in  
16          my opinion, it's contradictory to what we've  
17          heard from Mr. Raphael, in terms of the,  
18          quote, unquote, moderate scenic value of the  
19          Little Bay. I would disagree with that  
20          assessment.

21    Q.    Mr. Selig, have you personally visited this  
22          area before October 15th of this year?

23    A.    Yes.

24                         MR. NEEDLEMAN: Madam Chair, I'm

1 going to object at this for two reasons: This  
2 is friendly cross-examination, and it's an  
3 example of aligned parties eliciting testimony  
4 from each other that's not at all adverse. And  
5 it's also an example of testimony and material  
6 that could have and should have previously been  
7 included before this time.

8 PRESIDING OFFICER WEATHERSBY: You  
9 want to address that?

10 MS. GEIGER: This is a new exhibit  
11 that the Town of Newington had not seen until  
12 TD-UNH had marked it, and we felt it was  
13 appropriate to ask some questions about it to  
14 give the Committee a better understanding of  
15 Mr. Selig's position on this matter. If the  
16 Committee doesn't believe this line of  
17 questioning is helpful, then I'll move on.

18 (Discussion off the record between  
19 Presiding Officer and SEC Counsel.)

20 PRESIDING OFFICER WEATHERSBY: I'm  
21 going to sustain the objection and ask you to  
22 move on.

23 MS. GEIGER: Okay. I'll ask a  
24 different question then.

1 BY MS. GEIGER:

2 Q. Mr. Selig, along the corridors of Little Bay,  
3 do you understand that this project will  
4 involve the placement of concrete mattresses  
5 along the shores?

6 A. Yes, I do.

7 Q. And do you believe that the placement of  
8 concrete mattresses along the shores of  
9 Little Bay will impact that resource and  
10 recreation?

11 A. I do. I also, based upon my visit on the 5th  
12 of October, was struck by how shallow the  
13 estuary is along the tidal flats. And in  
14 reviewing the photographs of the jet plow  
15 barges that Eversource has provided in the  
16 past as part of this docket, I'm questioning  
17 how close that barge realistically can get to  
18 the shoreline. And I am concerned that the  
19 20-foot wide by 30-foot long, for example,  
20 estimate of the impact on the Durham side may  
21 be significantly understated. I suspect  
22 because of the depth that it will be  
23 necessary for the diving hand digging to be  
24 done to a more significant degree than what



1           has been represented. And I have a concern  
2           that the impact may be greater than what we  
3           are lead to believe today.

4    Q.   Mr. Selig, did the Eversource visual impact  
5           expert, Mr. Raphael, speak with you or other  
6           representatives at the Town of Durham as part  
7           of his evaluation of potential aesthetic  
8           impacts of this project?

9    A.   He did not. And I'm very concerned and  
10          perceive that as a shortcoming in this  
11          process. Neither Mr. Raphael nor the  
12          historic expert we just heard from contacted  
13          the Town of Durham in advance to get our  
14          opinions and perspectives about this project.  
15          We are in the very best-situated position to  
16          provide very objective information and  
17          granular information about what's most  
18          important to our community, both in terms of  
19          what our Master Plan aspires to achieve,  
20          ongoing issues that we deal with on a daily  
21          basis to try to preserve the natural beauty  
22          and aesthetics and scenic quality of our  
23          community and the history. And it's very  
24          unfortunate and an oversight in the process.

1 Q. Now, in the Town of Durham, when new proposed  
2 development on the Bay or on the Lamprey or  
3 Oyster Rivers is being considered, do  
4 developers of new projects evaluate those  
5 projects' impacts only from roadways, or do  
6 they do so from the shores of Little Bay?

7 MR. NEEDLEMAN: Madam Chair, same  
8 objection. I think this is also beyond the  
9 scope of any of his testimony.

10 MS. GEIGER: It's my intent here to  
11 get Mr. Selig's input on behalf of the Town of  
12 Durham on his assessment of the Project's  
13 impacts.

14 PRESIDING OFFICER WEATHERSBY: I  
15 think it is beyond the scope of his testimony.  
16 I'll sustain the objection.

17 BY MS. GEIGER:

18 Q. I believe there had been some testimony in  
19 the past about scenic roads. Are there  
20 scenic roads in Durham?

21 A. We have a number of scenic roads, yes.

22 Q. Do you know the process by which those roads  
23 are designated as scenic by the Town of  
24 Durham or any other town in the state of New

1 Hampshire?

2 A. I do. Scenic roads are something that are  
3 taken very seriously by townspeople, not only  
4 in Durham and Newington, but across the state  
5 of New Hampshire. Typically, if people live  
6 on an older road and there are attractive  
7 stone walls and lovely trees, old-growth-type  
8 trees, many times the residents there want to  
9 ensure that the trees are not cut down on a  
10 willy-nilly basis and that the walls are  
11 preserved. So, in a community, the state  
12 statutes says, I believe it's ten voters or  
13 ten people -- you do not necessarily have to  
14 be a registered voter. You can be a property  
15 owner on the road -- can petition the board  
16 of selectmen to place a warrant article on  
17 the town meeting to designate a road as a  
18 statutorily designated scenic road.

19 In Durham, we have a town council. We  
20 no longer have a town meeting. We have a  
21 nine-member council that has both governing  
22 and legislative authority. But in Durham, in  
23 1970, Durham Point Road was designated as a  
24 scenic road by our town meeting, when we

1           still had a town meeting. And what that  
2           means is that any trees that are 4 feet or  
3           more off the ground and have a girth of  
4           15 inches cannot be cut except by permission  
5           from the local planning board or another  
6           appropriately designated board by the town  
7           meeting. And so in Durham, that board is the  
8           planning board, the Durham Planning Board.  
9           And anytime somebody wants to do adjustments  
10          to a stone wall or do cutting, they have to  
11          come before the planning board to do so. In  
12          fact, at this very time, Eversource is before  
13          the Durham Planning Board seeking permission  
14          to do some cutting on Durham roads that are  
15          scenic roads. And the planning board is  
16          going through a process right now of  
17          evaluating the policies we have in place to  
18          ensure that the cutting is not too extreme,  
19          because the people who live along these roads  
20          want to ensure that the aesthetic qualities,  
21          the scenic beauty of the roadway which drew  
22          them to purchase property on that roadway,  
23          remain intact. And these scenic road  
24          designations can sometimes be the bane of

1           existence for a local road agent or public  
2           works director because it can often seem  
3           plain as day that a tree needs to come down  
4           because it's a problem with plowing or a  
5           concern in one way or another, and the  
6           residents on that road often will disagree --

7                       MS. DUPREY:   Madam Chair, excuse me.  
8           Madam Chair, this explanation is non-responsive  
9           to the question that was asked, which was  
10          process.  It's gone on for five minutes now on  
11          this.

12  BY MS. GEIGER:

13  Q.    Right.  Mr. Selig, if I could refocus you.

14  A.    Sure.

15  Q.    Perhaps I could truncate this a little bit.  
16          Would you agree that RSA 231:157 outlines a  
17          process by which a town may designate a road  
18          as a scenic road in New Hampshire?  Would you  
19          agree with that?

20  A.    I would, yes.

21  Q.    Thank you.

22  A.    Yes.  And my comments were simply to explain  
23          that in fact --

24                       MS. DUPREY:   Enough, enough.  Thank

1           you.

2       A.    -- we care a lot about these scenic roads and  
3           designate them for a reason.

4       Q.    Now, is this project visible from scenic  
5           roads in Durham?

6       A.    It is.

7       Q.    And which roads are those?

8       A.    Bennett Road and Durham Point Road.

9       Q.    Are there other scenic roadways in Durham  
10          other than those two?

11                   MR. NEEDLEMAN:  Objection, Madam  
12           Chair.  This is friendly cross and simply  
13           elaborating on testimony that's already in or  
14           should have been in.

15                   PRESIDING OFFICER WEATHERSBY:  This  
16           is also beyond the scope of his testimony.  He  
17           had no testimony about scenic roads.

18                   MS. GEIGER:  One last question,  
19           please.

20                   PRESIDING OFFICER WEATHERSBY:  Please  
21           go ahead.

22   BY MS. GEIGER:

23       Q.    Mr. Selig, has the Town of Durham expended  
24           resources to participate in this process?

1 A. We have. We've expended \$239,000 to date on  
2 both environmental consultants to vet the  
3 proposed crossing of the bay and on legal  
4 fees.

5 Q. Why did the Town do that?

6 A. Because we care deeply about these resources.

7 Q. Thank you. I have no further questions.

8 MS. GEIGER: Thank you.

9 PRESIDING OFFICER WEATHERSBY: Next  
10 examiner will be Attorney Irwin or the  
11 Conservation Law Foundation.

12 I will say that probably sometime  
13 during Attorney Irwin's cross-examination I  
14 will be leaving, and leaving you in the  
15 capable hands of Attorney Schulock as chair.  
16 But I will indeed, of course, read the  
17 transcript of whatever takes place after I  
18 leave.

19 Please proceed.

20 MR. IRWIN: Thank you, Madam Chair.

21 CROSS-EXAMINATION

22 BY MR. IRWIN:

23 Q. Good afternoon, Mr. Selig. For the record,  
24 I'm Tom Irwin. I represent the Conservation

1 Law Foundation.

2 A. Hello.

3 Q. Referring to your prefiled testimony,  
4 specifically TD-UNH Exhibit 1, on Page 5,  
5 starting at Line 6, you start a discussion  
6 about the ecological issues that Little Bay  
7 is facing. And in the context of that  
8 discussion, specifically starting at Line 9,  
9 you reference the 2013 State of the Estuaries  
10 Report, published by the Piscataqua Region  
11 Estuaries Partnership. Am I correct that you  
12 have a role in the Piscataqua Region  
13 Estuaries Partnership?

14 A. I am. I'm on the management committee, which  
15 essentially is the board of directors for the  
16 PREP.

17 Q. And what exactly is the Piscataqua Region  
18 Estuaries Partnership, or PREP?

19 A. It is a partnership essentially that is  
20 established under the National Estuarine  
21 Research Program, which falls under the  
22 United States Environmental Protection  
23 Agency. And the goal is to provide resources  
24 and community regional collaboration around



1 an important national resource. And the  
2 Great Bay Estuary is considered an estuary of  
3 national significance. So the Piscataqua  
4 Region Estuaries Partnership was established  
5 many years ago to bring together a variety of  
6 stakeholders with different interests --  
7 economic, social, aesthetics,  
8 environmental -- to evaluate the health of  
9 the estuary and to put in place strategies to  
10 improve the health of the estuary, because  
11 unfortunately the estuary is an impaired  
12 water body. It's at risk.

13 Q. And as referenced, your testimony  
14 specifically references and includes as an  
15 attachment the 2013 State of the Estuaries  
16 Report. Does PREP -- does the Piscataqua  
17 Region Estuaries Partnership periodically  
18 prepare these reports to inform the public on  
19 the state of the estuary data trends?

20 A. They do. There's a five-year cycle. And at  
21 the time of my testimony submittal in 2017,  
22 PREP was in the process of updating the State  
23 of the Estuaries Report. And in 2018, this  
24 year, PREP came out with a new report, an

1 updated report, that confirms that the  
2 estuary is still in peril. The estuary --  
3 PREP established a variety of indicators  
4 which outlined ways in which we can  
5 understand the health of the estuary is in  
6 decline. And those include things such as  
7 total suspended solids, nutrient loading,  
8 nitrogen concentration, phytoplankton  
9 concentration, seaweeds, dissolved oxygen  
10 levels, eelgrass in particular -- that's a  
11 very important measure -- bacteria and toxic  
12 contaminants, among many other things. And I  
13 see you have a copy of the report there.

