

## 1 STATE OF NEW HAMPSHIRE

## 2 SITE EVALUATION COMMITTEE

3 October 26, 2018 - 1:44 p.m. DAY 15  
4 49 Donovan Street Afternoon Session ONLY  
5 Concord, New Hampshire

6 {Electronically filed with SEC 11/2/18}

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

14 PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

15 Patricia Weathersby Public Member  
16 (Presiding Officer)  
17  
18 David Shulock, Esq. Public Utilities Commission  
19 Elizabeth Muzzey, Dir. Div. of Historic Resources  
20 Charles Schmidt, Admin. Dept. of Transportation  
21 Christopher Way, Dep. Dir. Div. of Economic Dev.  
22 Michael Fitzgerald, Dir. Dept. of Env. Services

23 ALSO PRESENT FOR THE SEC:

24 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

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WITNESS: PATRICIA O'DONNELL (RESUMED)

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

2 (Hearing resumed at 1:07 p.m.)

3 PRESIDING OFFICER WEATHERSBY: Okay.

4 Good afternoon, everyone. We will get  
5 restarted taking questions from Committee  
6 Members.

7 Director Muzzey, would you like to  
8 go first or last?

9 DIR. MUZZEY: Last would be great.

10 PRESIDING OFFICER WEATHERSBY: Last  
11 would be better? Okay.

12 Mr. Fitzgerald? Mr. Way? Mr.  
13 Fitzgerald looks poised to go. Why don't you  
14 go ahead.

15 MR. FITZGERALD: Only because I  
16 couldn't get Mr. Way to go first.

17 QUESTIONS BY SEC MEMBERS AND COUNSEL:

18 BY MR. FITZGERALD:

19 Q. Good afternoon. Mike Fitzgerald. I'm the  
20 assistant director of the Air Resources  
21 Division of the Department of Environmental  
22 Services.

23 It seems to me that the most significant  
24 conflict, as I understand it in your

1 testimony this morning, and in your prefiled  
2 testimony, is that you believe that the  
3 statutes, the state statutes, other than the  
4 statute governing, citing 162-H, are  
5 applicable here, and specifically RSA 227  
6 seems to apply. And I believe that you  
7 referenced RSA 227-C:1, which had some  
8 definitions and then --

9 MR. FITZGERALD: Dawn, could you  
10 bring up that RSA? Bring up the index of it  
11 first, I guess. Okay. No, that's 216. Go to  
12 227-A, state historical.

13 DIR. MUZZEY: No, it's --

14 WITNESS O'DONNELL: It's C.

15 MR. FITZGERALD: C. I'm sorry. I'm  
16 good with my own statutes. Okay. And could  
17 you open C:1-a, Findings and Purpose?

18 BY MR. FITZGERALD:

19 Q. Did you have an opportunity to review this?

20 A. Oh, yeah.

21 Q. Okay. It seems to me that this focus is on  
22 human burials, human remains, although in the  
23 paragraph it talks about preserving a wide  
24 range of things. And Paragraph II says, "The

1       general court finds," and those are all seem  
2       to be regarding human burials, human remains,  
3       et cetera. And some of the purposes are to  
4       provide adequate protection from vandalism  
5       for unmarked human burials and to provide  
6       adequate protection for unmarked human  
7       burials and human remains, et cetera,  
8       skeletal analysis --

9       A. Right.

10      Q. How did you determine that this statute was  
11       overriding, as it seems to me that you were  
12       suggesting that this has more -- allows you  
13       to take wider latitude in terms of the  
14       historical sites that should have been  
15       evaluated?

16      A. Right. I think that we looked at this first  
17       paragraph, but we read the whole Chapter  
18       227-C and its definitional structure. And  
19       while this Part II relates principally to  
20       human remains, there's broader language about  
21       historical sites and their value to society  
22       that occur throughout this 227-C. I think  
23       particularly what this cued us to was we  
24       didn't really have a capture of the small



1 cemeteries that occur throughout New  
2 Hampshire. So within the context of human  
3 burial remains, it made us think all these  
4 historic cemeteries, which are small family  
5 cemeteries, are not included, and they are  
6 not listable by National Register standards.  
7 So this is just one example of how we feel  
8 that 227-C provides latitude to consider more  
9 than historic sites as architecture or as  
10 specifically a building. So we have other  
11 citations. I think this one is really just  
12 the first paragraph.

13 Q. It seems to me that you determined that this  
14 was overriding RSA 162, the Site Evaluation  
15 Commission rules or statute that enables the  
16 SEC rules. And just from a quick look on my  
17 part, the SEC rules seem to reference the  
18 federal requirements. And I think I heard  
19 you several times indicate that the historic  
20 preservation office was used to only working  
21 under those federal requirements. But how  
22 did you come to the conclusion that this  
23 further enabled --

24 A. I don't think we ever indicated an override.

1 Our request from the Counsel for the Public  
2 was basically to look more broadly at  
3 resources with them, recognizing that the  
4 materials they've seen so far from the  
5 Preservation capture if the Applicant were  
6 directed towards historic architecture and  
7 specifically related to listing. So, in RSA  
8 227-C:1-b, "historic resource" is defined.  
9 So, 227-C:1-b says historic --

10 MR. FITZGERALD: Would you bring that  
11 up, Dawn?

12 A. "Historic resource means any historic  
13 property which has been listed in the  
14 National Register of Historic Places or has  
15 been determined by the keeper of the register  
16 to be eligible for the National Register  
17 using the criteria for evaluation in 36 CFR  
18 60.6" --

19 MR. SCHMIDT: Excuse me. Could you  
20 just hang on until we get it called up.

21 WITNESS O'DONNELL: Sure, sure.

22 MR. FITZGERALD: It's under C:1.  
23 Click on C:1 first.

24 WITNESS O'DONNELL: C:1 Section b.

1 DIR. MUZZEY: That's 1-a.

2 MR. FITZGERALD: C:1 is above C:1-a.

3 MS. GAGNON: I'm sorry.

4 PRESIDING OFFICER WEATHERSBY: Ms.

5 O'Donnell, if you could pull your microphone a  
6 little bit closer, we'd appreciate it. Thank  
7 you.

8 BY MR. FITZGERALD:

9 Q. So you're looking at definitions, and you're  
10 looking at definition VII?

11 A. Definition VII of Historic Resource.

12 Q. Right.

13 A. 1-a is eligible or listed, national or state  
14 register, and b is any object, group of  
15 objects, located in or associated with an  
16 historic property, or that enhances an  
17 understanding and appreciation of New  
18 Hampshire history. Then we get into the  
19 skeletal remains. D, is any object, or group  
20 of objects, district area or site they define  
21 which may yield significant data.

22 So, to me, when you read historic  
23 resource and you have A, B, C, D and E, this  
24 is a broader collection of historic resources

1           then looking at architecture and looking at  
2           human remains.

3       Q.    Okay.  And did the Counsel for the Public, in  
4           their communications with you, indicate that  
5           this was -- would be the applicable statute,  
6           not necessarily overriding, but that it was  
7           applicable in this case?

8       A.    It was applicable, yeah.  I mean, I don't  
9           think anybody ever used the word  
10          "overriding."  I think the issue is that  
11          state departments create the reporting and do  
12          the work that they do, but the SEC has  
13          oversight that's somewhat broader because of  
14          the size and type of these interventions  
15          across New Hampshire.  So the question is:  
16          What is the nature of the broader capture of  
17          historic resources?

18                   MR. FITZGERALD:  May I ask a question  
19           of Attorney Aslin?

20                   Is this consistent with your  
21           understanding?  Do you concur?

22                   PRESIDING OFFICER WEATHERSBY:  I  
23           think that's asking for a legal opinion from --  
24           I'll let Attorney Aslin respond.

1 MR. FITZGERALD: It's with respect --

2 (Court Reporter interrupts.)

3 MR. FITZGERALD: Let me put it in  
4 context. With respect to your instructions and  
5 your request for this review.

6 MR. ASLIN: So I'll answer that in  
7 two ways. I think you can ask the witness what  
8 her instructions were from me, in terms of  
9 scope of work. And I won't represent what  
10 those are, so I'll let her answer that rather  
11 than me testifying about it.

12 With regard to interpreting the  
13 statutes, we'll address it in our briefing to  
14 you at the end of the proceedings. And I may  
15 get to it a little bit on redirect to help,  
16 but I would suggest you look at the rules  
17 that reference these definitions.

18 MR. FITZGERALD: Okay.

19 MR. ASLIN: So that's the link.

20 MR. FITZGERALD: Okay. Thank you.

21 BY MR. FITZGERALD:

22 Q. You also indicated that you identified 475 --

23 PRESIDING OFFICER WEATHERSBY: Do you  
24 mind if I jump in while we have this up?

1 MR. FITZGERALD: Sure.

2 PRESIDING OFFICER WEATHERSBY: I want  
3 to direct your attention to Section VI of this  
4 statute, Historic Property. Did you use that  
5 definition of historic property --

6 WITNESS O'DONNELL: We did.

7 PRESIDING OFFICER WEATHERSBY: --  
8 when you considered what a historic site was  
9 under our rules?

10 WITNESS O'DONNELL: Yes.

11 PRESIDING OFFICER WEATHERSBY: And is  
12 that because our site, our Rule 102.23 defines  
13 "historic sites" as "historic property" as  
14 defined in that Section --

15 WITNESS O'DONNELL: Right. They're  
16 linked.

17 PRESIDING OFFICER WEATHERSBY: -- VI?

18 WITNESS O'DONNELL: Yeah. So  
19 historic sites are linked to historic  
20 properties and historic resources and historic  
21 preservation. All these are defined here.

22 PRESIDING OFFICER WEATHERSBY: Thank  
23 you.

24 MR. FITZGERALD: Thank you. That's

1           very helpful.

2   BY MR. FITZGERALD:

3   Q.   Oh, also, I just want to ask one question.

4                   MR. FITZGERALD:   Dawn, could you go  
5           to 6-C:9.

6                   MS. GAGNON:   Right here?

7                   MR. FITZGERALD:   Yes.

8   BY MR. FITZGERALD:

9   Q.   I believe that you testified that this  
10       section somehow governed the cooperative  
11       process between the DHR and the Corps. I may  
12       have gotten that wrong. I may have been  
13       confused. But I believe you referenced this  
14       section in some part of your testimony.  
15       Could you clarify for me how you felt this  
16       applied.

17   A.   Good question.

18                   (Witness reviews document.)

19   Q.   Reason I ask is when I read this, I see it  
20       saying the state agencies shall cooperate  
21       with DHR.

22   A.   Right.

23   Q.   I'm not sure I understand or follow the link  
24       to the Army Corps process.

1 (Witness reviews document.)