14 Q. Yes. I'm showing what's been marked as CLF  
15 Exhibit 22, which is the 2018 State of the  
16 Estuaries Report.

17 So, in your testimony referencing the  
18 2013 report, you mentioned indicators that  
19 PREP applied and determined that out of 16  
20 environmental indicators, 12 either had  
21 negative or cautionary trends.

22 A. That's correct.

23 Q. Are you familiar with the 2018 State of Our  
24 Estuaries Report and the extent to which

1           those indicators changed?

2       A.    The 2018 report expanded the number of  
3           indicators to try to better explain for our  
4           constituent audience in the Seacoast and  
5           across New Hampshire ways in which the  
6           estuary is in peril and ways in which we can  
7           measure whether there are improvements.  And  
8           the good news in this report was that there  
9           was progress in preserving more land for  
10          conservation.  There have been improvements  
11          to a number of the wastewater treatments  
12          plants and all of the sewer communities that  
13          empty into the bay.  And the EPA and the New  
14          Hampshire Department of Environmental  
15          Services are in an ongoing process to  
16          continue to improve the effluent outflow from  
17          those wastewater communities, in particular,  
18          trying to reduce the amount of nitrogen  
19          that's being deposited into the bay.  And the  
20          communities surrounding the bay have spent  
21          millions of dollars over the last several  
22          years to address this very important issue.

23                But they've looked as well at the  
24          shellfish beds.  And we've seen an increase

1           in those. But again, unfortunately, eelgrass  
2           is continuing to be in a very tenuous  
3           position. And for those who don't know,  
4           eelgrass is essentially the linchpin to the  
5           health of the estuary. The grass provides a  
6           safe place for small fish to thrive and for  
7           larger fish to hunt for them and for other  
8           mammals and things to come and hunt those  
9           creatures. And so a healthy estuary is very  
10          important to the ecosystem of the entire  
11          region, and the rivers that empty into the  
12          bay as well.

13        Q.     So just a quick question about the page that  
14                I have up on the projector right now. This  
15                is Page 12 of the 2018 State of Our Estuaries  
16                Report. It's an Indicator Summary.

17                If you could, for the Committee's  
18                benefit, just briefly describe, or I can walk  
19                us through it, the large orange circle  
20                contains a number of indicators indicating  
21                cautionary trends; is that correct?

22        A.     Yes.

23                       MR. NEEDLEMAN: Objection, Madam  
24                Chair. The original report was attached to his

1 testimony. I think if he wanted to attach an  
2 updated version and explain any issues of  
3 importance to the Town, he could have done so.  
4 This just sounds like repetitive friendly  
5 cross.

6 MR. IRWIN: Madam Chair, I have no  
7 control over what testimony this witness  
8 provides or has provided. What I'm doing is  
9 bringing his testimony up to date with more  
10 current information. I would agree this would  
11 be friendly cross. It's duplicative if I were  
12 going through this process with the 2013  
13 report, which the Committee already has. This  
14 is additional information, more current  
15 information that will benefit the Committee.

16 MR. NEEDLEMAN: If the witness wanted  
17 to update his testimony in July with this  
18 report, he could have done so and should have  
19 done so.

20 MR. IRWIN: This is not my witness.

21 WITNESS SELIG: I can see the health  
22 of the estuary is still very --

23 PRESIDING OFFICER WEATHERSBY: Just a  
24 minute. Mr. Selig, hold on just a minute.

1 (Discussion off the record between  
2 Presiding Officer and SEC Counsel.)

3 PRESIDING OFFICER WEATHERSBY: I'm  
4 going to allow the testimony and overrule the  
5 objection. This is a change of -- there  
6 certainly was a lot of testimony about the  
7 state of the estuary, and there has been some  
8 new information. You may ask him about it.

9 MR. IRWIN: Thank you, Madam Chair.

10 BY MR. IRWIN:

11 Q. So, Mr. Selig, the indicators in the orange  
12 circle are indicated as cautionary trends for  
13 the estuary; is that correct?

14 A. Well, my color may not be the same as yours.  
15 So the indicators in the large, I view this  
16 as yellow, are cautionary; the indicators in  
17 the orange are negative; and the indicators  
18 in the blue shows some positive movement. So  
19 the news wasn't all bad in the 2018 State of  
20 our Estuaries Report, but there are still  
21 significant concerns. And at the local  
22 level, we're all working very hard to address  
23 them.

24 Q. Thank you.

1           And would you agree, Mr. Selig, that the  
2           State of the Estuaries Report in this case,  
3           the 2018 State of the Estuaries Report, is  
4           the most recent, accurate and most  
5           comprehensive assessment of the state of the  
6           Great Bay Estuary?

7    A.    It is, yes.

8    Q.    Thank you.

9           So you mentioned today and in your  
10          prefiled testimony investments that  
11          municipalities have made. What investments,  
12          and to the extent you can talk about specific  
13          dollars, has the Town of Durham made in  
14          upgrading or optimizing the operation of its  
15          wastewater treatment facility?

16   A.    Sure. The Town of Durham, so the Committee  
17          understands, handles the wastewater flow both  
18          from the Town of Durham and the University of  
19          New Hampshire. And so our treatment plant  
20          processes about 1.2 or 1.3 million gallons a  
21          day of sewerage. And we spend approximately  
22          half a million dollars a year on upgrades to  
23          the plant on an ongoing basis to try to  
24          improve our effluent quality so that we

1           reduce the amount of nitrogen and other  
2           harmful matters that we're releasing into the  
3           Oyster River which flows into the bay.

4       Q.   Mr. Selig, are you aware of investments that  
5           the towns of Newmarket and Exeter have made  
6           in their wastewater treatment facilities?

7                       MR. NEEDLEMAN:  Objection.  
8           Relevance.

9       A.   I am.

10                      MR. IRWIN:  This goes to further  
11           information.  I am not asking this witness to  
12           rehash what he has provided in his prefiled  
13           testimony.  I am looking to elicit additional  
14           information for the benefit of the Committee  
15           about investments that municipalities are  
16           making to protect this resource.  And I would  
17           add, this will be about two minutes worth of  
18           questioning.

19                      (Discussion off the record between  
20           Presiding Officer and SEC Counsel.)

21                      PRESIDING OFFICER WEATHERSBY:  I'm  
22           going to sustain the objection.

23       BY MR. IRWIN:

24       Q.   Mr. Selig, can you speak to the investments



1           that the Town of Durham has made in  
2           stormwater management?

3       A.    Again, the Town of Durham and the University  
4           of New Hampshire work together in terms of  
5           addressing stormwater to comply with our  
6           federal permits. And we have made ongoing  
7           investments over the last five years to  
8           improve what we do. That includes sweeping  
9           the streets on a regular basis to get  
10          material off the streets because that  
11          eventually will run into our catch basins,  
12          into our rivers and into the bay. We also  
13          have been improving outfalls and storm drains  
14          and spend approximately \$40- to \$70,000 a  
15          year on those activities to try to make those  
16          improvements on an ongoing basis. We've also  
17          had to improve our tracking of what we are  
18          doing. We've worked to try to -- well, I'll  
19          stop there.

20       Q.    Thank you.

21                       MR. IRWIN: I guess, Madam Chair, to  
22           preserve this issue, I guess I'd like -- the  
23           objection was sustained. On what basis? I'd  
24           like to preserve the right to argue that I

1       should be able to ask questions that go beyond  
2       the substance of his prefiled testimony. It's  
3       related to it, such as impacts and municipal  
4       investments, but that is not locked into his  
5       testimony. I believe this witness, over whom I  
6       have no control, is not my witness, has  
7       additional information that goes to matters  
8       such as the types of investments that  
9       municipalities have made to protect this  
10      resource, the priority that the communities are  
11      making to protect this resource. And I believe  
12      I should be able to ask those questions.

13               (Discussion off the record between  
14               Presiding Officer and SEC Counsel.)

15               PRESIDING OFFICER WEATHERSBY: So  
16       that information which you wish elicit from  
17       this witness is not really relevant for this  
18       Committee. What we're charged -- the fact that  
19       towns have made investments to help the bay  
20       improve its water quality is not directly  
21       related to what this committee needs finds as  
22       to the impact of the Project on the bay.

23               MR. IRWIN: Okay. Thank you. I  
24       appreciate that clarification. Thank you.

1 BY MR. IRWIN:

2 Q. Mr. Selig, I assume during the course of this  
3 proceeding you've heard testimony about  
4 concrete mattresses?

5 A. I have.

6 Q. Does the Town still have concerns with the  
7 potential installation of concrete  
8 mattresses?

9 A. We do.

10 Q. Have those concerns increased from  
11 information that you've learned during the  
12 course of this proceeding as to the number of  
13 concrete mattresses that might be used?

14 A. We suspect the number of concrete mattresses  
15 that will be ultimately required because of  
16 the shallow depth of the crossing are  
17 underestimated by the Applicant.

18 Q. And do you have concerns that the  
19 installation of concrete mattresses may  
20 interfere with the public's use and enjoyment  
21 of Little Bay, including, but not limited to,  
22 residents of Durham?

23 A. Yes.

24 Q. You've also heard, I assume, during the

1 course of this proceeding additional  
2 information about horizontal directional  
3 drilling?

4 A. Yes.

5 Q. In your prefiled testimony at Page 8, Lines  
6 17 to 19, you state that the fact that HDD  
7 could be technically challenging should not  
8 trump the negative impact of the proposed  
9 plan to Little Bay.

10 Since the time of your prefiled  
11 testimony, and having heard additional  
12 information and analyses from the Applicant  
13 about the feasibility of horizon directional  
14 drilling, has the Town's position on HDD  
15 changed?

16 A. It has not. We still believe that the SEC  
17 should have its own impartial analysis done  
18 on the HDD alternative so that we can have an  
19 unbiased perspective.

20 MR. IRWIN: Thank you. I have  
21 nothing further.

22 PRESIDING OFFICER WEATHERSBY: We'll  
23 next hear from the Durham Residents, Attorney  
24 Brown.

1 MS. BROWN: I know we requested 15  
2 minutes, but hopefully we can get it done in  
3 five or less, or more.

4 MR. IACOPINO: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BROWN:

7 Q. Mr. Selig, in your prefiled testimony, which  
8 is marked as Town of Durham-UNH Exhibit 1,  
9 you mentioned that you had attended a number  
10 of meetings. And so first question we have  
11 is do you know when the Applicant first  
12 notified the Town of Durham of the Project in  
13 relation to those meetings?

14 A. I do. Take me a moment to find it, but I do.

15 (Witness reviews document.)

16 A. It was on 11/22/13. So, November 22, 2013.

17 Q. Thank you. I didn't know you had a specific  
18 date. Thank you.

19 Now, was this before -- or did you  
20 attend a meeting with the Applicant that was  
21 held at the Durham High School?

22 A. I did.

23 Q. And was this before that? Was this 2013 date  
24 before that meeting at the high school?

1     A.     It was long before that meeting at the high  
2           school, yes.

3     Q.     Okay.  Were some of those meetings on  
4           negotiations to resolve concerns?

5     A.     Well, the initial contact was from  
6           representatives from Eversource who met with  
7           myself and our public works director and our  
8           town planner, again, in November of 2013.  
9           And the purpose of the meeting was to let us  
10          know that they, Eversource, perceived,  
11          believed, had concluded that there was a  
12          power problem in the Seacoast, and working  
13          through ISO-New England had determined that  
14          it was important to bring additional power to  
15          the coast because the -- I don't have the  
16          terminology, and I apologize -- the maximum,  
17          the peak demand was already being exceeded  
18          during certain times during very hot days or  
19          very cold days.

20    Q.     I appreciate the explanation of what the  
21           content of those meetings were.  I'm just  
22           trying to get the timing of them.

23    A.     Right.  So that initial meeting was intended  
24           to inform us that they were working on a

1           solution. They had looked at three or four,  
2           I think four different alternatives -- a  
3           northern route, a southern route, a route  
4           that came through Durham, and then in  
5           addition there was a transformer alternative  
6           in Newington that they looked at. And based  
7           on their review at that time, and working  
8           with ISO New England, they thought that  
9           probably the Durham route would be the route  
10          they were favoring at that time. But they  
11          had no information about what that entailed.  
12          We didn't have information about pole heights  
13          or how the bay would be crossed. All that  
14          was to come. And we didn't hear from  
15          Eversource again --

16                       MR. SCHULOCK: Mr. Selig, can I  
17                       interrupt you for a second?

18                       WITNESS SELIG: Yes, yes.

19                       MR. SCHULOCK: Ms. Brown, would you  
20                       repeat your question, because I believe his  
21                       answer is non-responsive.

22                       MS. BROWN: The answer -- or the  
23                       question was I wanted the timing of when he  
24                       first learned of the -- or when he was first

1           approached by the Applicant and when they  
2           commenced negotiations. And his explanation  
3           appears to be explaining that they didn't start  
4           negotiations because these were preliminary. I  
5           believe that's the context. But if you want  
6           him to tighten it up to my request --

7                       MR. SCHULOCK: Yes, please.

8    A.    So Eversource returned to brief us on where  
9           they were in January of 2015. So, a little  
10          more than a year went by while Eversource  
11          worked on their project. And when they  
12          returned, Eversource and representatives from  
13          Durham, and eventually UNH, met with  
14          Eversource to try to work through concerns we  
15          had regarding the Project.

16   Q.    Okay. If I could --

17   A.    And we had probably 30 or so meetings. We  
18          had a lot of meetings. I think Eversource  
19          has a tally of the number of meetings with  
20          Durham, and they have 34 meetings listed.

21   Q.    And you're referring to a list. Do you have  
22          an exhibit number on that?

23   A.    APP EX 214.

24   Q.    Thank you. So next question is at what point



1           did the Town of Durham understand that the  
2           Project is as it is now?

3       A.   Well, the Project was not exactly as it is  
4           now. There were numerous modifications that  
5           were made in discussions with Durham and UNH.

6       Q.   And were those modifications as a result of  
7           negotiations?

8       A.   They were a result of discussions about  
9           concerns we had.

10                   And to answer your prior question,  
11           Eversource held a pre-application and public  
12           information session, open house, at the high  
13           school in Durham, at 55 Coe Drive, on  
14           April 22nd, 2015. And Durham televised that  
15           session.

16       Q.   Was that public information session a meeting  
17           that the public could comment at?

18       A.   It was a meeting the public could hear about  
19           the Project at. But there was not, as I  
20           recall, the ability for the public to provide  
21           much feedback.

22       Q.   Okay. And that was a meeting that you  
23           attended, not that the Town sponsored it.  
24           But you were just attending the Applicant's

1 meeting; is that fair to say?

2 A. Yes. There were several parts of that  
3 meeting. I don't want to be non-responsive.  
4 So cut me off if that's not what you want to  
5 know.

6 There were several -- that meeting was  
7 an interesting meeting. It was -- there was  
8 a portion of the room that was set up a  
9 little bit like a trade show venue --

10 MS. DUPREY: We're into now the  
11 non-responsive territory.

12 WITNESS SELIG: Okay. That's fine.

13 BY MS. BROWN:

14 Q. So is it also fair to say that the Town did  
15 not have any input on whether the testimony  
16 from residents could be offered at that  
17 public information session?

18 MR. NEEDLEMAN: Objection, Mr. Chair.  
19 This feels like friendly cross again.

20 MS. BROWN: Want me to rephrase the  
21 question?

22 MR. SCHULOCK: Yes, please.

23 BY MS. BROWN:

24 Q. Mr. Selig, at this public hearing or public

1 meeting that you're talking about at the high  
2 school, you did not have any input as to  
3 whether the public could comment; is that  
4 fair then?

5 MR. NEEDLEMAN: Same objection. This  
6 all relates to material that happened years ago  
7 and could have and should have been included in  
8 his testimony if it was important to him. This  
9 is just aligned parties eliciting additional  
10 information from each other.

11 MR. IACOPINO: We have as part of the  
12 record the transcript of this, I believe.  
13 Wasn't that submitted? This is the meeting of  
14 April 7th, 2015, something like that.

15 WITNESS SELIG: April 22nd, 2015.

16 MR. IACOPINO: April 22nd. So we  
17 have the transcript of that meeting in our  
18 record.

19 MS. BROWN: Yeah, I will rephrase the  
20 question, because we're trying to parse out  
21 when the Town was involving the public or not.  
22 And Mr. Selig has referenced that he has held  
23 meetings, and we're trying to understand the  
24 nature of those.

1 BY MS. BROWN:

2 Q. So then, did the Town have public meetings on  
3 its own that it sponsored where it discussed  
4 the Project and where the public could  
5 comment?

6 A. Yes.

7 Q. And what time period did those start?

8 A. The Town invited Eversource to participate in  
9 a public forum at the town hall in Durham on  
10 June 22nd of 2015. And we had a panel of  
11 Eversource representatives who spent three or  
12 four hours answering questions from concerned  
13 Durham residents. We had a very  
14 well-attended meeting.

15 And then, in addition, on July 22nd,  
16 2015, Durham organized a bus tour of the  
17 route. And we filmed that on our local PEG  
18 station. And interested residents were able  
19 to come. And we aired those -- we aired the  
20 tour on TV.

21 Q. And so are both of those meetings that the  
22 Town noticed and held?

23 A. Those are meetings the Town organized and  
24 held. Eversource, on its own, held a variety

1 of other meetings.

2 Q. Yeah, but I'm just trying to get a sense of  
3 the Town-sponsored --

4 A. The Town viewed this primarily as an  
5 Eversource project, and we looked to  
6 Eversource to provide the notice, the  
7 meetings, the outreach to the community.

8 Q. So, then, when the Town held the two meetings  
9 that you just identified, and one of them was  
10 the bus meeting, did the Town go through --  
11 or did the Town satisfy the notice  
12 requirements of those public meetings?

13 A. They were public information meetings. There  
14 was no notice requirement to fulfill. We did  
15 let people know about them, and we broadcast  
16 the fact that they were occurring in our  
17 weekly Friday updates and newsletter which  
18 goes to about 3200 Durham subscribers weekly,  
19 every Friday.

20 Q. So then it sounds like, is it accurate, that  
21 the Town did not send notice to abutters  
22 specifically for these meetings?

23 A. We did not.

24 Q. And would you agree that abutters would have

1           had a heightened interest in the Project than  
2           non-abutters?

3       A.    Absolutely.  And I know as well that, in  
4           fairness to Eversource, Eversource did, on  
5           many occasions, send notices to abutters of  
6           various proceedings.

7       Q.    But did you just testify just a moment ago  
8           that, even though Eversource had sent out  
9           those notices, that the Town did not rely on  
10          those notices as it's own -- as the Town's  
11          obligation to notice a public meeting?

12      A.    Well, Eversource -- again, if you look at  
13           Exhibit APP EX 214, which Eversource has  
14           provided, they list eight public input  
15           events.  And Eversource did all of the  
16           noticing for those events.  And in addition,  
17           the Town of Durham let people know as well  
18           through our weekly Friday update newsletter.

19      Q.    I think I had a "Yes" or "No" answer that I  
20           was looking for on that.

21      A.    You'll have to repeat that question again.  
22           I'm sorry.  I lost you.

23      Q.    Is it correct, then, that you had testified  
24           just a moment ago that the Town did not rely

1           on the notices provided by Eversource as the  
2           Town's -- satisfying the Town's obligation to  
3           perfect notice of a public meeting?

4    A.   Well, there are eight different events that  
5           Eversource has listed, and they provided all  
6           the notice for their events and --

7    Q.   I think that's responsive. Thank you.

8    A.   Okay.

9                       MS. BROWN: Thank you.

10                      MR. IACOPINO: Mr. Selig, I'm jut  
11           going to remind you to please listen to the  
12           question and answer the question that's asked,  
13           okay, without going beyond what's being asked  
14           of you. You're going to be questioned by  
15           people who are not lawyers now, so some of the  
16           questions may not be as direct as we would  
17           like, and it would be easy to get off track.  
18           So we'd ask you to please listen to the  
19           question and answer the question.

20                      WITNESS SELIG: I'm not trying to go  
21           off track. It's just that for five years now  
22           we've been working through this process in a  
23           painstaking way, and they're not "Yes" or "No"  
24           questions.

1                   MR. IACOPINO: I certainly  
2 understand. And I wasn't asking for a  
3 discussion about it. I was just cautioning  
4 you, okay.

5                   WITNESS SELIG: Thank you.

6                   CROSS-EXAMINATION

7 BY MS. MACKIE:

8 Q. I have one question. Yesterday, Mr. Raphael,  
9 in his visual assessment explanation, talked  
10 about something called the "Mills Byway," and  
11 Durham has one. Can you explain what that  
12 is?

13 A. I can. The State of New Hampshire Department  
14 of Transportation has a Scenic Byway Program.  
15 And Durham and Newmarket and Rollinsford  
16 worked together for two years to propose with  
17 the Strafford Regional Planning Commission a  
18 byway, called the "Mills Scenic Byway," which  
19 stretches from Newmarket to Rollinsford. And  
20 the route through Durham is along Newmarket  
21 Road/Route 108. And it travels from, again,  
22 Newmarket along 108 into the center of Durham  
23 and then heads towards Dover.

24 Q. So this is a state program that has to pass



1           some kind of threshold to be approved?

2       A.    There are national criteria, and the  
3           Department of Transportation vets those and  
4           ultimately approves them.  There's a whole  
5           process.  There are public hearings that we  
6           went through to have the byway approved.  And  
7           the goal is to promote the cultural and  
8           scenic characteristics of an area to promote  
9           tourism primarily.

10      Q.    Thank you.

11                               MR. SCHULOCK:  Mr. Aslin.

12                               CROSS-EXAMINATION

13      BY MR. ASLIN:

14      Q.    Good afternoon, Mr. Selig.

15      A.    Good afternoon.

16      Q.    For the record, I'm Chris Aslin, acting as  
17           Counsel for the Public.

18                       In your testimony, which is TD-UNH  
19           Exhibit 1, on Page 2, you set out the Town's  
20           preference for a number of options.  And one  
21           of those options or preferences, I guess, is  
22           that horizontal directional drilling be used  
23           for the crossing of Little Bay; is that  
24           correct?