2 A. You're correct. This particularly speaks to  
3 state agencies, departments, commissions,  
4 institutions authorized and encouraged to  
5 work together. I think that the issue with  
6 the Army Corps is that they have a role in  
7 the Section 106 process, and that's the  
8 reason why there's a MOA and then a separate  
9 MOU with DHR. So I wasn't saying that this  
10 directs cooperation. What I was saying is  
11 that there's a process that perhaps defaults  
12 to the Section 106 process because it's a  
13 federal process and it has clear rules and  
14 processes, but that the SEC process,  
15 according to your rules, is somewhat  
16 different from that Section 106 process, and  
17 that in the communication between DHR and the  
18 Applicant, and DHR and the Army Corps, there  
19 may be a tendency to default specifically to  
20 National Register listed and eligible  
21 properties rather than the more comprehensive  
22 definition of historic resources. The lists  
23 are there, the properties are listed, and  
24 there's an eligibility list in hand.



1 Q. So you weren't referencing this as something  
2 that helped you to go to a broader  
3 definition.

4 A. Not specifically.

5 Q. Okay, okay. It's more that definition in  
6 C:1?

7 A. Yes.

8 Q. Okay. Thank you very much.

9 A. And the string of definitions in C:1.

10 Q. Right, right. Thank you.

11 Okay. You made a statement that access  
12 includes visual access.

13 A. Yes, I did.

14 Q. And can you -- do you have a reference or a  
15 cite to support that, or is that just your  
16 opinion? Not just, but --

17 A. No, I think there is precedent on that. I  
18 mean, the designation of scenic roads are  
19 often related to historic resources, and  
20 access to the road is considered having the  
21 experience of the historic resources that it  
22 joined a road on either side. I don't have a  
23 legal citation for you on that.

24 Q. Okay. Do you consider existing power lines

1           in historic areas to be part of their  
2           historic character?

3       A.    Yeah, they are.  They're usually fairly  
4           modest in size and scale.

5       Q.    Okay.  I also believe in some of the  
6           questioning with regards to the Newington  
7           Master Plan, at one point I think I heard you  
8           say the Applicant demonstrated a  
9           well-thought-out approach consistent with  
10          Newington Master Plan, but then you said the  
11          SEC should not rely on the MOA, you know,  
12          Exhibit 200, the Corps of Engineers MOA.  
13          Could you clarify that for me.

14      A.    I don't recall saying that the Applicant  
15           aligned their work to the Newington Master  
16           Plan.  So let me just suggest that.

17               And in terms of the MOA and MOU, they're  
18           predicated on an identification of resources  
19           that calls out for the Section 106 process,  
20           the cable house.  And it calls out for the  
21           DHR MOU as opposed to the MOA for historic  
22           properties that have been determined by DHR  
23           to be adversely affected and how those  
24           effects should be mitigated.

1 I don't think the SEC should rely on  
2 that because, in my opinion, the number of  
3 resources and the typology of resources  
4 included in those agreements is very limited,  
5 and that that limitation is a flaw. And in  
6 that limitation, if we were to take the  
7 definitional structure that we just spoke to  
8 a minute ago and applied it to the five  
9 resources being considered in the MOA and the  
10 MOU, we would say there's a broader universe  
11 of things that hasn't been included in these  
12 documents. And that's essentially what we  
13 tried to show by developing the maps, taking  
14 the GRANIT GIS layers, looking at conserved  
15 lands, looking at public waters and their  
16 access, looking at the cultural values that  
17 are implied in conserving lands and so forth,  
18 to say that there's more heritage of the  
19 people of New Hampshire out here than these  
20 five items that are covered in the MOA and  
21 the MOU. This is a long corridor. It goes  
22 through four towns. Just walls, we found 912  
23 stone walls that are in the corridor itself,  
24 and that's from the Applicant's --

1 Q. You said those are within the utility  
2 easement corridor?

3 A. We were given a data layer in a data request  
4 to the Applicant of stone walls. And the  
5 points shown in that data layer, not our  
6 creation, were 71 in Madbury; 475 in Durham;  
7 259 in Newington; and 107 in Portsmouth. And  
8 we have --

9 Q. And each of those points is a stone wall?

10 A. Points are stone walls. So, 912 stone walls.  
11 And we're talking in these materials about  
12 mitigating the impact on a few walls. So,  
13 you know, when you look at nearly a thousand  
14 walls and you're talking about less than 10,  
15 I understand that there may be additional  
16 agreements, and the same techniques may be  
17 brought to bear with stone walls, that  
18 Applicant uses existing openings, that the  
19 Applicant avoids -- always best to avoid --  
20 avoids the walls, or that the Applicant uses  
21 this timber bridging technique that they've  
22 shown. But it doesn't seem comprehensive to  
23 me, sitting at this point in these  
24 proceedings, to have the Commission not know

1           that there's 912 stone walls, other than in  
2           our report.

3   BY MR. IACOPINO:

4   Q.   Just a follow-up. The question to you was  
5           whether those 900 and so many walls are in  
6           the right-of-way corridor.

7   A.   They're labeled on the 100-foot and they're  
8           shown right at the line. We didn't create  
9           the layer. But that's what it shows up in  
10          our GIS, and it's on our town mapping, as  
11          presented in our report.

12   Q.   And you deal with those maps more than I do.  
13          So does that mean that stone wall crosses the  
14          corridor because there's a point at each  
15          side?

16   A.   Yeah, it could cross or it could be directly  
17          next to. I'm not sure how they developed the  
18          data layer. But it's a GIS layer, and it has  
19          912 points. I mean, where we got our points  
20          was from the map provided by the Applicant.  
21          We didn't go to the field. That wasn't our  
22          work.

23   Q.   Thank you.

24   BY MR. WAY:

1 Q. I think you partially answered what I'm going  
2 to ask, but I'm still not clear. Those 912,  
3 is it --

4 A. Points.

5 Q. -- points, those walls, because you talked  
6 about mitigation a moment ago. So those are  
7 walls that are going to require mitigation  
8 because they're within the 100 feet, but  
9 they're going to be impacted.

10 A. Right. If you look at any of our four town  
11 maps, they show a little brown symbol.  
12 That's the data layer that we got from the  
13 Applicant. And we've shown them at the town  
14 level as an Applicant-identified stone wall.  
15 And they generally run right under the red  
16 line of the corridor. There's a few in  
17 Newington that run off to the side of it.  
18 But perhaps an accurate way to say it -- GIS  
19 is geo-located data. So perhaps an accurate  
20 way to say it is the points at least where  
21 the 100-foot close-in area is has a wall in  
22 it.

23 Q. Is each point a wall?

24 A. I didn't create the layer. We just asked for

1           it and were given it, and we showed it on the  
2           map. So it has that many points selected.

3                     DIR. MUZZEY: May I just follow-up on  
4           that?

5 BY MS. MUZZEY:

6 A.     Sure.

7 Q.     So my limited understanding of GIS and  
8         resource layer mapping is that you would have  
9         a point, say where the wall began or entered  
10        the corridor, and then you would have a point  
11        where it ended or left the corridor. And so  
12        there would be more than one GIS point  
13        assigned to a stone wall. So I'm just  
14        wondering, do we have 912 GIS points, or do  
15        we have 912 stone walls?

16 A.     We have 912 GIS points arrayed through the  
17         towns as I indicated in the numbers. These  
18         are in our Chapter 4 reporting at the town  
19         level, and it's just one resource set. So --

20 Q.     I understand.

21 A.     -- the GIS maps shows points.

22 Q.     All right. Thank you.

23 BY PRESIDING OFFICER WEATHERSBY:

24 Q.     While we're on walls, let's have a

1 discussion.

2 A. Go through the wall.

3 Q. Regardless of how many there are --

4 A. A lot.

5 Q. Oh, there's a lot. And a lot of them are  
6 historically significant. Some were probably  
7 built two years ago, but a lot of them are  
8 historically significant. I think we can  
9 probably all agree on that.

10 If the Applicant is to bridge the walls  
11 and therefore avoid any direct impact to  
12 them, or go through an opening, or perhaps  
13 dismantle it and rebuild in exactly the same  
14 configuration by numbering the rocks or  
15 whatever, wouldn't that -- does that still  
16 have an adverse impact?

17 A. No. No. I mean, if we're, first, avoiding,  
18 second, going through an opening, third,  
19 bridging, fourth, if we must rebuild, we're  
20 good. But when we're talking about the MOA  
21 and MOU, we're talking about a small handful  
22 of walls. That's the only point I'm trying  
23 to make. The question I think for the SEC  
24 is: Have we captured all the resources, and



1           are we applying the right techniques as the  
2           Project is constructed to retaining those  
3           resources into the future?

4    Q.    But as far as -- I understand the bigger  
5           picture. But as far as the walls are  
6           concerned, if this Committee were to approve  
7           the Project and put in a condition that all  
8           of the walls must be either bridged --

9    A.    Avoided, opened --

10   Q.    -- if possible, going through an opening or  
11           rebuilt, that would be an appropriate  
12           condition that would satisfy --

13   A.    Absolutely. And I'm sure that the four towns  
14           would be happier if it were more  
15           comprehensive. Our brief from the Counsel  
16           for the Public was to give them a more  
17           comprehensive view of the heritage of these  
18           towns and what the resources were.

19   Q.    So what are you suggesting in addition to  
20           what we've just been -- what you and I just  
21           have exchanged?

22   A.    Well, the categories that we developed in our  
23           report -- I'm not looking at the list -- but  
24           the graveyards --

1 Q. No, no. I'm sorry. Just on walls.

2 A. On walls?

3 Q. Yes.

4 A. I think that you should ask the Applicant to  
5 agree with the SEC that all walls that are  
6 going to be worked near -- you decide what  
7 "near" is, but probably within the 100  
8 feet -- are going to be those four things:  
9 You're going avoid them; you're going to go  
10 through an existing opening; you're going to  
11 bridge over them; or you're going to, in as  
12 few cases as possible, dismantle and rebuild  
13 them.

14 Q. Thank you.

15 BY MR. FITZGERALD (CONT'D):

16 Q. I'm done with walls.

17 A. Good. Moving on.

18 Q. I believe Ms. Frink asked you, regarding the  
19 transition tower on her property, she asked  
20 you about avoidance. And I believe she asked  
21 if undergrounding through the Pickering Farm  
22 beyond her property would be avoidance and  
23 more appropriate. And I believe your answer  
24 with regards to avoidance had some -- when

1 applicable or when possible, and then when  
2 it's not possible, you know, you go to other  
3 circumstances. Is that correct?

4 A. I think I said yes, under the Pickering Farm  
5 would be an improvement over the current  
6 situation, as proposed --

7 Q. Okay.

8 A. -- and that you always begin with avoid the  
9 impact, and then you move to mitigate. Then  
10 you -- sorry. Then you move to minimize,  
11 then you mitigate.

12 MR. FITZGERALD: Okay. And if I  
13 could clarify with Attorney Needleman?

14 I believe the testimony was that  
15 the Applicant sought to work with Mr.  
16 Pickering, or the Pickering Farm, and was not  
17 able to secure the underground rights; is  
18 that correct?

19 MR. NEEDLEMAN: I'm going to say I  
20 think that's generally correct. But I'll rely  
21 on the record specifically. I thought it was  
22 they were asked and said no. But I think Mr.  
23 Bowes testified about that specifically.

24 MR. FITZGERALD: I believe that -- I

1           was just asking for confirmation. So thank  
2           you.

3 BY MR. FITZGERALD:

4 Q.    So, understanding that that's not -- the  
5           property owner will not allow that  
6           undergrounding, if that is determined to be  
7           the case, then would you agree that  
8           undergrounding as far as they can through Ms.  
9           Frink's property, to the point where they  
10          have to get -- go back above ground, would be  
11          the best thing to do?

12 A.    It may be the best they can do, yeah.

13 Q.    Okay. We saw a picture of the Pickering  
14          house, and it showed the power lines behind  
15          it, the existing power lines. Is the  
16          Pickering house a historic property --

17 A.    Hmm-hmm. Yeah.

18 Q.    -- or resource?

19 A.    Yup.

20 Q.    Is it your opinion that the new power line  
21          with its taller tower will diminish the  
22          historic character of that house?

23 A.    It has an impact. I think that the size of  
24          the towers is more dominant in the landscape.

1 I mean, when they start to rise above tree  
2 line or come to the peaks of the trees, they  
3 become more visually important, more  
4 prominent.

5 Q. Okay. I believe you were asked early on,  
6 perhaps Attorney Patch, was consultation with  
7 the Durham Historic Association, direct  
8 meetings, appropriate. And I believe your  
9 answer, you know -- I think you were asked  
10 would you think that should be part of the  
11 process in identifying sites. And you  
12 answered -- I believe you answered "yes" to  
13 that; is that correct?

14 A. Yes. I think the broader question that  
15 Attorney Patch asked was: Do you think it's  
16 appropriate to reach out directly to  
17 communities to hear their voices about what  
18 they value? And my answer was "yes," I do  
19 think it's appropriate.

20 Q. Okay. In your look at this, did you contact  
21 the DHA? Did you meet with them?

22 A. We were not asked to. But we did review both  
23 their prefiled original testimony and their  
24 supplemental testimony.

1 Q. Okay. And I believe that we were shown a  
2 pretty significant amount of correspondence  
3 that went between the Applicant and DHA. So  
4 I'm just trying to understand, if they  
5 expressed their opinion in their testimony  
6 and in their correspondence with the  
7 Applicant, do you think face-to-face meetings  
8 are still, you know, necessary if they've  
9 written to the docket and provided  
10 information?

11 A. I guess my impression of it is: What's the  
12 result. So is the result that the DHA  
13 resources that they identified have now been  
14 brought into the process and are recognized?  
15 I don't see that yet. I think that DHA has  
16 provided, and I listed this in my  
17 supplementary testimony, Page 2 of 4, the  
18 first question and paragraph. Because  
19 they're local, they know a number of -- and  
20 they've organized themselves -- they know a  
21 number of local resources that were not  
22 included in the Preservation Company report  
23 or the Widell testimony. They're not  
24 architectural. They're cellar holes, they're

1 granite benches that were made by quarry  
2 workers, they're gravestones, a number of  
3 other elements small in scale, valued  
4 locally, likely ineligible for state or  
5 federal listing.

6 So the question that I would pose to the  
7 SEC is: Where do those fit if a community  
8 has identified those resources that they feel  
9 holds part of their heritage? How do they  
10 make their way into the process so that they  
11 can be, first, avoided, and then perhaps  
12 having the impact on them minimized? And  
13 then if they need to be disturbed heavily,  
14 how do you mitigate for them?

15 So DHA -- in this paragraph in my  
16 supplemental testimony, I suggested that the  
17 DHA testimony identifies historic resources,  
18 enumerating those directly within the Project  
19 corridor that were neither in the Bunker nor  
20 the Preservation Company report, but have  
21 local value.

22 Q. Okay. I guess my question specifically  
23 focuses on the need for a face-to-face  
24 meeting. And I think I just heard you say,

1       based on your review of the testimony,  
2       despite what the outcome is either way, but  
3       based on your review of the testimony, they  
4       identified other resources that needed to be  
5       taken into consideration.

6               Would you say they had an adequate  
7       opportunity to present their information to  
8       the Applicant and before this Commission?  
9       Because it seems to be implied that, absent a  
10      specific meeting or a face-to-face meeting,  
11      that some information may not be seen. And  
12      I'm kind of at a loss to understand how, if  
13      they communicate in writing what they're  
14      concerns are, that a face-to-face meeting was  
15      necessary. I don't have any problem with it,  
16      but I'm trying to understand the  
17      significance.

18    A.   No, I don't think the face-to-face meeting is  
19          the crux of the issue. I think the issue is  
20          have the resources they've identified been  
21          brought into the process. So it doesn't  
22          matter how that information is communicated.  
23          But the question is: Has it been engaged  
24          with, and is it going to be -- because it's



1           been identified, will it be protected in some  
2           manner?

3       Q.    Okay.  But in this process, and in processes  
4           that you've been involved with, would you  
5           assume that if DHA or an entity like DHA, a  
6           local historic association, provided their  
7           comments, that that would be the information  
8           that needed to be considered?

9       A.    Yeah, it's the basis for incorporation.

10      Q.    Okay.

11                           MR. WAY:  Yes, I think -- I think I  
12           wanted to follow up on that as well.

13      BY MR. WAY:

14      Q.    So, just so I understand, throughout this  
15           entire -- throughout your process, it did not  
16           involve direct communication with the various  
17           communities?

18      A.    No.

19      Q.    Because I'm looking at your prefiled, I think  
20           it's on electronic Page 3.  You say that by  
21           conducting limited community outreach, they  
22           failed to increase the type of historic sites  
23           covered in their reporting.  Always a fair  
24           statement for anyone I think.

1           And so I'm just wondering, and I'm  
2           trying to grasp my mind around it without  
3           implying anything, why is it different? The  
4           concern is that one party may be presuming  
5           from what they're reading, what they're  
6           seeing online, what they perceive. But  
7           there's no replacement for the  
8           direct-to-direct communication. I think  
9           that's one of the things that I've oftentimes  
10          seen. You start learning things. And, you  
11          know, I think in the past we've been critical  
12          of the Applicant for taking that -- not  
13          taking that step. Why would that not apply  
14          in your case? Why do you think --

15   A.   Oh, it still applies. I'm just saying it's  
16          not the only communication channel.

17   Q.   Oh, sure.

18   A.   And in the Northern Pass work, the Counsel  
19          for the Public asked us to go directly to the  
20          communities and have them identify the  
21          heritage assets and resources that they felt  
22          were significant listed, unlisted, community  
23          value.

24   Q.   And in your scope, you're saying it wasn't in

1           your scope --

2       A.    It was in our scope for Northern Pass.  It  
3           was not in our scope for the Seacoast.

4       Q.    Which meant that you didn't have the latitude  
5           or just --

6       A.    We didn't have the latitude to undertake a  
7           direct --

8                   (Court Reporter interrupts.)

9       A.    Sorry.

10      Q.    Yeah, my fault, too.  All right.  Thank you.

11      BY MR. FITZGERALD (cont'd):

12      Q.    Okay.  And I've saved the easiest for last.

13                   In a general sense, could you sort of  
14           define the Venn diagram of how scenic and  
15           historic -- you know, a historic site that  
16           has scenic value as well as -- I guess my key  
17           question first is:  Does a site have to be  
18           historic first to be considered historic  
19           scenic, so to speak?  And then how does that  
20           dictate the overall treatment of those, that  
21           universe of sites?  Just seems to be an  
22           extremely complicated issue in my mind.  I'm  
23           hoping you can clarify it for me a little  
24           bit.

1     A.    The simple answer is the definition of  
2           "scenic resources" includes historic sites  
3           that have scenic value to the viewer.  So the  
4           scenic resource world is not my world, but it  
5           has a methodology.  And the intent in scenic  
6           resources is to -- and I think we've got it  
7           defined in your New Hampshire legal  
8           frameworks as to a reasonable person, is this  
9           appealing.  Simply sort of common-language  
10          stated.  So, many people feel that a forested  
11          and field hillside with historic buildings  
12          along it is scenic.  So it's a question of  
13          judgment.  I think most people who do scenic  
14          assessment use a very clear methodology of  
15          how they judge.  And in the case of this  
16          work, it was listed, previously listed  
17          properties, national and state, that were  
18          considered.

19     Q.    Could I ask you a clarifying question about  
20           that specific issue.  The term "historic with  
21           scenic" -- I forget what the --

22                     DIR. MUZZEY:  Quality --

23                     MR. FITZGERALD:  Quality.  Thank you.

24     BY MR. FITZGERALD:

1 Q. -- does that mean that it's a historic site  
2 that also has scenic, or that it's a historic  
3 site and that the scenic part of it is part  
4 of its historic nature?

5 A. It's a bit of a "chicken and egg" question.

6 Q. That's very helpful.

7 A. I see what you're trying to get at. I think  
8 what we're saying is, to the reasonable  
9 person viewing a place, is it also scenic? I  
10 think it's a historic site first and it has  
11 scenic value. Now, I personally, and in this  
12 work specifically, have not defined "historic  
13 sites" narrowly as architecture and as  
14 already listed or determined eligible.

15 Q. Okay.

16 MR. FITZGERALD: Go ahead.

17 DIR. MUZZEY: Follow-up?

18 PRESIDING OFFICER WEATHERSBY: Sure.

19 BY MS. MUZZEY:

20 Q. In your testimony this morning following up  
21 on the scenic historic nexus, you said that  
22 there was a lack of integration in the  
23 LandWorks aesthetics report, that you had  
24 perceived some gaps in the information. And

1           so I'm looking at the LandWorks report,  
2           Appendix -- Applicant's Exhibit 51. And  
3           beginning on Page 51, there's something  
4           called "Table 2. Scenic Resources Within Area  
5           of 'Greatest' Potential Visual Impact, and  
6           then there's pages of lists of different  
7           properties listed. So what you're saying is  
8           that this list is not comprehensive enough?  
9           Is that true?

10       A.    I think our position, and I don't have the  
11           list in front of me --

12                        DIR. MUZZEY:  Would you mind pulling  
13           that up, Dawn?

14       BY MS. MUZZEY:

15       Q.    It's Page 51, and the list begins here. It  
16           begins with what are called "National  
17           Resources," and then it goes down to State  
18           Resources and then Local Resources.

19                        (Witness reviews document.)

20       A.    So I found this interesting and useful.  
21           Basically, the directive on this table is to  
22           the right-hand side and whether or not  
23           there's visibility in the visual model. The  
24           list is quite thorough. The visibility model

1           was not a bare earth. So it's looking at  
2           these and saying a bunch of them are not  
3           visible from the Project.