1 A. Yes.

2 Q. And you've heard testimony since your  
3 prefiled testimony about the feasibility of  
4 that option; is that correct?

5 A. Yes.

6 Q. And we've also heard testimony about the  
7 additional cost of that option.

8 A. Yes.

9 Q. And you understand that it's significantly  
10 more costly, according to the Applicant's  
11 testimony?

12 A. Yes.

13 Q. Given that it's more costly, does that change  
14 the Town's preference in any way?

15 A. It does not.

16 Q. Okay. And if the cost, the additional costs  
17 of using HDD were localized to New Hampshire  
18 customers as opposed to all New England  
19 customers, would that change the Town's  
20 preference in any way?

21 A. First, they should not be. But second, no,  
22 it would not.

23 Q. Okay. Thank you.

24 You also have testimony on Page 10

1           regarding the process you've engaged with the  
2           Applicant on in agreeing to an MOU. Do you  
3           recall that testimony?

4    A.   We've not yet agreed to one, but we are in  
5           negotiations with them.

6    Q.   Correct. So you state on Page 10 of your  
7           testimony, at Lines 5 and 6, that you have  
8           had no outreach from Eversource concerning  
9           your latest iteration of the MOU. And that  
10          was as of, I guess, June of 2017. Have you  
11          had -- since the time of your testimony in  
12          July of 2017, have you had further  
13          discussions with Eversource?

14   A.   At that time, other than Eversource  
15          indicating in these proceedings, not directly  
16          to Durham, that they'd be open to such an  
17          MOU, we've had no outreach from Eversource or  
18          movement from Eversource toward an MOU.  
19          Since that time, the submittal of my  
20          testimony, we have. And we've exchanged  
21          numerous drafts, and we are trying to work  
22          towards a final draft that is amenable to  
23          both parties. We're not quite there yet.

24   Q.   Okay. And so at this point you have not

1           reached agreement. But are those discussions  
2           ongoing?

3    A.    They are, yes.

4    Q.    Okay. All right. And I believe in your  
5           testimony you stated that if you can't reach  
6           agreement on the MOU, you would ask that the  
7           provisions of the draft be included as  
8           conditions of the Certificate, if one is  
9           issued by the Committee; is that correct?

10   A.    Yes.

11   Q.    And that remains your position?

12   A.    Yes.

13   Q.    Okay. Thank you.

14           On Page 11 of your testimony, you have a  
15           conclusion that the Project as proposed at  
16           the time of your testimony would have --  
17           sorry -- would unduly interfere with the  
18           orderly development of the region. Has that  
19           opinion changed in any way based on updates  
20           since your testimony?

21   A.    No.

22   Q.    Okay. And in what way does the Town of  
23           Durham feel the orderly development of the  
24           region would be unduly interfered with?

1     A.    We believe it's inconsistent with our Master  
2           Plan.  We believe it will have negative  
3           historical impacts and visual impacts, scenic  
4           impacts.  And I think, in addition, and very  
5           significantly, we're concerned about the  
6           environmental impact on the Little Bay, which  
7           we, in Durham, have worked tirelessly to  
8           protect.

9     Q.    And you mentioned a few different categories  
10           that are also other criteria that the  
11           Committee reviews, such as aesthetics and  
12           environmental concerns.  Is it the Town's  
13           position that those impacts also play into  
14           the orderly development criteria?

15    A.    Yes.

16    Q.    Okay.  And how so?

17    A.    Well, we have a concern that --

18                   MR. PATCH:  Mr. Chair, I think I'm  
19           going to object to that question as asking for  
20           a legal conclusion.  And I guess if Mr. Aslin  
21           wanted to put in front of Mr. Selig the  
22           criteria in Section 16 so he understood the  
23           distinction that I think Mr. Aslin is trying to  
24           make, then maybe I wouldn't have an objection.

1 But I think he's essentially trying to  
2 distinguish between the orderly development  
3 criteria that the Committee uses and some of  
4 the other criteria. And I'm not sure without  
5 Mr. Selig having that in front of him, that he  
6 understand the nuances that Mr. Aslin is trying  
7 to get at.

8 MR. SCHULOCK: Mr. Aslin.

9 MR. ASLIN: I'd be happy to put it in  
10 front of him.

11 BY MR. ASLIN:

12 Q. And Mr. Selig, my intent is just to tease out  
13 which particular impacts you feel would  
14 impact or affect the orderly development of  
15 the region as opposed to the environmental or  
16 aesthetics. But I think I can put up the  
17 rule.

18 A. Can you make it a little larger, please? And  
19 which section should I be reading?

20 Q. So this is Site 301.09, which describes the  
21 categories of information that go into the  
22 decision-making of orderly development. And  
23 you'll see Subpart A has to do with land use  
24 impacts; B, economy; and C, employment. It's

1 cut off, but there's only one more paragraph  
2 below there. And within each of those  
3 there's some subcategories, such as tourism  
4 and real estate property values.

5 And so with regard to the environmental  
6 impacts, I just want to understand if the  
7 Town -- I understand the Town has a concern  
8 with environmental impacts. But does the  
9 concern go beyond the environment and reach  
10 into issues like the economy or land use?

11 A. I think land use in particular.

12 Q. Okay. All right. Thank you.

13 With regard to the environmental  
14 concerns that the Town has expressed, in  
15 particular with the Little Bay crossing,  
16 would it be fair to say that the Town is  
17 concerned with the level of risk that they  
18 see with this proposed jet plowing process?

19 A. Yes.

20 Q. But that the Town also does not have specific  
21 knowledge of what the impacts will be?

22 A. That's correct. Our experts have tried to  
23 offer suggestions to mitigate the risk to the  
24 extent possible. And we've tried as a

1 community to be very reasonable and objective  
2 as part of this process. And so, you know,  
3 A, our feeling was this SEC should require  
4 that the transformer alternative be  
5 evaluated. If that's not feasible, if that's  
6 what the group determines, then, B, let's  
7 look at HDD and make sure that's not a better  
8 option. And if it's determined through an  
9 objective review that it's not, then, C, if  
10 the Committee still feels the Project should  
11 go forward, let's do everything we can to  
12 protect the resource as part of the jet plow  
13 process. And so our environmental team has  
14 focused in on the jet plowing and has offered  
15 a lot of suggestions as part of this process.

16 Q. Okay. Thank you.

17 Have you had any discussions with the  
18 Applicant regarding potential restoration or  
19 other mitigation in the event that there are  
20 impacts from the jet plowing?

21 A. We have not. The only caveat is -- I don't  
22 know if this is what you're getting at. The  
23 Applicant would be required to contribute  
24 monies to the ARM program. But that's not



1           really relating to if something goes terribly  
2           badly with the jet plow process.

3    Q.    Thank you.

4                    We had some testimony earlier today  
5           about the Section 106 process, and I wanted  
6           to clarify the Town's role in that process.

7                    I believe the testimony was that the  
8           Town of Durham was not a consulting party in  
9           that 106 process. Is that correct?

10   A.    Can you describe to me what "consulting  
11           party" means?

12   Q.    I can try --

13   A.    We were not consulted. But what does  
14           "consulting party" mean?

15   Q.    Consulting party -- I'll give it my lawyerly  
16           gloss. But in the Section 106 process, a  
17           consulting party is a party that is invited  
18           to participate in the review process of  
19           impacts to historic resources and to comment  
20           on that review process collaboratively while  
21           it's happening. It sounds like the Town was  
22           not a consulting party if you don't know what  
23           it is.

24   A.    We were not.

1 Q. Okay.

2 A. I would like to note that this is a large  
3 project, and we have limited resources at the  
4 local level. And so Durham, as a  
5 municipality, focused our attention primarily  
6 on the impacts of the crossing of the bay.  
7 And the Durham Historic Association, which  
8 occupies a base in our historic building in  
9 town and is the keeper of our artifacts,  
10 focused on historic impacts. And I did ask  
11 the Division of Historic Resources to keep  
12 the Durham Historic Association up to date on  
13 any meetings that were going to be taking  
14 place regarding history. And unfortunately,  
15 a meeting did take place in Newington with  
16 the Army Corps people and NHDHR and Newington  
17 representatives, and neither Durham nor the  
18 Durham Historic Association were notified of  
19 that meeting. We found out about it from  
20 Newington representatives, and after the  
21 fact.

22 Q. Okay. Thank you.

23 A. So we requested then a meeting with NHDHR and  
24 met with them on October 27th, 2017.

1                   MR. SCHULOCK: Mr. Selig, we're  
2                   getting a little bit beyond the question at  
3                   this point.

4 BY MR. ASLIN:

5 Q.     So, thank you, Mr. Selig.

6                   Have you -- has the Town as opposed to  
7                   the Durham Historic Association been  
8                   receiving notices of any kind or  
9                   communications from the U.S. Army Corps  
10                  regarding the Section 106 process?

11 A.     We have not, no.

12 Q.     Okay. Thank you.

13                  Last question I think. In your  
14                  discussions with the Applicant, has the  
15                  Applicant either sought out or discussed with  
16                  the Town obtaining a license to install  
17                  utilities either under or over municipal  
18                  roads, pursuant to the RSA 261:160 process?

19 A.     They have not, to my knowledge.

20 Q.     Okay. Thank you very much.

21                  MR. ASLIN: No further questions.

22                  MR. NEEDLEMAN: So I have, I'm  
23                  guessing, somewhere between a half-hour and 25  
24                  minutes.

1 MR. SCHULOCK: Proceed then.

2 CROSS-EXAMINATION

3 BY MR. NEEDLEMAN:

4 Q. Good afternoon, Mr. Selig.

5 A. Good afternoon.

6 Q. I want to start -- Ms. Brown was asking you  
7 questions about the interactions that the  
8 Applicant has had with Durham, and that's  
9 where I wanted to start.

10 MR. NEEDLEMAN: Dawn, could you put  
11 up Applicant's Exhibit 214, please.

12 BY MR. NEEDLEMAN:

13 Q. You have been alluding to this document.  
14 This is a summary of the contact history that  
15 the Applicant has had with Durham and UNH; is  
16 that correct?

17 A. It is. Yes.

18 Q. I think, as you mentioned earlier, it  
19 indicates that the first meeting that the  
20 Applicant had with the Town was in November  
21 of 2013; is that right?

22 A. Yes.

23 Q. And the document indicates in total that  
24 there were 34 meetings between that point in

1           June of 2018 with the Town, with the Town and  
2           UNH, with various groups; is that right?

3       A.     That's right.

4                       MR. NEEDLEMAN:   Now I want to put up  
5           Applicant's 215, if we could, Dawn.

6       BY MR. NEEDLEMAN:

7       Q.     This is a similar document.   It pertains to  
8           contacts directly with UNH.   Have you had a  
9           chance to look at this as well?

10      A.     I have.

11      Q.     And the first meeting, according to this  
12           document, was in December of 2014; is that  
13           right?

14      A.     Yes.

15      Q.     And you agree that this also indicates that  
16           there were a total of 38 meetings between  
17           then and August of 2018, again, some combined  
18           with Durham; is that right?

19      A.     That is correct.

20                   MR. PATCH:   Mr. Chair, I'm going to  
21           object to that question.   You know, Mr. Selig  
22           is here to testify for Durham, and I don't  
23           think he can speak to all of the meetings that  
24           the Applicant might have had with UNH.   I mean,

1           he can certainly speak to ones where there were  
2           joint meetings. But I think the question was  
3           about all of the meetings with UNH, and so I  
4           would just object to that question. Maybe he  
5           can reframe it.