4                       So I think my point was that between the  
5           scenic and the historic consultant, there  
6           were few scenic historic resources that were  
7           demonstrated through the LandWorks process to  
8           be impacted, or potentially adversely  
9           impacted by the process [sic].

10    Q.    So this list does not include all the  
11           properties that were determined eligible for  
12           listing on the National Register or were  
13           already listed on the National Register?

14    A.    I'm not sure what it includes.

15    Q.    If it lacked those types of resources, would  
16           you see that as a fault of the scenic  
17           evaluation?

18    A.    They should have included visibility for the  
19           listed national, the listed state, the  
20           eligible. And the question of where they got  
21           their locally important list from arises.  
22           And then the question that goes to the  
23           right-hand column of this multi-page impact  
24           list is: Are they visible from the Project

1           corridor?

2    Q.    Right.

3    A.    And the model that they provided to us,  
4           again, the Applicant's visibility model, is  
5           not bare earth.

6    Q.    Yes.

7    A.    So it implies that objects in the way of the  
8           view will be there forever.  And it's my  
9           understanding from our prior work on Northern  
10          Pass that the visibility model should be  
11          looking at bare earth as opposed to one with  
12          a series of objects, that you then eliminate  
13          a whole series of things from consideration.

14   Q.    So getting back to, you know, your question  
15          as to where they got their local information  
16          for this listing, what do you feel would have  
17          been an appropriate way to get local  
18          information as it applies to historic scenic  
19          resources, or historic sites with scenic  
20          quality?

21   A.    Right.  So the first piece on the page in  
22          front of us is the locally identified scenic  
23          roads.  And we have those on the GIS layer,  
24          so we know where those come from.  I don't



1 know if this local resources goes beyond  
2 scenic roads.

3 Q. Because you can't page down on the chart.

4 A. But of course the scenic roads we listed in  
5 our report and we indicate that these are  
6 important to the heritage of the four  
7 communities.

8 Q. Thank you.

9 PRESIDING OFFICER WEATHERSBY: Just a  
10 quick follow-up.

11 BY PRESIDING OFFICER WEATHERSBY:

12 Q. For the scenic resources, you indicated that  
13 other properties should be added on to this  
14 list. And that is true even if they're  
15 private properties? If they had a scenic  
16 quality they should be added because the  
17 public has a right to view them from public  
18 property? Is that -- am I understanding your  
19 position correctly?

20 A. Yeah, you're kind of stating a legal  
21 argument. But I think the disjunct in my  
22 mind came in part with the 3-mile off-center  
23 line and the half-mile off-center line. So  
24 the sites that were considered in the scenic

1 review were based on the 1 mile. That was my  
2 understanding, that they took their  
3 information from the Preservation Company and  
4 Widell work. But they were looking at  
5 3 miles. When we mapped the four towns,  
6 there were a considerable number of sites  
7 beyond the one-mile APE that were still  
8 included in the scenic APE. So it's not  
9 matching. So the half-mile to two and a half  
10 miles and the visibility diagram didn't  
11 actually get studied for the historic sites  
12 beyond the one-mile APE.

13 Q. So, from the two and a half --

14 A. Two and a half to the edge of three; right?

15 Q. Right. Was not -- additional historic  
16 resources, historic sites were not  
17 identified --

18 A. And we mapped --

19 (Court Reporter interrupts.)

20 Q. -- regardless of public right of access.  
21 You're faulting them for not closing the gap  
22 between the two different APEs.

23 A. Correct. And in the Chapter 4 town-by-town  
24 reports there are a considerable number of

1 additional historic sites that fall on those  
2 town maps outside of the half-mile center  
3 line, one-mile-wide APE. And when you look  
4 at the three-mile APE that was used for  
5 scenic, it covers most of the four towns, and  
6 it includes parts of Dover.

7 BY DIR. MUZZEY:

8 Q. Continuing on the idea of area of potential  
9 affect, this morning, I believe it was your  
10 conversation with Attorney Needleman, there  
11 was discussion of direct versus indirect APE,  
12 or area of potential effect, and then a  
13 discussion of whether that was just  
14 archeology, is it above-ground resources.

15 So, to further clarify that, can you  
16 tell me what types of resources could be  
17 affected in the direct APE? Is it just  
18 archeology, or is it other things as well?

19 A. No, it's above ground as well.

20 Q. So calling it the archeological APE versus  
21 the above-ground APE isn't accurate.

22 A. As long as the above-ground APE also  
23 encompasses the archeological, we're fine.

24 Q. That was my understanding as well.

1 A. Yeah.

2 Q. Thank you.

3           You've talked a great deal about how you  
4 feel there should be a broader view of what  
5 makes it all to the historic site list for  
6 any project area and that the definition of a  
7 historic place under the federal regulations  
8 is, in your opinion, not expansive enough.

9 A. Correct.

10 Q. So, moving to the next step in the process of  
11 assessing the effects to the list of historic  
12 places, what criteria did you use to assess  
13 the effect?

14 A. We weren't asked to assess effects. But what  
15 we considered is views and direct impacts  
16 whenever we're working on a project with  
17 effects. So in the case of this corridor,  
18 for example, conservation lands are affected  
19 by the corridor. In several cases, the line  
20 runs through conserved land. In other cases  
21 it's directly adjacent or very close to  
22 conserved land. And conserved land was not  
23 considered in any of the impact discussions,  
24 with the exception of habitat potential.

1           So it was considered in scenic. New  
2           Hampshire has a lot of long history of land  
3           conservation for personal and public good.  
4           And to me, that's a considerable plank in  
5           your heritage.

6   Q.    So, thinking of, in particular, our  
7           assessment of the effects on historic sites,  
8           if a piece of land was conserved in, say  
9           2005, do you feel that would be more  
10          appropriately evaluated under the historic  
11          sites criteria or the aesthetics criteria?

12   A.    Aesthetic for recent.

13   Q.    For a recently conserved land.

14   A.    For a recently conserved land, it would be  
15          under the aesthetic criteria.

16   Q.    And would your evaluation change at all if  
17          transmission lines were an allowed use in the  
18          conservation easement?

19   A.    Were an allowed use? I think the evaluation  
20          would be based on the size and nature of the  
21          transmission lines as opposed to simply the  
22          allowed use. One of the benefits that New  
23          Hampshire has is the amount of forested land  
24          and the amount of tree cover. And in many

1 cases, that tree cover is sufficient to  
2 isolate, not remove, but isolate the impact.  
3 When the lines get too big, they are more  
4 broadly impacted.

5 Q. And the nature of conservation land differs,  
6 of course.

7 A. Of course.

8 Q. But to get back to the discussion of the  
9 criteria of effect that you used to make some  
10 conclusions, because you have concluded that  
11 this project will have an unreasonable  
12 adverse effect on historic sites, you  
13 mentioned views and you mentioned direct  
14 impacts. Anything more specific than that?  
15 For example, under the Section 106 process,  
16 merely a view is not sufficient to cause an  
17 adverse effect. There's more to it than  
18 that.

19 A. Right.

20 Q. So in your evaluation of your more broad list  
21 of historic sites, do you have more specific  
22 criteria of effect beyond view or direct  
23 impact?

24 A. Right. I think those are the two categories,

1 Elizabeth. And I think the question that we  
2 were trying to get at with our reporting and  
3 our testimony is that, if the process of  
4 identifying the historic and scenic resources  
5 was more comprehensive, the process of siting  
6 under the SEC rules may become more efficient  
7 and more effective because up front there's  
8 more resources identified and they can be  
9 addressed.

10 The concern we have is that there are  
11 societal, historical facts of caring about  
12 certain value resources beyond those listed  
13 on the national or state registers, and that  
14 those resources, in the current way the  
15 process works, are not being considered at  
16 the beginning and dialogued in the process of  
17 the departments and the Applicant and the  
18 communities which -- I mean, there may be --  
19 what we're saying is that there are hundreds  
20 of walls, that there are a large number of  
21 conservation lands, trails, recreation sites  
22 and so forth. If they'd all been in the  
23 basket in the beginning, you may say, well,  
24 for 94 percent of these there's no effect.

1           Let's deal with these 6 percent that have an  
2           effect. The flaw in the process, from our  
3           thinking, is that those 6 percent never got a  
4           voice. So if we're talking about a puzzle  
5           and we're only looking at 4 pieces and there  
6           are 40, how do we get an equitable final  
7           result?

8    Q.    So I feel like I'm hearing you say two  
9           different things.

10   A.    Not really. We didn't really do an  
11           assessment. We tried to make a case that the  
12           identification process was incomplete.

13   Q.    And that's what causes the unreasonable  
14           adverse effect.

15   A.    Because we have a whole series of resources  
16           that haven't been fully considered.

17                    DIR. MUZZEY: I know I have a couple  
18           more questions, but if someone has some, I can  
19           find mine.

20   BY PRESIDING OFFICER WEATHERSBY:

21   Q.    If I could just follow up on the last  
22           thoughts here about the missing -- the  
23           historic sites that are missing from the  
24           analysis. I know that's probably your major



1 criticism of the Applicant. And that stems  
2 from basically the definition of historic  
3 sites included things that were important or  
4 significant to the culture of the  
5 communities --

6 A. Right.

7 Q. -- and you feel like those were missed.

8 A. Right.

9 Q. And you list things like conservation lands,  
10 trails, public waters --

11 A. Small graveyards, et cetera.

12 Q. But I'm wondering -- what I struggle with is  
13 what the threshold is in order to be  
14 determined significant to the culture.

15 A. Good question.

16 Q. We talked about culture being shaped by  
17 people over time. So there has to be some  
18 sort of time element to this.

19 A. Sure.

20 Q. And yet, on your list are things like a  
21 recreation field, a tot lot, a boat launch.  
22 That may or may not be old, may or may not be  
23 significant enough to the -- I mean, the  
24 community obviously values the boat launch so

1           they can get their boat in the water.

2    A.    Sure.

3    Q.    But is that something that's shaped by the  
4           community over time? So I struggle with --  
5           and perhaps I guess this is my question: How  
6           do you address or where do you draw the line  
7           of what's significant and should be  
8           considered a historic site and what is just  
9           something that the community loves to have  
10          for their -- it enhances their quality of  
11          life?

12   A.    I think that's a good question. And I think  
13          that the process we went through was to  
14          enlarge the basket, think about what was  
15          really out there beyond architecture, beyond  
16          archeology as defined and as known, and then  
17          say, but if we have all these things, how can  
18          we get down to five things that we have to  
19          mitigate? It seems disingenuous that you  
20          could go from the four towns in this size of  
21          a corridor with the kinds of resources we  
22          were able to map and get down to five. It  
23          just doesn't seem feasible that we really can  
24          only deal with these five -- the four on the

1 DHR list and the cable house.

2 Q. But if you had listed every recreational  
3 property in every town and, you know,  
4 including the playground, you know, at some  
5 point the universe becomes so large that it's  
6 an impossible task. This is only a 13- or  
7 15-mile project --

8 A. Right.

9 Q. -- through four towns. So if it was even  
10 larger, the task becomes more and more  
11 difficult. So there seems to be -- so I  
12 again go back to my question. How do you --  
13 do you limit, and how do you limit what gets  
14 on the list to determine to be qualified as a  
15 historic site and not just enhancement to the  
16 community?