6                       MR. NEEDLEMAN: Sure. I'm not asking  
7           for any particular substance. I'm asking  
8           simply about the fact that it occurred, as  
9           indicated on the document.

10                      MR. SCHULOCK: Okay.

11 BY MR. NEEDLEMAN:

12 Q. Let me now go to Applicant's Exhibit 140,  
13 Attachment A, which we've seen before. And  
14 I'm going to refer you to Page 1, which is,  
15 for the Committee, PDF Page 15. This is the  
16 broader outreach summary that we put into  
17 evidence. And I want to focus in particular  
18 on the design changes that occurred prior to  
19 the time that the Application was filed.  
20 This is the prefiled phase.

21                      So, on Page 1, am I correct that when  
22 meetings first began between the Applicant  
23 and Durham, Durham expressed concern about  
24 various roads in town, including Cutts Road,

1 Ffrost Road [sic], Sandy Brook Drive  
2 neighborhoods and the views from Little Bay  
3 and Main Street is that right?

4 A. We did.

5 Q. And on the bottom of Page 1, over to Page 2,  
6 that recounts a range of revisions that were  
7 made to the Project as a result of the Town's  
8 input prior to the time that it was filed; is  
9 that fair to say?

10 A. Hold on a moment. I have to just read it.  
11 I'm sorry.

12 (Witness reviews document.)

13 A. It does. It's accurate.

14 MR. NEEDLEMAN: And if we could go  
15 over, Dawn, to Page 4 of this document.

16 BY MR. NEEDLEMAN:

17 Q. And I understand that you can't speak  
18 directly to UNH. But certainly given that  
19 UNH is in Durham, I'm going to expect that  
20 you might be familiar with some of these  
21 changes. And you can tell me if you're not.

22 I think that at the tech session we  
23 talked about this issue, and I think that we  
24 talked in particular about the pole locations

1           in town. And I think you agreed with me that  
2           over the course of about a ten-month process,  
3           you and Eversource sat together and went  
4           through literally every pole location in  
5           Durham; is that correct?

6   A.    We did.

7   Q.    And this document also shows another of the  
8           prefiling changes that occurred was that  
9           additional 2100 feet of underground under  
10          Main Street in Durham; is that correct?

11  A.    That's correct.

12  Q.    And then we heard about this a moment ago,  
13          the ARM fund. So let's speak to that.

14                   MR. NEEDLEMAN: So let's jump to  
15          Page 20 of the document, Dawn.

16  BY MR. NEEDLEMAN:

17  Q.    And if I'm going too quickly, please just  
18          stop me.

19                   Durham expressed concern about the way  
20          in which ARM fund money would be used; is  
21          that right?

22  A.    That's right.

23  Q.    And the ARM fund is the aquatic resource  
24          mitigation fund; correct?



1 A. Yes.

2 Q. And this is meant to be money that's paid  
3 into communities as part of mitigation for  
4 wetlands impacts, among other things; is that  
5 right?

6 A. That's right.

7 Q. And the Town wanted money from the ARM fund  
8 associated with this project directed toward  
9 the Wagon Hill Project; is that correct?

10 A. We felt if the Project was happening in  
11 Durham, the impacts were in Durham, the money  
12 should be allocated to Durham. So, yes,  
13 that's correct.

14 Q. And in fact that has happened; is that right?  
15 That's the agreement.

16 A. It's in the Application. If the Project is  
17 approved, then that would happen.

18 Q. Right. And according to this document, in  
19 excess of \$200,000 would be directed from the  
20 ARM fund to the Wagon Hill Project if the  
21 Project was approved; right?

22 A. That's correct. Yes.

23 Q. So that was all the prefiling outreach that  
24 occurred. I want to talk now about

1 post-filing.

2 So the Application was filed. But you'd  
3 agree with me that the Applicant and Durham  
4 didn't stop talking about Durham's concerns  
5 after the Application was filed; is that  
6 right?

7 A. That's correct.

8 Q. And so, again, looking at Attachment A -- I'm  
9 on Page 2 right now -- there were a range of  
10 design changes that also occurred as a result  
11 of Town input after the filing; is that  
12 right?

13 A. That's correct.

14 Q. And one of the things that happened after the  
15 filing, and I think we heard about this  
16 earlier, was that the Durham Historic  
17 Association raised concerns about  
18 environmental and cultural damage in the  
19 right-of-way. Do you recall that happening?

20 A. Which right-of-way are you referring to?

21 Q. We're talking about the Seacoast Reliability  
22 Project right-of-way --

23 A. In town, yes. That's right, yes.

24 Q. And do you recall that event?

1 A. Not specifically, but I know they did.

2 MR. NEEDLEMAN: And if we could go to  
3 Page 3, Dawn.

4 BY MR. NEEDLEMAN:

5 Q. That event is recounted on Page 3. And is it  
6 correct that as soon as the DHA raised this  
7 concern, the Applicant responded and agreed  
8 to a site walk to look at the issues that DHA  
9 was raising? Do you remember that?

10 A. Let me just read this for a moment.

11 (Witness reviews document.)

12 A. Yes, that's correct. The Applicant did  
13 schedule a site walk.

14 Q. And that site walk happened with the  
15 Applicant, with members of DHA, and also with  
16 state representatives from DHR and DES; is  
17 that correct?

18 A. That's correct.

19 Q. And do you remember what the outcome was of  
20 that site walk?

21 A. I do.

22 Q. What was that?

23 A. Bill Quinlan wrote to the Town of Durham to  
24 indicate that they did not in fact find the

1 damage and concerned areas that had been  
2 identified, and NHDHR substantiated that as  
3 well.

4 Q. Do you think this is a good example of the  
5 Applicant being responsive to concerns that  
6 the community raised?

7 A. I do.

8 Q. Let me go to the bottom of Page 4 and the top  
9 of Page 5. Another issue of concern I  
10 believe to the Town of Durham was the impact  
11 that the Project's construction would have in  
12 the community. Is that fair to say?

13 A. Yes.

14 Q. And there were a range of issues in  
15 particular that you identified at the bottom  
16 of Page 4 and top of Page 5, if we could. Do  
17 you see those issues at the top of Page 5?

18 A. I'm sorry. Hold on.

19 MR. NEEDLEMAN: Down a little bit  
20 further, Dawn.

21 (Witness reviews document.)

22 BY MR. NEEDLEMAN:

23 Q. So I'm not going to go through all those, but  
24 just to --

1 A. Where do you want me to look? I'm sorry.

2 Q. I'm looking at the Memorandum of  
3 Understanding section, focusing in particular  
4 on the issue of the Town's concerns about  
5 construction. Are you there?

6 A. I'm starting to read it now, so...

7 Q. Okay. Let me know when you're set.

8 (Witness reviews document.)

9 A. So this was -- what you're highlighting here  
10 had to do with UNH specifically. I think  
11 these are UNH, not Durham's.

12 Q. UNH discussions. But we engaged in similar  
13 discussions with the Town of Durham; is that  
14 right?

15 A. You did. These just seem to focus more on  
16 UNH.

17 Q. All right. And Applicant's Exhibit 197,  
18 which I think you had a chance to look at,  
19 was the draft Durham MOU; is that right?

20 A. I have. I'm not sure which version you're  
21 referring to, but I have.

22 Q. Well, it's the last version that both parties  
23 agreed to present to the Committee. And  
24 hopefully we'll have a new one shortly. And

1 I wanted to ask you about that.

2 You mentioned a moment ago that both  
3 parties are working towards resolution of  
4 that issue. Is there a way for you to  
5 briefly summarize for the Committee what  
6 those last remaining sticking points are?

7 A. Yes. The Town of Durham wants to define  
8 which roadways would be utilized if the  
9 Project is approved. In particular,  
10 Eversource continues to list Penny Brook  
11 Lane, which is in the center of our downtown.  
12 And we're concerned about the impact that  
13 large equipment and large poles being  
14 transported through that busy area in the  
15 heart of Durham with 16,000 students of UNH  
16 would have. So we'd like to remove Penny  
17 Brook Lane in the portion of Main Street  
18 that's listed from the list. And in  
19 addition, we would like to add protection of  
20 historic resources, and we've not yet reached  
21 agreement on that.

22 Q. When you say "protection of historic  
23 resources," is it fair to say that the  
24 disagreement is actually fairly narrow? So

1 in other words, there's no disagreement at  
2 this point about the extension of the  
3 protection around that quarry area that we  
4 heard about earlier; is that right?

5 A. Well, Eversource does not want to list the  
6 quarry area on its construction plans, which  
7 is perplexing to us. So I don't know if I  
8 agree with your statement.

9 Q. Well, the quarry area, if protections agreed  
10 to with respect to the quarry area were  
11 adequately identified, would that address  
12 your concerns?

13 A. Well, I would refer you to our most recent  
14 draft to you, which did satisfy our concerns,  
15 but which you or your team deleted reference  
16 to noting that area on the construction  
17 plans. So that was of concern to us.

18 Q. And the other area I think that we heard  
19 about this morning was this issue about the  
20 use of ground-penetrating radar.

21 A. That's correct, near the grave site on UNH  
22 campus. And also use of the two Class VI  
23 roads, both Beech Hill and Foss Farm. We  
24 would prefer you not use those roads because

1           there are alternative ways to access the  
2           Project without impacting what we believe to  
3           be historic resources.

4    Q.    Is it fair to say that the number of issues  
5           that we still have not been able to resolve  
6           is fairly narrow, given the scope of the MOU  
7           and that we've agreed on much more than  
8           disagreed about at this point?

9    A.    That's an accurate statement.

10   Q.    And so I assume that Durham remains  
11           interested in trying to resolve these issues  
12           and sign the MOU?

13   A.    We do. In fact, I spoke with one of your  
14           colleagues at an earlier break, that it would  
15           be wonderful if today or tomorrow there was  
16           time to sit down to try and work through  
17           those issues.

18   Q.    Well, I agree. I guess my only question then  
19           is, referring back to what Mr. Aslin asked  
20           you earlier, in the event that for some  
21           reason we can't resolve those issues, your  
22           position was that you would be happy to have  
23           them go to the Committee for resolution; is  
24           that correct?



1     A.    That was our feeling, yes.  We wanted to  
2           ensure that these issues were addressed in  
3           some form.

4     Q.    So do we both agree that, with respect to the  
5           issues we agree on, we would be amenable to  
6           having those be Certificate conditions, if  
7           the Committee issued a certificate, and with  
8           respect to those conditions we disagree on,  
9           if we can't resolve our differences, we would  
10          be okay with the Committee resolving them for  
11          us?

12    A.    We would look to the Committee to resolve  
13          them.  So, yes.

14    Q.    Now I want to take you to Page 1, or PDF  
15          Page 36 of Exhibit 140, which continues to be  
16          the outreach summary.

17               Pages 22 and 23 provide a complete  
18          summary of all of the changes that were made  
19          to the Project in Durham and around UNH as a  
20          result of community input.  Have you had an  
21          opportunity to look at this yet?

22    A.    Can you make it larger so I can see?

23    Q.    Sure.  It carries over to the next page, too.  
24          Let me know when you're set.

1 (Witness reviews document.)

2 A. Could you go to the next page, please?

3 (Witness continues review of document.)