17 A. I would probably begin with an age reference.  
18 The rule that's usually applied to the  
19 register, state or federal, is we have to  
20 look very carefully at anything less than 50  
21 years old. And that rule is based on the  
22 distance of two generations from the creation  
23 of the site or the setting of the site. I  
24 don't think every recreation site is worthy.

1 I think probably the oldest conservation  
2 lands, the town forests, those kinds of sites  
3 are quite important to the heritage of the  
4 community, its historic sites. There are  
5 historic graveyards. There's a rule in  
6 preservation that says places of burial don't  
7 usually make it into the list. So they  
8 actually have to be thought about separately.  
9 It's a question of enlarging and winnowing.

10 And I would suggest that there's  
11 probably not 1,000, but maybe 50 important  
12 things along this corridor. It's not my job  
13 to define all those. But what I'm suggesting  
14 is that when we go to 5 and we've got  
15 15 miles, it seems overly small and that  
16 we've eliminated a lot of things by not using  
17 a bare earth model in the scenic, by choosing  
18 the size of the APE, by deciding the views  
19 are only important from the front of a  
20 building, not from a whole agricultural  
21 district. All those incremental decisions  
22 are made in order to winnow down and make a  
23 very tiny list so that the mitigation efforts  
24 are not large. So that's the rationale. I'm

1 not saying there are thousands of things out  
2 there that need to be considered. I'm  
3 just -- if you were on a seesaw and you said  
4 you were at five and I said, well, open the  
5 basket and think about all the other things.  
6 That's the flaw, in my opinion, of the  
7 process by its nature.

8 Q. Thank you.

9 PRESIDING OFFICER WEATHERSBY: Mr.  
10 Schmidt.

11 QUESTIONS BY MR. SCHMIDT:

12 Q. Good afternoon. I've got a few very general  
13 questions from my -- I don't have a  
14 background, so I'm hoping that you can help  
15 me out.

16 You made a statement earlier today that,  
17 if you could see a pole from a trail, then it  
18 would be considered a historic impact. I'm  
19 just trying to get my hands around that  
20 statement.

21 A. I think we said "adverse impact."

22 Q. Okay. And then I was curious if you, besides  
23 this project and Northern Pass, have you  
24 worked on any other projects in New

1 Hampshire? Specifically what I'm wondering  
2 is if you've been involved with setting the  
3 APE with DHR and the philosophies --

4 A. No.

5 Q. Okay. Have you worked on any other New  
6 Hampshire projects?

7 A. Not in New Hampshire, no.

8 Q. Okay. Thank you.

9 On your maps that you showed earlier on  
10 the potential views, your legend was pink  
11 areas you could potentially see from the  
12 transmission line.

13 And you made a statement, "bare earth."  
14 Is that a standard in your practice to look  
15 at it that way? So it's like a national  
16 standard that you use?

17 A. Most scenic consultants, based on the  
18 project, look at visibility with bare earth.

19 Q. So you do address terrain and so on?

20 A. Right.

21 Q. Okay. Thank you.

22 MR. SCHMIDT: That's all I have.

23 A. So the valley at the upper --

24 PRESIDING OFFICER WEATHERSBY: Ms.

1 O'Donnell, there's no question before you.

2 WITNESS O'DONNELL: Sorry.

3 PRESIDING OFFICER WEATHERSBY: We  
4 always want to explain. I understand. I have  
5 a couple more questions.

6 BY PRESIDING OFFICER WEATHERSBY:

7 Q. In your report, when you made your  
8 conclusions about the four towns, you listed  
9 Portsmouth as having no adverse effect;  
10 Madbury, you indicated there was an adverse  
11 effect, and the same for Durham. When it  
12 came to Newington, you indicated it was an  
13 unreasonable adverse effect. And then your  
14 overall conclusion was that there was an  
15 unreasonable adverse effect. Is that because  
16 effects in Newington tipped the scale, or was  
17 there another explanation as to -- I know  
18 it's not a mathematical equation. But I'm  
19 wondering if the effects in Madbury and  
20 Durham were simply adverse, not unreasonably  
21 adverse, how you got to the overall result of  
22 unreasonable adverse effect.

23 A. So help me out. Are you looking at Page 54  
24 and 55?

1 Q. So, from Madbury -- when we look at your  
2 report, Madbury, Page 42; Newington is 55, I  
3 think, and Durham is 50. I think those may  
4 be electronic pages. I'm not sure.

5 MR. WAY: Electronic 54.

6 A. I think we -- in writing this, you may not  
7 agree, but the language we used in the  
8 town-by-town was not a determination of final  
9 findings and then we looked at the final  
10 findings. I don't think we actually weighed  
11 the one as so much that it would tip the  
12 scales, in the way that you stated the  
13 question.

14 Q. So in Madbury, did you mean that it had an  
15 adverse effect or unreasonable -- the Project  
16 had an unreasonable adverse effect or just an  
17 adverse effect on the historic sites in  
18 Madbury?

19 A. I think our final conclusion is that the  
20 three towns have unreasonably adverse  
21 effects.

22 Q. As the Project as a whole has an unreasonable  
23 adverse effects on these three towns?

24 A. Correct.



1 Q. And I sense a reluctance to go town by town;  
2 is that correct?

3 A. Yeah. I think we wrote the final conclusion  
4 based on the overall sense of the Project.

5 PRESIDING OFFICER WEATHERSBY: Mr.  
6 Way.

7 MR. WAY: Make sure I understand  
8 because I'm looking at Page 58 of 5A, the  
9 report, for Newington. "For these unresolved  
10 reasons, Heritage Landscapes finds the Town of  
11 Newington will experience unreasonable adverse  
12 effects." So I think you did take it down to  
13 the town level.

14 WITNESS O'DONNELL: Okay. As  
15 reported.

16 MR. WAY: Okay. Thank You.

17 BY PRESIDING OFFICER WEATHERSBY (CONT'D):

18 Q. Did you find any cultural landscapes?

19 A. Absolutely. Many.

20 Q. Could you tell us what those are? Are those  
21 recorded somewhere? And did the Applicant  
22 address those cultural landscapes, now  
23 defined as a historic resource?

24 A. We could actually go back a few questions to

1       your statement about, well, is the whole  
2       universe included. It's which ones are  
3       historically important. So I believe that we  
4       called out in the report, particularly the  
5       conserved forests, the agricultural areas and  
6       the town centers, as being important,  
7       larger-scale, cultural landscapes. And then  
8       we pointed out throughout the report that the  
9       roadside character in these towns,  
10      particularly with the stone walls, was  
11      pervasive. So we didn't define specific  
12      cultural landscape envelopes, but we did  
13      indicate those typologies, or the types that  
14      are found through Madbury, Durham and  
15      Newington.

16               MR. IACOPINO: Can you just tell me  
17      what the difference between an envelope and  
18      typology is?

19               WITNESS O'DONNELL: Sorry. We didn't  
20      say this area and draw a boundary and indicate  
21      that that was a cultural landscape of some  
22      merit in the town plans and in other documents  
23      and in looking at the towns.

24               MR. IACOPINO: Thank you.

1                   PRESIDING OFFICER WEATHERSBY: Dir.  
2           Muzzey, do you have a question?

3 BY DIR. MUZZEY:

4 Q.    So taking the idea that there's important  
5        roadside character along some of the local  
6        roads that have stone walls along them, did  
7        you find any of those areas were affected and  
8        then went further, adversely affected? Did  
9        they have impact, and were they adverse?

10 A.   The Project crosses a number of roads,  
11       including scenic roads, and those were  
12       adverse effects, yes.

13 Q.   And do you think those scenic roads are  
14       more -- within the confines of the SEC's  
15       rules as to how we look at projects, are  
16       those more adequately considered under the  
17       aesthetics criteria that considers scenic  
18       quality or under the historic sites criteria?

19 A.   Scenic would be the first. But we note that  
20       some of the roads are specifically in their  
21       designation noted as important because of the  
22       historic elements along them.

23 Q.   Or they may be in a historic district --

24 A.   Correct.

1 Q. -- that type of thing?

2 A. Right.

3 Q. But first they should be considered under the  
4 scenic quality -- the scenic or aesthetic  
5 criteria you're saying.

6 A. I would think that they would begin from  
7 there. It also sets up a bit of a sequence,  
8 Elizabeth, that may not work in this kind of  
9 process where things are done simultaneously.  
10 You know, you look at the scenic assessment  
11 and the historic assessment are happening at  
12 the same time.

13 Q. Thank you.

14 PRESIDING OFFICER WEATHERSBY: Any  
15 other questions from the Committee? Mr.  
16 Iacopino?

17 MR. IACOPINO: I just have one  
18 question.

19 QUESTIONS BY MR. IACOPINO:

20 Q. The parts of the Project that drive the  
21 impacts are the increased height of the poles  
22 and the increased width of the right-of-way;  
23 correct?

24 A. Right.

1 Q. Did you give any consideration to the fact  
2 that the width of the right-of-way could  
3 increase without a certificate from the Site  
4 Evaluation Committee, just through the  
5 everyday maintenance and care of the  
6 right-of-way?

7 A. No, we didn't consider that.

8 Q. All right.

9 PRESIDING OFFICER WEATHERSBY: Dir.  
10 Muzzey.

11 QUESTIONS BY DIR. MUZZEY:

12 Q. So my last question is, earlier today you  
13 said that some progress has been made with  
14 minimizing effects. Your conclusion remains  
15 the same, in that more could be done. I'm  
16 wondering, do you have any specific actions  
17 in mind as to what that "more could be done"  
18 is?

19 A. The answer is yes.

20 Q. Could you share with us?

21 A. Yeah. If we go back to the categorization  
22 that we start with, historic graveyards,  
23 conservation lands, maybe not so much  
24 recreation unless it's antique, designated

1 scenic roads, trails, not necessarily current  
2 use, town-identified sites and stone walls  
3 and fences. I think we talked in some detail  
4 about stone walls. I would suggest that  
5 that's a similar process.

6 Q. Could you just explain what's a similar  
7 process?

8 A. We provided town-level mapping of the  
9 resources that were within GRANIT and the  
10 layers that had been provided by the  
11 Applicant. I would suggest that within the  
12 corridor, within the APE for historic effect  
13 and within the APE for scenic effect, there  
14 are a lot more resources shown than what's  
15 listed as to be mitigated. And as we said,  
16 avoidance, minimize -- avoid, minimize,  
17 mitigate. So I would suggest that you look  
18 more carefully at the conservation lands that  
19 this corridor goes through and make sure that  
20 the approach is consistent with your desired  
21 outcomes, that you look at the stone walls,  
22 that you look at the scatter of the  
23 graveyards and see if they're going to be  
24 affected.