4 A. Those are accurate.

5 Q. Thank you.

6 When I was asking you questions at the  
7 tech session, you agreed that Eversource had  
8 worked very hard, over a long period of time,  
9 to understand and address Durham's and UNH's  
10 concerns; is that right?

11 A. What I said is, given the parameters your  
12 team had, yes.

13 Q. And is it fair to say that this list reflects  
14 those efforts?

15 A. It does.

16 Q. And I think earlier you were asked a question  
17 about abutters. And I think you also agreed  
18 at the tech session that Eversource had made  
19 a good-faith effort to respond to the  
20 concerns of abutters of Durham; is that  
21 correct?

22 A. To the extent I knew about concerns, yes,  
23 Eversource was responsive.

24 Q. And I assume as the town manager for several

1           years now while this project is going on, you  
2           certainly heard about abutters' concerns; is  
3           that correct?

4    A.    I have.  I can't say I've heard from all  
5           abutters, but I've heard from many.

6    Q.    Well, in your prefiled testimony, which is  
7           TD-UNH Exhibit 1, you raised concerns about  
8           the Little Bay crossing.  And at Page 6,  
9           Lines 14 to 16, you said that, at a minimum,  
10          it's imperative that the Project not  
11          contribute in any way toward future  
12          degradation of Little Bay and the estuary.  
13          Do you recall that?

14   A.    I do.

15   Q.    Now, I think that the concerns that you had  
16          about Little Bay relate in large part to the  
17          environmental analysis and the environmental  
18          conditions that were contained in the DES  
19          review of permits; is that fair to say?

20   A.    Can you state that again, please?

21   Q.    Yeah.  To the extent that you've got  
22          environmental concerns in Little Bay, is it  
23          fair to say that those concerns, in one way  
24          or another, relate to the various conditions

1 in the DES permits here?

2 A. Yes. DES adopted many of the Town of  
3 Durham's suggestions, not all of them. And  
4 our team still has some concerns.

5 Q. Well, you anticipated my next question. What  
6 I was going to ask you is, during this entire  
7 process, is it correct to say that Durham,  
8 through you, through its attorneys, through  
9 its experts, Woods Hole Group, which we'll  
10 hear about a little bit later, had a full and  
11 robust opportunity to make your concerns  
12 known to DES?

13 A. We've had an opportunity to make our concerns  
14 known to DES up until a point. But our  
15 understanding is that there have been ongoing  
16 conversations between Eversource and DES  
17 which are resulting in revisions to the draft  
18 final permit, and we do not have insight into  
19 what those are or what the implications of  
20 that might be.

21 Q. In fact, those revisions were presented to  
22 the Committee via a letter from DES at the  
23 end of August; is that right?

24 A. Many were. My understanding is those

1           conversations are continuing, and we don't  
2           have insight into that process.

3       Q.   And do you understand that those revisions  
4           now represent the final permit in this  
5           proceeding?

6       A.   We don't. We are concerned because there  
7           does not appear to be one document that  
8           enumerates all of the conditions that have  
9           been negotiated and agreed to. And we  
10          believe that would be important so that our  
11          team can review it.

12      Q.   And that sounds like an issue that was raised  
13           earlier in the proceeding -- am I correct --  
14           that there be an integrated document that  
15           identifies all the environmental conditions?

16      A.   Yes.

17      Q.   Now, going back to the DES permit for a  
18           minute. I think you said a moment ago that  
19           some of the conditions that you recommended  
20           or that the Town recommended actually ended  
21           up in the permit; is that right?

22      A.   Yes.

23      Q.   In fact, it was more than some. I don't  
24           remember the total number that you

1 recommended, and we can speak to the Woods  
2 Hole Group about this. But certainly a fair  
3 number of the conditions you proposed DES  
4 adopted, and those appeared in that final  
5 permit; is that right?

6 A. Many of the --

7 MR. PATCH: Mr. Chairman, I'd just  
8 like to object because I think he's getting  
9 into an area that's more appropriate for the  
10 environmental panel which will be testifying  
11 next week.

12 MR. NEEDLEMAN: I'm asking, you know,  
13 the Durham representative at a general level if  
14 conditions that his experts proposed ended up  
15 in the permits. I would think he would have  
16 direct knowledge of that.

17 MR. PATCH: As long as it's only at a  
18 general level, I guess I would not object. But  
19 to the extent it gets specific, then the  
20 environmental panel is really the one to ask  
21 that of.

22 MR. SCHULOCK: Well, let's proceed  
23 then and see.

24 MR. NEEDLEMAN: Sure. That was

1           actually the last question on that topic.

2           Well, almost.

3   BY MR. NEEDLEMAN:

4   Q.   With respect to the discussions that we had  
5           at the tech session, I think when I asked you  
6           about this, you told me that you believed DES  
7           listened patiently and respectfully to  
8           Durham's and UNH's concerns; is that right?

9   A.   They did.

10   Q.   And I think you also agreed when I asked you  
11           about this at the technical session, that the  
12           Town did have a fair opportunity to present  
13           its concerns to DES; is that right?

14   A.   We did. To date I would say. To date. If  
15           there are changes as a result of the  
16           conversations that are now occurring, our  
17           team has not had an opportunity to evaluate  
18           those or provide feedback on them.

19   Q.   Understood. Thank you.

20           Let me turn to Applicant's Exhibit 101,  
21           Appendix 44A. This is a document -- well,  
22           let me ask you if you're familiar with this  
23           document. Have you seen it before in this  
24           proceeding?

1 A. I'm not sure. Can you describe the document  
2 for me, please?

3 Q. Sure. The Applicants introduced an expert,  
4 Lisa Shapiro, who talked about local property  
5 tax impacts of the Project. Were you present  
6 for that testimony?

7 A. I was not, no.

8 Q. Are you familiar at all with what Ms. Shapiro  
9 said?

10 A. I am, yes.

11 Q. Actually, we did also talk a little bit about  
12 this at the tech session, if you recall.

13 A. Can I just ask, was this from April 12th,  
14 2016? Is that what this document is? Is  
15 this a document that was submitted by Lisa  
16 Shapiro on that date?

17 Q. I'm not sure of the date of 101.

18 MR. NEEDLEMAN: Could somebody tell  
19 us?

20 BY MR. NEEDLEMAN:

21 Q. October. October 12, 2016, I'm told --

22 MR. DUMVILLE: March 29th.

23 BY MR. NEEDLEMAN:

24 Q. Or I'm sorry. March 29, 2017, the amended



1 testimony.

2 A. Okay.

3 Q. So in this document, according to  
4 Ms. Shapiro, it indicates that if the Project  
5 were built as proposed, the investment -- the  
6 value of the investment in Durham would be  
7 \$43.3 million; is that right?

8 A. That's what it says.

9 Q. And Ms. Shapiro projected that in the first  
10 year, that would result in property tax  
11 payments of somewhere between -- well, it's  
12 on the next page, if we can flip to that.  
13 She projected that would result in property  
14 tax payments of somewhere between about  
15 \$748,000 and a little under \$1.1 million; is  
16 that right?

17 A. That's what she projects.

18 Q. And I asked you about this specific topic at  
19 the tech session and what your view was if  
20 that came to pass and those property tax  
21 payments were made. And I think you told me  
22 that you thought, even at the floor of  
23 748,000, that would be a meaningful tax  
24 benefit for Durham; is that right?

1     A.     It would certainly be a meaningful tax  
2           benefit.  However, Eversource has currently  
3           appealed its assessments locally from 2014  
4           through to the present time, and so I do not  
5           have a high level of confidence that we will  
6           necessarily see these values when and if the  
7           Project is built.  And so these are highly  
8           speculative from my perspective.

9     Q.     Do you understand that the \$748,000 floor is  
10           her calculation using the most conservative  
11           methodology and that it's really a base?

12    A.     I'm not aware of her methodology.  I'm sorry.  
13           But I --

14    Q.     So you --

15    A.     -- question whether the dollar amounts we see  
16           here will necessarily come to pass.  There's  
17           also ongoing conversation at the state level  
18           in terms of the ways in which municipalities  
19           can tax utilities.

20           So in our conversations locally in  
21           Durham, we have not focused on the potential  
22           tax benefit of the Project because, No. 1,  
23           Durham tends to place other values higher --  
24           aesthetics, scenic quality, history -- than

1           simply new tax dollars. And secondly, the  
2           valuation issue is highly contested right  
3           now.

4       Q.    Setting aside all the points you just made,  
5           we at least agree on one core point, which  
6           is, if it was built and if that minimum  
7           payment were made, that would be a meaningful  
8           tax benefit to the Town.

9       A.    That's correct.

10      Q.    And have you had an opportunity -- I think  
11           you must have because we also talked about  
12           this at the tech session. Exhibit 139 is the  
13           supplemental prefiled testimony of Bob  
14           Andrew. Do you remember looking at that  
15           testimony?

16      A.    I don't. I'm sorry.

17      Q.    I want to --

18      A.    Refresh my memory who Bob Andrew is.

19      Q.    Sure. Bob Andrew was the Applicant's expert  
20           who talked about the system benefits in the  
21           ISO process. Do you remember that?

22      A.    I don't. I'm sorry.

23      Q.    I want to direct your attention to Page 2,  
24           Line 17 to 21 of Mr. Andrew's testimony.

1           What he essentially said here was that, if  
2           the Project were constructed, it would  
3           benefit the Town of Durham by adding  
4           additional transmission lines to the Madbury  
5           Substation which directly serves Durham and  
6           UNH. Do you remember seeing that before?

7   A.    I don't. I'm sorry.

8   Q.    I did ask you about this at the tech session,  
9           and I asked you whether you agreed that, if  
10          the Project were built and it achieved its  
11          stated goals of enhancing electric  
12          reliability in Durham and for UNH, would that  
13          be beneficial for businesses and residents in  
14          the area. And I think you told me you  
15          thought it would. Does that sound right?

16   A.    I would agree with that.

17   Q.    Nothing further. Thank you, Mr. Selig.

18   A.    Thank you.

19                   MR. SCHULOCK: Questions? Mr. Way.

20   QUESTIONS BY SEC MEMBERS AND COUNSEL:

21   BY MR. WAY:

22   Q.    Good evening, Mr. Selig.

23   A.    Good evening.

24   Q.    Just a couple questions. We talked a little

1 bit about the concrete mattresses, and you  
2 mentioned that your concern was that the size  
3 of the mattresses was underestimated of how  
4 many mattresses would be needed.

5 A. Yes.

6 Q. And I think you're basing that on your  
7 knowledge of the flats. And from what I saw  
8 from your exhibit, 25 I think -- and you said  
9 you had engineers working on this as well.  
10 Assuming that Eversource has -- they're  
11 equally -- or they're familiar, obviously,  
12 with the landscape as well. What is leading  
13 you to believe that they've underestimated  
14 beyond the fact that -- obviously, I agree  
15 it's incredibly flat and goes out very far.  
16 What do you have to base that idea on?

17 A. Really, no science. It was our surprise at  
18 low tide on how extensive the flats are and  
19 how shallow they are. And I want to make  
20 sure that you as a board, as you're reviewing  
21 the submittals from the Applicant, are  
22 comfortable that in fact what they think they  
23 can achieve, they'll be able to achieve.  
24 The --

1 Q. And if I could just clarify one thing you  
2 said. So when you said "no science," are you  
3 saying on their part or your part?

4 A. On my part.

5 Q. Okay.

6 A. And it was an observation, and it caused our  
7 town engineer and I to say we want to make  
8 sure the Committee's aware.

9 Q. Fair enough.

10 We talked a little bit about orderly  
11 development. It was put up on the screen,  
12 some of the criteria that we have to look at.  
13 When we were talking with Robert Varney, we  
14 were talking about some of the effects on the  
15 economy, on tourism. And a couple things  
16 struck me in your prefiled. I think you said  
17 that Durham was a magnet for the economy in  
18 the area. And then I was looking back to Bob  
19 Varney's prefiled and supplemental prefiled,  
20 and I think -- yeah, supplemental prefiled,  
21 and he was talking about the Town of Durham  
22 and trying to get a sense of, okay, so  
23 there's an impact. And that's one of our  
24 things we have to assess is if there's an

1 impact, what is the extent of the impact. So  
2 I think you had, like, 194 businesses in  
3 Durham, and I think 84 of those were  
4 impacted. I didn't see a lot of any  
5 quantification from Mr. Varney on that. And  
6 I wanted to give you the opportunity.

7 Is there anything from your standpoint  
8 to quantify that? Usually, a lot of times we  
9 get something that says if this were to  
10 occur, X, Y and Z would happen either to the  
11 workers of the business or to the economy of  
12 the area.

13 A. In my prefiled testimony, I was trying to  
14 make the point that the estuary itself is a  
15 magnet to the region and a real resource to  
16 the state and the Seacoast. Aside from  
17 providing reliable power, which is important,  
18 we don't perceive the Seacoast Reliability  
19 Project will have any net positive economic  
20 impact for the Town of Durham. Certainly it  
21 would provide additional tax dollars. And  
22 we'll have to see what those dollar amounts  
23 are. But in Durham, we place a very high  
24 value on the beauty of the community. And we

1       work really hard in our planning board, our  
2       conservation commission, all of our boards,  
3       and our Master Plan, to preserve that quality  
4       of life. And it's very difficult for our  
5       community to see a large power project  
6       blazing the trail through Durham that we have  
7       no say over, other than to participate in  
8       this process, and which we would never  
9       approve locally if it was up to us, because  
10      the tall poles and the impact to the bay, et  
11      cetera, would have too much cost from not a  
12      cash point of view, but other meaningful  
13      qualities for us.

14    Q.   And I don't want to take us off course  
15       because I hear what you're saying. I guess  
16       I'm going to talk to you as the town manager  
17       now. And you heard some of the businesses  
18       that Mr. Varney was working with -- the  
19       garden center, the boating, some of the  
20       oyster farms. Is there any business that  
21       you're aware of that hasn't been talked about  
22       in Durham that's going to experience a  
23       difficulty that we should be aware of that  
24       has not been mentioned or addressed?



1     A.   Those impacts to our businesses -- I do not  
2           perceive negative impacts to our local  
3           downtown businesses as a result of the  
4           Project.  Not significant impacts or  
5           meaningful ones.  The primary business of  
6           most of the downtown businesses focuses on  
7           the University community, both on campus and  
8           off.  It's not necessarily focused on the  
9           bay.

10                 Now, in Newington, there's boating docks  
11           and things like that, public -- private boat  
12           area.  We don't have that on the Durham side.  
13           It's, for the most part, very natural, and  
14           there are homes along the shore.

15    Q.   Thank you very much.

16    QUESTIONS BY MR. FITZGERALD:

17    Q.   Good afternoon, Mr. Selig.  Your prefiled  
18           testimony indicates you're speaking on behalf  
19           of the Town of Durham.  Have you been  
20           authorized in some specific way to -- in  
21           other words, has the Town taken a vote on a  
22           position or whatever and/or the -- you said  
23           you have a town council I guess; is that  
24           correct?

1 A. We do.

2 Q. Have they taken a specific position and  
3 authorized you to communicate that? Has that  
4 position been communicated in writing  
5 somehow?

6 A. The council has empowered me to take the lead  
7 on the Project. And I have kept them in the  
8 loop on all of our filings and on the  
9 process. In fact, we met last evening. And  
10 I updated the council on where we were and  
11 essentially what we'd be commenting on today.  
12 There's not a town meeting vote. We don't  
13 have a town meeting. There's not a council  
14 resolution. We wanted to take a more nuanced  
15 approach to say, you know, A, we'd rather you  
16 take a different route altogether and not  
17 impact our town; B, if you're going to come  
18 through the town, let's look at HDD and have  
19 as little impact as possible on the bay; and  
20 C, if it's going to come through town, we  
21 want to make sure that the crossing of the  
22 bay using jet plow has as little impact as  
23 possible. So we felt that would provide the  
24 most value to you as you -- as the decision

1 maker in this docket.

2 Q. So you feel that your testimony represents  
3 the position of the Town and not just your  
4 position as town administrator?

5 A. Of the Town Council of the Town of Durham.

6 Q. Okay. Thank you.

7 With regards to -- you've obviously  
8 heard testimony that there would be  
9 significant additional costs to HDD and  
10 significant time. And I believe you were  
11 asked a question previously about the  
12 additional costs if this were to be localized  
13 to New Hampshire. If the ISO-New England  
14 were to find that this was, in their opinion,  
15 not necessary -- and I know you stated that  
16 you would hope they wouldn't do that. But if  
17 they were to find this wasn't necessary and  
18 localize those costs, have you looked at or  
19 talked with Eversource in any way about what  
20 that cost impact might be to ratepayers in  
21 New Hampshire, and is that a consideration of  
22 the Town? And I guess I'll make this very  
23 broad. But is the consideration of avoidance  
24 of potential brown-outs and blackouts if PSNH

1 is not able to get this additional power into  
2 the region part of your consideration of  
3 impacts?

4 A. I think our view is why should the Town of  
5 Durham bear the brunt of a project in its  
6 entirety in Newington that is of benefit for  
7 the state. It feels to us as though the  
8 state should share in that cost. So if you  
9 approach this project with the notion that  
10 the Great Bay Estuary is a cherished resource  
11 for the state of New Hampshire, and to  
12 protect it certain precautions have to be  
13 taken, including potentially HDD, and if the  
14 cost is X, that's the cost of providing the  
15 power. And if that means that a different  
16 route, perhaps the Newington step-down  
17 transformer alternative, becomes more  
18 cost-effective, it will provide more power as  
19 well, then maybe we should look there.  
20 That's the approach we've taken.

21 Q. So if those costs were apportioned to all  
22 ratepayers in the state of New Hampshire,  
23 that would address your concern that that  
24 would -- because the Town of Durham will

1 benefit from this project. You're part of  
2 the Seacoast Region; correct?

3 A. We are. That's correct.

4 Q. Okay. So the fact that, you know, Durham is  
5 experiencing the same impacts that the rest  
6 of the Seacoast is, and additional costs are  
7 imposed as a result of those concerns, these  
8 concerns, your position is that that is an  
9 acceptable trade-off?

10 A. It is. Durham would still have poles that  
11 are three times as high, at least two, in  
12 some cases three times as high as we have now  
13 coming through the right-of-way that comes  
14 through town. So there would be impacts.  
15 Many would argue negative impacts. But at  
16 least the bay would remain in the largely  
17 undeveloped way it is, the state it is today.

18 Q. Okay. Your environmental consultants, I  
19 heard you refer to them as "our experts" or  
20 "environmental team," as I understand it,  
21 they're expected to testify in these  
22 proceedings later. They -- in looking at  
23 their testimony and your testimony,  
24 particularly from 2017, it seems that a

1       number of concerns were raised that were  
2       relative to the environmental impacts on  
3       Great Bay and that there was recommendation  
4       for an evaluation of HDD versus jet plowing.  
5       There was -- your consultants recommended a  
6       test trial. They amended their testimony and  
7       provided an updated testimony in -- I forget  
8       the date. But anyway, it was -- and I  
9       believe that those things that had been  
10      requested -- the test run, the commitment to  
11      a test run, and an evaluation of HDD versus  
12      jet plowing -- were conducted. You did not  
13      update your testimony. So your conclusions  
14      even upon receiving the Normandeau evaluation  
15      of what the impacts, expected impacts to  
16      Great Bay are and the trial run, the  
17      commitment to a trial run, and the evaluation  
18      of the trial -- of the jet plowing, the  
19      position is still the same, that you think  
20      the impacts -- those haven't addressed your  
21      concerns in any way?

22    A.   They were partly responsive to our concerns.  
23        But we felt that, and still feel, that an  
24        independent, a truly independent vetting of

1 the HDD should be conducted, and then we'd  
2 have a greater level of confidence in the  
3 results.

4 In terms of the trial run, we're  
5 appreciative that the draft permit has that  
6 language in it. But our understanding is the  
7 amended permit will now have like a 14-day  
8 time period between when the trial period  
9 takes place and actual jet plowing occurs.  
10 And we're not sure how anyone's going to have  
11 time enough to review that, respond to that,  
12 change the course of the plan with such a  
13 short period of time. So our team is  
14 advising us that there should be a more  
15 lengthy period between the trial run and the  
16 actual activity, the installation.

17 Q. Okay. Do you feel that the Normandeau  
18 evaluation and testing and, not mitigation  
19 but I guess their protocols that they've  
20 proposed for monitoring, do you feel that  
21 those have any impact on your position? Do  
22 those offer you any --

23 A. It certainly -- the conditions that NHDES has  
24 put in place for the crossing certainly

1 mitigated many of the initial concerns that  
2 we had. Our consultants believe that there  
3 should still be some additional things that  
4 are done, and there's still some outstanding  
5 questions.

6 Q. Have those been communicated to Eversource?

7 A. Well, at this time we're all waiting to see  
8 where DES and Eversource are in their  
9 discussions. My understanding is that the  
10 parties don't know. The intervenors don't  
11 know. And we'd like an opportunity to see  
12 that document and to comment on it.

13 Q. But I may be getting ahead. In reviewing the  
14 testimony, the updated testimony of your  
15 environmental team, it seems that they had  
16 raised specific concerns and questions with  
17 regards to the proposal. And I'm just  
18 wondering if Durham feels those should be  
19 communicated to the DES and/or Eversource  
20 prior to the conclusion of any discussions  
21 between those parties to resolve the final  
22 plan for evaluation of the Project. Would  
23 that seem reasonable?

24 A. I think what we were more interested in was



1           let's see where they are in their  
2           conversations to date, and then we can  
3           comment on it and then provide feedback. I  
4           mean, I have a few -- I made a few notes  
5           before coming here, a few high-level concerns  
6           that I could outline. But you'd be better  
7           off candidly talking to our technical team.

8    Q.    Are they engaged in discussions with  
9           Eversource? I know you mentioned that you're  
10          having ongoing discussions regarding pole  
11          height and construction impacts and so on --

12   A.    Not at the present time, no.

13   Q.    There's no engagement on the environmental  
14          concerns?

15   A.    My understanding is all the conversations are  
16          closed conversations between Eversource and  
17          DES at this point in time.

18   Q.    Have you -- has the Town of Durham asked to  
19          be a party to those discussions?

20   A.    We have not recently. We've been waiting to  
21          see how it would play out.

22   Q.    Okay.

23   A.    We certainly could consider that.

24   Q.    Do you think it would be beneficial for those

1 parties to understand your concerns before  
2 they finalize their discussions?