1           I recall standing at -- I'm sorry, I'm  
2           not going to remember the intersection -- a  
3           stone wall, a graveyard, and the poles were  
4           25 feet from the graveyard. And the trees  
5           that were framing the graveyard were going to  
6           be within the widening. So all of these are  
7           individual and specific. The question is  
8           what's the -- if the impacts are direct or  
9           directly adjacent, like in the case of this  
10          small graveyard, is the Applicant going to  
11          mitigate effectively?

12       Q.   And your three resource types are:  
13           Conservation lands, stone walls and the  
14           scatter of graveyards?

15       A.   Yeah.

16       Q.   Any other resource types?

17       A.   I think you've already handled in your  
18           environmental reviews the public waters and  
19           those kinds of issues. I was asked that kind  
20           of a question this morning. But it's more  
21           likely your environmental vector.

22           I think the town-identified sites of  
23           scenic and cultural value are still a bit  
24           missing from the puzzle.

1 Q. From a historic site perspective or from an  
2 aesthetic perspective?

3 A. From the town-identified historic sites at  
4 that level that are not listed, that are not  
5 on the state register, that have not been  
6 determined eligible. And I think that the  
7 case of the Durham Historical Association and  
8 their identification of a number of small  
9 fragments essentially of their heritage that  
10 they would like to see retained is an example  
11 that there isn't the same level of coverage  
12 in Madbury along the corridor or in Newington  
13 along the corridor. There may not be the  
14 same resources. But the Durham Historical  
15 Association brought forward these scattered  
16 remnants. And I think the word "remnant" and  
17 "remaining" is actually in the New Hampshire  
18 law, which turned our attention to that  
19 issue.

20 Q. Thank you.

21 A. My pleasure. Thank you.

22 PRESIDING OFFICER WEATHERSBY: I  
23 thought of one more question.

24 WITNESS O'DONNELL: Sure. Go ahead.



1 QUESTIONS BY PRESIDING OFFICER WEATHERSBY:

2 Q. To mitigate potential effects on the  
3 Newington Historic District, the Applicant  
4 has offered to sponsor and publish a booklet  
5 on historic farming agriculture in Newington.  
6 Do you believe that would be effective  
7 mitigation for the effect in the Newington  
8 Historic District?

9 A. I think a booklet by itself is probably not  
10 that effective. But if it's web-based and  
11 made broadly accessible and given to schools  
12 and all of those kinds of things, so there's  
13 assess to this compilation, and if the  
14 booklet was actually somehow a collaboration  
15 with the locality and not simply written by  
16 the Applicant, it may be a richer -- I mean,  
17 if it becomes a platform for learning the  
18 history of the place, it's very valuable.

19 Q. Do you have suggestions for other types of  
20 mitigation that also could be used?

21 A. Well, I mean, there could be, like, stone  
22 wall workshops and how to fix your stone  
23 walls and why we care about them. There's a  
24 lot of opportunities here because you have a

1           really rich pallet.

2   Q.    Thank you.

3                   PRESIDING OFFICER WEATHERSBY:   Any  
4           other questions from the Committee?   Mr.  
5           Iacopino?   No.

6                   Attorney Aslin.

7                   MR. ASLIN:   Thank you, Madam Chair.

8                   REDIRECT EXAMINATION

9   BY MR. ASLIN:

10   Q.    Good afternoon, Ms. O'Donnell.

11   A.    Good afternoon.

12   Q.    I want to start --

13                   MR. ASLIN:   Actually, sorry, Dawn.  
14           If you could go back to the Elmo for a second.

15   BY MR. ASLIN:

16   Q.    You were asked some questions earlier by the  
17           Committee about the definitions in the  
18           Chapter 227-C and why those are relevant.  
19           And I just wanted to go back to that for a  
20           second.

21                   Okay.   Do you see on the top of the page  
22           the definition of historic sites that's in  
23           the SEC rules --

24   A.    Yes.

1 Q. -- and the reference to 227-C:1, Paragraph  
2 VI?

3 A. Right.

4 Q. And so is that the tie between the two  
5 statutes?

6 A. It appears to be, yes.

7 Q. And in addition to 227-C:1, Paragraph VI, you  
8 also looked at some of the other definitions  
9 in RSA 227-C that aren't specifically  
10 referenced. Why did you feel that was  
11 useful?

12 A. Well, historic sites is defined at the  
13 national level more broadly. And I believe  
14 in this material it directs us to think about  
15 more than a site. So, you know, here we're  
16 saying any building, structure or object,  
17 district area or site from nation to  
18 community value at any level.

19 Q. Okay. Thank you.

20 Now, you were asked to review a series  
21 of documents earlier by Attorney Needleman  
22 that referenced various statements by DHR and  
23 characterizations of the completeness of  
24 review of or identification of historic

1 resources. And you indicated that you had a  
2 difference of opinion with DHR as to the, I  
3 guess, completeness of that with regard to  
4 the SEC process. And I wanted to give you an  
5 opportunity to explain that a little further  
6 because I'm not sure it was clear on the  
7 cross-examination.

8 A. Okay. The measure of completeness, as  
9 indicated in the exchange between DHR and the  
10 Applicant, revolves around listed state and  
11 national sites, which is a subset of the  
12 historic resources of the four towns, based  
13 on New Hampshire law and the SEC rules. So  
14 it leads to a smaller capture, and the  
15 smaller capture leads to a smaller list of  
16 the effects and a very small list of adverse  
17 effects. So my difference of opinion arises  
18 from that, that sequence, that chain that  
19 leads us to four and one as opposed to  
20 starting with historically valued, but not  
21 necessarily nationally or state listed  
22 resources that happen at the town level.

23 Q. Okay. Thank you.

24 And so is part of what you're

1           saying that -- I guess I'll turn -- I  
2           understand what you're not saying is that DHR  
3           did an incomplete job in its review within  
4           the 106 process; is that right?

5   A.   Not at all.

6   Q.   Okay. But that that review by DHR is  
7           incomplete with regard to the SEC process?  
8           Is that what you're --

9   A.   Correct. So I'm making a differentiation  
10          between the Section 106 process and the SEC,  
11          based on New Hampshire law and the SEC rules,  
12          which my reading of is more inclusive of a  
13          larger spectrum of historic resources.

14   Q.   Okay. Thank you.

15                 And in addition to that kind of broad  
16          overlay, you were shown a letter from May 31,  
17          2016.

18                         MR. ASLIN: Dawn, if you could switch  
19          me back to the Elmo, please.

20   BY MR. ASLIN:

21   Q.   So when it pops up, you'll see Applicant's  
22          224, which you were shown earlier. And  
23          that's a May 31, 2016 letter to the SEC from  
24          DHR. And Attorney Needleman was pointing you

1 to a statement, second to the last sentence,  
2 that DHR had concluded that the  
3 identification process, according to New  
4 Hampshire RSA 162-H:7, Paragraph IV, was  
5 complete. And you were shown also the  
6 statute that's referenced here. Do you  
7 recall that?

8 A. I do.

9 Q. Okay. That may not be that visible. That  
10 made it worse.

11 But in reference to 162-H:7, IV, which  
12 starts here, can you -- and Attorney  
13 Needleman I think was inferring from this  
14 that the statement by DHR in that letter was  
15 somehow indicative that the Applicant's  
16 identification of historic resources was  
17 complete with regard to the SEC process. And  
18 I wanted to ask you to look back at the  
19 statute and give us your position on whether  
20 that's what DHR was saying or if they're  
21 saying something else.

22 A. I think this Part IV, 162-H:7, says that the  
23 requirements have been satisfied by each  
24 state agency having jurisdiction. And my,

1 shall we say, pushback on this was that the  
2 state agency with jurisdiction over historic  
3 sites has a brief, has a staff, has a budget,  
4 addresses what they address. But in our  
5 opinion, the definitions in New Hampshire law  
6 and in the SEC rules have a slightly broader  
7 envelope than the brief of DHR.

8 So no one's saying DHR's doing a bad  
9 job. What I'm saying is that the voices of  
10 the communities and the range of resources is  
11 limited when we look at just the state agency  
12 jurisdiction.

13 So if you look at this statement, you  
14 could say each state agency will report to  
15 the SEC. The SEC will take their guidance  
16 and then make a judgment based, you know --  
17 make a judgment on whether to site these  
18 facilities based on the state agencies'  
19 viewpoints. The SEC process is, in my  
20 perhaps limited understanding, larger than  
21 simply hearing from the state agencies. And  
22 the pieces of the puzzle are not all in place  
23 when we simply have the agency review. So I  
24 think if we go back to New Hampshire law and

1           the SEC rules, there's room for more than the  
2           state agency inputs.

3    Q.    Okay.  Thank you.

4                    So, for purposes of this letter from  
5           DHR, Applicant's Exhibit 224, if I'm hearing  
6           you correctly, you would interpret this  
7           statement as DHR saying that the  
8           Application -- or the Applicant has provided  
9           sufficient information for the DHR's  
10          purposes, but perhaps the SEC has a broader  
11          viewpoint on historic resources or historic  
12          sites?

13   A.    That is exactly what I just said, yes.

14   Q.    Now, you were also asked a question earlier  
15          by Attorney Needleman about who's the best  
16          party to interpret the SEC rules.  And I  
17          believe Attorney Needleman asked you the  
18          question as between yourself and DHR.  Is it  
19          perhaps a better question whether DHR or the  
20          SEC is better positioned to interpret its  
21          rules?

22   A.    I would say the SEC interprets its rules,  
23          yes.

24   Q.    And would you agree --



1 A. Certainly not me or DHR.

2 Q. But you've offered your interpretation as  
3 part of your opinion, though.

4 A. Exactly. To be considered.

5 Q. All right. Thank you.

6 You were also -- you had some questions  
7 earlier about your opinion about the size of  
8 the APE that is appropriate for SEC review.  
9 Do you recall those questions?

10 A. Yes.

11 Q. And if I understand the distinction you're  
12 making, the Applicant used the one-mile-wide,  
13 half-mile either side of the right-of-way  
14 APE, that was determined through the 106  
15 process with DHR. Is that your  
16 understanding?

17 A. It is my understanding, yes.

18 Q. But you would -- your opinion is that a  
19 broader APE is appropriate for looking at the  
20 SEC's question about whether historic  
21 resources are going to be unreasonably  
22 adversely affected. Is that a correct  
23 statement?

24 A. That is my opinion, yes.

1 Q. Okay. And so one of the things that you  
2 mentioned in that context was bare earth  
3 mapping.

4 A. Yes.

5 Q. And why do you think the bare earth mapping  
6 is relevant to that question?

7 A. It's a more realistic capture of what can be  
8 seen from where. If you put a number of  
9 factors into your model that limit the views,  
10 you consider less resources. So if you begin  
11 with bare earth and then work forward from  
12 there, you're more defensible, if my opinion,  
13 that you've actually looked at everything and  
14 moved forward.

15 Q. Okay. Thank you.

16 And have you seen bare earth mapping in  
17 this proceeding?

18 A. Just today.

19 Q. Today. Okay. And so when you reviewed the  
20 Applicant's aesthetics review, did you see  
21 bare earth mapping included in that report?

22 A. No. It was a filtered viewshed map.

23 Q. But you referenced that you'd seen it today,  
24 so I'll show you what was marked by the

1           Applicant as Applicant's 266. Is that what  
2           you were referring to?

3    A.    Yes.

4    Q.    Okay. And having seen this today, what's  
5           your understanding of what this document  
6           represents?

7    A.    It basically shows us that in southeastern  
8           Madbury, pretty much all of Durham and  
9           Newington and the portion where the line  
10          enters Portsmouth, everything is in view.

11   Q.    Are you able to tell from this map the  
12          geographical extent of potential visibility  
13          in bare earth condition?

14   A.    It's quite widespread as anybody can see.  
15          It's covering those areas of those towns that  
16          surround the corridor.

17   Q.    Okay. Would you agree that it extends  
18          considerably beyond the one- and even the  
19          three-mile APE used?

20   A.    That is what it is showing, yes.

21   Q.    And based on this one page that's been marked  
22          as an exhibit today, do you have any  
23          understanding of in what way the Applicant's  
24          visual expert used this mapping in his

1 analysis?

2 A. It didn't appear in his report, and it  
3 doesn't seem to have been used in the  
4 analysis that we know of.

5 Q. Okay. Thank you.

6 You were also asked some questions about  
7 the interaction between the Applicant's  
8 historic experts and their aesthetics experts  
9 and shown a number of documents that seem to  
10 infer that the Applicant had -- or sorry --  
11 the Applicant's consultant, aesthetics  
12 consultant, had considered the scenic effect  
13 of historic resources, in particular, those  
14 that are eligible. So I wanted to look back  
15 at those documents.

16 First of all, the Applicant's visual  
17 assessment report, which is Applicant's  
18 Exhibit 51, Mr. Raphael's report from  
19 LandWorks, on electronic Page 15, which is  
20 report Page 9, could you just read the  
21 highlighted sentences here. Slowly, please.

22 A. Yes. In quotes: For the purpose of this VA,  
23 only listed historic sites that have setting  
24 included as a feature of their significance

1           are reviewed in this analysis. All other  
2           historic sites and resources are reviewed as  
3           a separate component of the Application.

4    Q.    So based on that statement in Mr. Raphael's  
5           report and your review of other materials in  
6           this docket, what's your understanding of how  
7           eligible resources were assessed for both  
8           scenic impacts or other aesthetic impacts?

9    A.    The report doesn't cite consideration of  
10          eligible resources at all.

11   Q.    Okay. Thank you.

12                 Now, you were also shown a data  
13                 response, or Tech Session Response 3-2, which  
14                 is part of CFP Page 11, electronic Page 134.  
15                 Do you recall seeing that earlier today?

16   A.    Yes.

17   Q.    And attached to that is this document that  
18           was also shown to you. Do you recall seeing  
19           this document earlier?

20   A.    Yes.

21   Q.    Okay. And I think that may have been marked  
22           as another exhibit as well, but I'll just  
23           refer to it for the moment as CFP 11.

24                 Based on this question and response from

1           the Applicant, does that change your  
2           understanding at all of whether eligible  
3           resources were assessed by the aesthetic  
4           expert?

5                     (Witness reviews document.)

6    A.    No.  I think a list was provided, but I don't  
7           believe it was brought into the reporting  
8           that we saw.

9    Q.    Okay.  Do you see here that this is referring  
10          to a list of 138 sites that are listed on the  
11          New Hampshire state or National Register?

12   A.    Correct.

13   Q.    This seems to be talking about only listed  
14          resources.

15   A.    Listed only, correct.

16   Q.    And the list that's attached appears also to  
17          be listed resources only; is that right?

18   A.    "NR" for National Register and "SR" for state  
19          register, yes.

20   Q.    Okay.  And the Applicant showed you this  
21          morning, also, some -- or Applicant's Exhibit  
22          265.  Okay.  Do you recall seeing this  
23          document?

24   A.    Yes.

1 Q. So, on Page 2, the Applicant identified this  
2 as being an exchange in July of 2017 where  
3 the Applicant's consultant -- or rather,  
4 their cultural resource specialist requested  
5 from DHR a list of eligible resources. Do  
6 you recall that discussion earlier?

7 A. Yes, and it was for multiple towns.

8 Q. Yeah. And then attached was that list of  
9 what appears to include not just listed  
10 resources but eligible resources. Is that  
11 fair?

12 A. Right.

13 Q. Okay. Now, this was provided in July of  
14 2017. Do you recall when the Applicant's  
15 aesthetics and historic experts submitted  
16 their initial reports?

17 A. It was before this.

18 Q. Would it be in 2016?

19 A. Yeah.

20 Q. And then you were asked a series of questions  
21 by Attorney Needleman about whether you had  
22 the opportunity to explore these issues with  
23 the Applicant's expert at tech sessions. And  
24 I wanted to just circle back to the timing

1           here. This is July 6th of 2017. And you may  
2           not know, but I'll represent that the  
3           technical session with the Applicant's  
4           aesthetics expert was on July 12th, 2017. So  
5           is that about --

6    A.    June 12th.

7    Q.    -- six weeks before the document was  
8           requested from DHR?

9    A.    Yes, for eligible sites.

10   Q.    Right. So at the time of the tech session,  
11          that information hadn't been either requested  
12          or disclosed to anyone outside the Applicant;  
13          is that a fair statement?

14   A.    Yes, it is, in terms of the chronology.

15   Q.    And then, indeed, the responses to those  
16          technical sessions was what I showed you  
17          before in CFP Exhibit 11. Just for  
18          reference, the responses from the June 12th  
19          technical session with Mr. Raphael, those  
20          responses were due, I believe it says down  
21          here, on July -- or on June 29th. Do you see  
22          that?

23   A.    Yes.

24   Q.    And I'm showing you a tech session memo that



1           was produced by the SEC Administrator. Not  
2           sure it's part of the record, but it's just  
3           for reference here. We can mark it if  
4           necessary.

5                     But based on that time frame, would you  
6           agree that the Applicant seems to have  
7           requested a list of eligible resources after  
8           the tech session and after responding to tech  
9           session responses with regard to the  
10          aesthetics experts?

11   A.   That's what the chronology reveals, yes.

12   Q.   Thank you.

13                     And finally on that topic, going back to  
14          this list in what's been marked as  
15          Applicant's Exhibit 265, is there anything --  
16          well, based on the e-mail exchange and the  
17          list provided here, do you have any  
18          information to know how that list was used by  
19          the Applicant or whether it was provided to  
20          the Applicant's aesthetics expert?

21   A.   There's no indication that I'm aware of.

22   Q.   Okay. Thank you very much. I just want to  
23          touch lastly and briefly on the stone wall  
24          issue.

1                   MR. ASLIN: And, Dawn, if you could  
2                   switch me back to the Elmo, please.

3 BY MR. ASLIN:

4 Q. You mentioned earlier in your testimony about  
5           stone walls, that you had a series of maps  
6           attached to your report. Do you recall that?

7 A. Yes.

8 Q. And those are the town-level maps that you  
9           were referencing?

10 A. We have overall and town level.

11 Q. Okay. So if this is -- this Counsel for the  
12           Public Exhibit 5A, and it's the last few  
13           pages of the document.

14                   And so you had referenced GIS points  
15           that were included in these maps to show the  
16           location of stone walls. And I just wanted  
17           to direct the Committee to that.

18 A. The brown squares are the stone wall points  
19           in the geographical information layer.

20 Q. And it's a little hard to see on the screen,  
21           but the Committee can look at the documents  
22           on their own.

23                   Are these brown squares interspersed  
24           along the project corridor?

1 A. Correct, individually and overlapping.

2 Q. And those appear on each of the four  
3 town-level maps that you have in your report?

4 A. Correct. And the counts that we used in our  
5 Chapter 4 report accompanying these town  
6 plans are based on the number of points in  
7 the GIS data layer, as clarified in the  
8 earlier discussion.

9 Q. Right. So we don't know, or you don't know  
10 whether those are each individual stone  
11 walls. It's just the data you received from  
12 the Applicant.

13 A. Yeah, 912 points.

14 Q. Okay. Thank you.

15 MR. ASLIN: I have no further  
16 questions.

17 PRESIDING OFFICER WEATHERSBY: Okay.  
18 I believe that there's no other questions for  
19 Ms. O'Donnell.

20 Okay. Thank you, Ms. O'Donnell.  
21 Thank you very much for your testimony. You  
22 may step down.

23 WITNESS O'DONNELL: My pleasure. I  
24 hope it was helpful.

1                   PRESIDING OFFICER WEATHERSBY: We  
2                   will take a 15-minute break and be back at ten  
3                   minutes after three. We will then have the  
4                   Durham Residents up on the witness stand.

5                   (WHEREUPON, REGIS MILLER, VIVIAN  
6                   MILLER, JEFF MILLER, DONNA HEALD and  
7                   MATTHEW FITCH were duly sworn and  
8                   cautioned by the Court Reporter.)

9                   PRESIDING OFFICER WEATHERSBY: Would  
10                  you adopt their testimony, please.

11                  DIRECT EXAMINATION

12 BY MS. BROWN:

13 Q. If I could have you state your name for the  
14 record. Dr. Miller, if you could go first,  
15 please.

16 A. (R. Miller) Regis Miller.

17 Q. And?

18 A. (V. Miller) Vivian Miller. No connection.

19 A. (J. Miller) And Jeff Miller. One connection  
20 and no connection.

21 A. (Heald) Donna Heald.

22 A. (Fitch) Matthew Fitch.

23 Q. Thank you. And I'm just going to follow  
24 along with that sequence.

1           Dr. Miller, did you file testimony in  
2           this docket?

3    A.   (R. Miller) I did.

4    Q.   And has that testimony been marked for  
5           identification as Durham Resident Exhibit 10,  
6           which is your prefiled direct testimony dated  
7           May 16, 2018?