3 A. I do think so, yes.

4 Q. Because they're pretty clearly laid out in  
5 the prefiled testimony. So, I mean,  
6 obviously they're public at this point.

7 Okay. That answers my questions at this  
8 point in time. I'll reserve the rest for the  
9 environmental panel.

10 QUESTIONS BY MS. DUPREY:

11 Q. Mr. Selig, something that you testified to  
12 earlier tonight caught my attention, and it  
13 has to do with the effluent that the Town of  
14 Durham is putting into, I believe you said it  
15 was the Oyster River, which then flows into  
16 the bay?

17 A. Yes.

18 Q. And I presume that effluent has some amount  
19 of nitrogen in it?

20 A. Yes.

21 Q. How much? Do you know?

22 A. I do. It varies depending on the day. We're  
23 averaging somewhere in the three to five  
24 parts per milliliter I think. Our

1           understanding is that this project with the  
2           jet plowing will produce approximately 300  
3           times the nitrogen release that we would  
4           produce in a day. So we are concerned that  
5           that would be potentially a shock to the  
6           estuarine system. And in addition, it will  
7           stir up sediment, which creates cloudiness in  
8           the water, which prohibits sunlight from  
9           penetrating, which has a negative impact. So  
10          that's a concern we have.

11       Q.   And could you reduce the nitrogen level  
12           further? Could the Town of Durham reduce the  
13           nitrogen level further than it has already?

14       A.   The Town of Durham is the leader,  
15           essentially, in the Seacoast --

16       Q.   That's not the question that I asked.

17       A.   -- and we are already at the limit of  
18           technology. So, no.

19       Q.   You're at the limit of technology?

20       A.   We are, yes.

21       Q.   All right. Thank you.

22       A.   And that's part of why we're so concerned.

23       QUESTIONS BY MR. SCHMIDT:

24       Q.   Good evening. How are you?

1 A. Very well.

2 Q. A couple of things we heard earlier regarding  
3 Mr. Raphael and Ms. Widell not contacting the  
4 Town and so on.

5 A. Yes.

6 Q. What I'm wondering is, with all the meetings,  
7 the 34, 38 meetings, were those same issues  
8 brought up with Eversource staff that your  
9 consultants might have brought up? What I'm  
10 wondering is if the same topics were  
11 addressed, just not with the consultants.

12 A. Well, in the 34 or so meetings that are  
13 mentioned, the Town did bring up concerns  
14 about general historic impacts. But at that  
15 time, we did not have specific burial  
16 grounds, locations of stone walls, things  
17 such as that. We were talking about  
18 generally here's the right-of-way, here are  
19 the roadway crossings, here are the kind of  
20 style of poles, the placement of poles, the  
21 crossing of Main Street, how can we try to  
22 mitigate as many impacts as possible.  
23 Inherent in those conversations were  
24 certainly scenic impacts. For example --

1                   WITNESS SELIG: And Mr. Chairman, cut  
2                   me off if I go astray. I'm not -- I'm trying  
3                   to be succinct.

4       A.       So, for example, at the crossing -- excuse  
5               me -- at the entry point from the Eversource  
6               right-of-way to the bay, the Town was  
7               interested in Eversource moving the  
8               transition tower much farther away from the  
9               shore of the bay.

10      Q.       No, I understand. I just --

11      A.       But it proved infeasible. So we --

12      Q.       The general question was fine.

13      A.       Okay.

14      Q.       Thank you.

15               So the discussions at those meetings, is  
16               that what prompted the Durham Historic  
17               Association, et cetera, to supply the input?

18      A.       It was only after the Application was filed  
19               did the Durham Historic Association become  
20               active. That's really when the Project  
21               was -- when townspeople started to tune in  
22               clearly because something was happening.

23      Q.       All right. Thank you.

24               Also, there was some discussions about

1           your MOU that was still ongoing. And I  
2           wanted to just make sure I got one of the  
3           items correct.

4                     Was it mapping of the quarry that is one  
5           of the outstanding issues? Is that --

6    A.    Putting it on the construction plans and  
7           flagging the area, particularly the granite  
8           quarry with the bench, to make sure it's not  
9           impacted during the construction.

10   Q.    Okay. Thank you.

11                    And you mentioned that the Town wants to  
12           remove the use of Penny Brook Lane and part  
13           of Main Street. Are there alternate avenues  
14           to the --

15   A.    We believe there are. In terms of Main  
16           Street, we need to have a conversation with  
17           Eversource and sit down and understand where  
18           they're coming from, because there is a  
19           portion of Main Street, of course, where  
20           they're going under Main Street, and they'll  
21           need to access that location. But we want to  
22           ensure that, if the Project is approved, as  
23           equipment and poles are brought through town,  
24           that it's not impacting heavily traveled

1 roads and traffic patterns and things like  
2 that.

3 Q. You feel there's reasonable alternatives,  
4 though?

5 A. We do, yes. We do.

6 Q. Thank you.

7 MR. SCHMIDT: That's all I have.

8 QUESTIONS BY MR. SCHULOCK:

9 Q. Mr. Selig, does the Town of Durham question  
10 whether this project is necessary to provide  
11 reliable electric service to the region?

12 A. Officially, we take Eversource and the ISO at  
13 their word. That's what they tell us.  
14 They're the experts in that area.

15 Q. Thank you.

16 QUESTIONS BY MR. IACOPINO:

17 Q. Do you still have your Exhibit 25 in front of  
18 you, the pictures?

19 A. I don't. I'm sorry.

20 Q. Well, you took those pictures; is that  
21 correct?

22 A. If they're --

23 MR. IACOPINO: Dawn, can you pull up  
24 TD-UNH 25?

1 A. Yes, I did take that picture.

2 BY MR. IACOPINO:

3 Q. Okay. Now, what kind of camera did you use  
4 to take that picture?

5 A. It is a Sony A Series R2. Sony AR2 with a 24  
6 to 135 lens I think.

7 Q. 24-135 lens?

8 A. Yes.

9 Q. Is that a digital camera or a film camera?

10 A. It's a digital camera.

11 Q. And did you use any other tools or anything  
12 to gauge the scale of the photograph?

13 A. I did not. I just took it. I did not try to  
14 scale it.

15 Q. Seems to be in an panoramic mode. Does the  
16 camera have a particular mode to --

17 A. Yes, it does. It's a panoramic view. And I  
18 was trying to capture as much of that  
19 shoreline as possible so people could sort of  
20 see what it was like.

21 Q. And in doing that, did you have to move the  
22 camera?

23 A. I did, yes.

24 Q. Okay.



1     A.    Now, the photos on the other side were just  
2           still photos, but this was a panoramic.

3     Q.    And on this particular one, how did you  
4           choose that particular position to take the  
5           picture from?

6     A.    I took probably ten pictures along the  
7           shoreline. And this captured the brick cable  
8           house at the far left and as much of the  
9           shoreline to the right as possible. I wanted  
10          to show how natural it was over to the right  
11          because there's been testimony here that  
12          Little Bay is not as lovely as it is.

13    Q.    Okay. And if we go to the last page of the  
14          exhibit, please, the picture of the Durham  
15          side.

16                   MS. GAGNON:   UNH 26?

17                   MR. IACOPINO:  I'm sorry?

18                   MS. GAGNON:   26.

19                   MR. IACOPINO:  I have it as  
20          Exhibit 25. But it's Page 5, electronic  
21          Page 5. Yeah. There we go.

22    BY MR. IACOPINO:

23    Q.    Okay. And you used the same camera for this  
24          picture?

1 A. I did, yes.

2 Q. And did you use a panoramic mode for this as  
3 well?

4 A. No. This is zoomed. I zoomed in. The  
5 photo, where you can see the gunnel of the  
6 boat which is up and down, was in the 24 mode  
7 so you could see, you know, the distance from  
8 shore. And this was trying to zoom in as far  
9 my camera would reach from the same location  
10 to try to capture the cable house and the  
11 house and where the transition would come  
12 into the bay.

13 Q. With the same lens?

14 A. Same lens.

15 Q. Okay. And again, no other tools or anything  
16 used to gauge scale or anything with --

17 A. No, no.

18 Q. -- with respect to this picture?

19 A. No.

20 MR. IACOPINO: I have no further  
21 questions.

22 MR. SCHULOCK: Mr. Patch.

23 REDIRECT EXAMINATION

24 BY MR. PATCH:

1 Q. Mr. Selig, I have just a couple of follow-up  
2 questions.

3 Do you remember that Mr. Fitzgerald  
4 asked you about the ability of the  
5 environmental panel to comment on essentially  
6 what Eversource's position is? This was just  
7 a few minutes ago.

8 A. Yes.

9 Q. And I kind of wanted to walk through with you  
10 the sequence of events, just to make sure  
11 it's clear in the record.

12 Now, it's your understanding that on  
13 February 28th, DES filed, after listening to  
14 the comments that had been made by Eversource  
15 and also by Durham's experts, had filed what  
16 was called at the time a "final decision,"  
17 February 28th of this year; correct?

18 A. Yes, that's correct.

19 Q. And then do you recall that it was early July  
20 of this year that at a tech session we had  
21 asked a question of an Eversource witness --  
22 actually, I believe it was Ms. Allen -- as to  
23 whether they had any further correspondence  
24 with DES, and we got a response back, I think

1           it was 10 days later, saying that in fact  
2           they had had conversations? And then it was,  
3           I believe, just a few days after that,  
4           July 20th, that our environmental panel filed  
5           their supplemental testimony --

6    A.    Yes.

7    Q.    -- which at that time had to be based on the  
8           February 28th document; correct?

9    A.    That's correct.

10   Q.    And then a week after that Eversource filed  
11          their rebuttal testimony, I'll call it --

12   A.    Yes.

13   Q.    -- in which they laid out some of those  
14          issues. And then it was August 31st, I  
15          believe it was, that DES submitted sort of  
16          their update to the final decision, where  
17          they came forward with a number of changes to  
18          the February 28th permit conditions that they  
19          had issued. Does that sound correct?

20   A.    It does.

21   Q.    And so have our environmental panel had any  
22          opportunity under the procedural schedule to  
23          comment on either the July 27th testimony or  
24          the August 31st changes to the final decision

1           that DES issued?

2       A.    No.   That's a concern of ours.

3       Q.    Okay.   That's all the questions I have.

4           Thank you.

5       A.    Thank you.

6                       MR. SCHULOCK:   Thank you all very  
7       much.   We'll adjourn for today and meet back  
8       here again tomorrow morning.

9                       (Whereupon the Day 10 Afternoon  
10                      Session was adjourned at 5:50  
11                      p.m., with the hearing to resume on  
12                      October 17, 2018  
13                      commencing at 9:00 a.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed  
Shorthand Court Reporter and Notary Public  
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Susan J. Robidas, LCR/RPR  
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**October 16, 2018**

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**SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY ADJUDICATIVE HEARING - DAY 10 AFTERNOON ONLY**  
**APPLICATION FOR CERTIFICATE OF SITE & FACILITY**  
**October 16, 2018**

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**SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY ADJUDICATIVE HEARING - DAY 10 AFTERNOON ONLY**  
**APPLICATION FOR CERTIFICATE OF SITE & FACILITY**  
**October 16, 2018**

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**SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY ADJUDICATIVE HEARING - DAY 10 AFTERNOON ONLY**  
**APPLICATION FOR CERTIFICATE OF SITE & FACILITY**  
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