8    A.   (R. Miller) Yes.

9    Q.   And did you also file Durham Resident  
10          Exhibit 11, supplemental testimony?

11   A.   (R. Miller) Yes, I did.

12   Q.   And did you also file Durham Resident  
13          Exhibit 16?

14   A.   (R. Miller) Yes.

15   Q.   Can you please describe what that was for the  
16          record?

17   A.   (R. Miller) Testimony from a web reference.  
18          It's about their photos.

19   Q.   Thank you.

20   A.   (R. Miller) You're welcome.

21   Q.   And did you also respond to data requests  
22          from Eversource?

23   A.   (R. Miller) I did.

24   Q.   And did you mark those for identification as

1 Durham Resident Exhibit 15?

2 A. (R. Miller) That's correct.

3 Q. And do you consider the responses to your  
4 data requests to supplement your testimony?

5 A. (R. Miller) I do.

6 Q. And today do you adopt your testimony, your  
7 supplemental testimony, your exhibits and  
8 discovery responses as your testimony here  
9 today?

10 A. (R. Miller) Yes, I do.

11 Q. Vivian and Jeff Miller, I'd like to run you  
12 through your exhibits, please.

13 Did you file testimony in this docket?

14 A. (V. Miller) Yes.

15 A. (J. Miller) Yes.

16 Q. And that was joint testimony between the two  
17 of you?

18 A. (V. Miller) Yes.

19 Q. And that's been marked for identification as  
20 Durham Resident Exhibit 7; is that correct?

21 A. (V. Miller) Yes.

22 Q. And that was your prefiled direct testimony  
23 dated May 16, 2018?

24 A. (J. Miller) Yes.

1 Q. And did you also file Durham Resident Exhibit  
2 8, supplemental joint testimony dated  
3 July 2018?

4 A. (J. Miller) Yes.

5 Q. And did you also prepare and file Durham  
6 Resident Exhibit 18?

7 A. (J. Miller) Yes, we did.

8 Q. And for the record, what is that exhibit?

9 A. (J. Miller) That was provided to give  
10 additional details on impacts to, I guess I  
11 could say our property and our living  
12 environment based on this project. And it  
13 really had to do with three things: The pole  
14 placements, concrete mattresses, and the  
15 Eversource house.

16 And just briefly, we've been focusing so  
17 much on the transition pole coming from the  
18 bay, and when you look at the drawing from  
19 Mile 8, Pole No. 98, looking at it in more  
20 detail, you'll see that is immediately on the  
21 other side of our driveway. And the drawing  
22 shows 17 guy wires. So, between the two  
23 poles, the guy wires and the wires overhead,  
24 we have this nice frame to the entrance to

1           our property --

2                       PRESIDING OFFICER WEATHERSBY:   Mr.  
3           Miller, Mr. Miller, I'm going to stop you.  
4           Before you add new testimony, I think she's  
5           trying to get you to adopt --

6                       WITNESS J. MILLER:   Okay.

7                       PRESIDING OFFICER WEATHERSBY:   --  
8           your testimony that's been submitted.

9                       WITNESS J. MILLER:   Okay.

10   BY MS. BROWN:

11   Q.   And I guess a clarifying question on what you  
12       just said. Was the purpose of the exhibit  
13       you just described to update your testimony  
14       in response to new information you heard  
15       during the hearings today -- or hearings in  
16       this proceeding?

17   A.   (J. Miller) Yes.

18   Q.   Thank you.

19               Mr. and Mrs. Miller, did you also  
20       respond to data responses from Eversource?

21   A.   (J. Miller) We did.

22   Q.   Did you mark those for identification as  
23       Durham Resident Exhibit 9?

24   A.   (J. Miller) Yes.



1 Q. And do you consider those responses to also  
2 supplement your testimony?

3 A. (J. Miller) yes.

4 Q. And do you adopt your prefiled direct  
5 testimony, your supplemental testimony, your  
6 amended exhibits and responses to data  
7 requests as your testimony today?

8 A. (J. Miller) Yes.

9 Q. Ms. Heald, did you also file testimony in  
10 this docket?

11 A. (Heald) Yes.

12 Q. And has your testimony been marked for  
13 identification as Durham Resident Exhibit 1?

14 A. (Heald) Yes.

15 Q. And that was your prefiled direct testimony?

16 A. (Heald) Yes, it was.

17 Q. And did you file supplemental testimony  
18 marked for identification as Durham Resident  
19 Exhibit 2?

20 A. (Heald) Yes, I did.

21 Q. And did you also submit data responses as  
22 Durham Resident Exhibit 3?

23 A. (Heald) Yes.

24 Q. And do you consider those responses to

1 supplement your prefiled direct and  
2 supplemental testimony?

3 A. (Heald) Yes, I do.

4 Q. And did you also provide Durham Resident  
5 Exhibit 17, which was an updated or a clearer  
6 picture of a plan, subdivision plan?

7 A. (Heald) Yes.

8 Q. And do you adopt your prefiled direct  
9 testimony, your supplemental testimony and  
10 your data responses as your testimony today?

11 A. (Heald) I do. I have a lot to add to it  
12 based on information that I have learned  
13 throughout these hearings that I did not know  
14 at the time that I filed those testimonies.

15 Q. I will ask you a question on that, too.

16 Mr. Fitch, could you -- or did you mark  
17 for identification Durham Resident Exhibit 4  
18 as your prefiled direct testimony?

19 A. (Fitch) Yes.

20 Q. And was that testimony with Amanda Fitch?

21 A. (Fitch) That's correct.

22 Q. And to the extent she's on that testimony, do  
23 you adopt her testimony as yours today?

24 A. (Fitch) Yes, I do.

1 Q. And did you also file supplemental testimony?

2 A. (Fitch) I did.

3 Q. And was that marked for identification as  
4 Durham Resident Exhibit 5?

5 A. (Fitch) That's correct.

6 Q. And did you also submit for identification or  
7 premark for identification Durham Resident  
8 Exhibit 6, data responses?

9 A. (Fitch) I did.

10 Q. And do those responses supplement your  
11 testimony?

12 A. (Fitch) They do.

13 Q. Did you also prepare Durham Resident  
14 Exhibit 19?

15 A. (Fitch) Yes.

16 Q. And for the record, can you please describe  
17 what that exhibit is, briefly?

18 A. (Fitch) Sure. That is a couple of mailings  
19 received by me from the Applicant, a round of  
20 communication I had with the Applicant, as  
21 well as a map of my property showing EMF  
22 readings that were taken.

23 Q. Thank you. And do you adopt that prefiled  
24 direct testimony, supplemental testimony and

1 remaining exhibits as your testimony here  
2 today?

3 A. (Fitch) Yes, I do.

4 Q. Okay. Now, Dr. Miller, do you have any  
5 typographic errors or changes you need to  
6 make to any of those documents we just  
7 described?

8 A. (R. Miller) No.

9 Q. Same question to Vivian and Jeff Miller.

10 A. (V. Miller) No.

11 Q. Donna Heald?

12 A. (Heald) I did notice some typographical  
13 errors. I don't think that they would affect  
14 the reading of anything, so I didn't prepare  
15 to speak about those. But I do have things  
16 that I would add to my testimony.

17 Q. So, no typographical errors or corrections to  
18 make to your prefiled direct testimony or  
19 supplemental testimony; is that correct?

20 A. (Heald) That is correct.

21 Q. Okay. Mr. Fitch, question to you about  
22 typographical errors or changes you need to  
23 make to your testimony.

24 A. (Fitch) No changes.

1 Q. Now, Dr. Miller, did you attend many of the  
2 days of hearings in this proceeding?

3 A. (R. Miller) I did.

4 Q. And did information that you learned in those  
5 proceedings change your testimony that you've  
6 prefilled?

7 A. (R. Miller) No, it did not. No.

8 Q. So with the changes that you heard, you don't  
9 need to make any changes to your filed  
10 testimony. It is accurate as of the time it  
11 was filed?

12 A. (R. Miller) Yes. I mean, there was one  
13 exhibit I wanted to add if it was possible.  
14 Is this the time I would mention that or not?

15 Q. I don't know which exhibit -- other than the  
16 ones that we have identified and marked as  
17 exhibits, the question basically is, is there  
18 anything new you need to tell the Committee  
19 now that you've heard testimony about the  
20 Project?

21 A. (R. Miller) No.

22 Q. Okay. So the question to Jeff and Vivian  
23 Miller. Has your understanding of the  
24 Project changed during these hearings, and do

1           you need to modify anything that you filed in  
2           terms of testimony?

3    A.    (J. Miller) It's not modifying, but maybe  
4           just an explanation of the exhibit, Durham  
5           Residents Exhibit 18. Is that --

6    Q.    This would be the time. You briefly  
7           described it.

8    A.    (J. Miller) Yeah.

9    Q.    But if you need to elaborate on how the  
10           Project changed, and how that changed your  
11           understanding of the Project changes your  
12           testimony, then we need to get that into the  
13           record.

14   A.    (J. Miller) It really was to provide some  
15           additional detail. And the exhibit is four  
16           pictures that just shows a little more detail  
17           about the impacts of the Project in terms of  
18           the poles and the concrete mattresses and the  
19           Eversource house. And so, really, we just,  
20           like I started to say before, we were  
21           concentrating on the transition pole, the  
22           first pole after leaving the bay. On the  
23           other side of the driveway, now we have a  
24           tri-pole. So it really frames the entrance

1 to our property.

2 I think during the course of the -- from  
3 the beginning of the Project, the information  
4 about the concrete mattresses has changed.

5 If you look at amended Environmental Map  
6 No. 17, that shows a length of 150 feet.  
7 Also, if you look at Mr. Raphael's  
8 Exhibit 22A, his visual simulation shows only  
9 a length of 34 feet of concrete mattresses  
10 that would be visible at low tide. But if  
11 you look at the date and time on the picture,  
12 that picture was taken two hours after low  
13 tide. And then also the view I think are  
14 most people's understanding of what low tide  
15 is, is that it's -- I've heard that the mud  
16 flats would be partially exposed. And  
17 really, at low tide the mud flats can extend  
18 all the way out towards the channel. So I'm  
19 learning now, or we're learning now, that the  
20 concrete mattresses will almost be used as  
21 needed, and it could be much longer than the  
22 300 feet. And so that means that we could  
23 have quite a length of concrete mattresses  
24 that would be visible at low tide.

1           And then the last point was really the  
2           Getchell House. We've asked for what the  
3           intentions are on that house but really  
4           haven't been given any information. And I  
5           think what our concerns would be is that it  
6           doesn't stay residential. Does it get turned  
7           commercial property or a location for further  
8           explanation? We've asked for those  
9           explanations, but they really haven't been  
10          provided. And if that would change in its  
11          nature, it would provide additional impacts  
12          to our property values I would think.

13       Q.   Do you have any other issues that have  
14           changed or subjects that have changed or  
15           opinions that have changed as a result of new  
16           information you may have heard during the  
17           hearings?

18       A.   (V. Miller) Our area is zoned rural, and this  
19           use is prohibited in our zone. A  
20           high-voltage transmission project is  
21           prohibited. Any change or new structures are  
22           to be brought before the planning board, and  
23           certified letters are to be sent to abutters.  
24           None of that has been complied with. So we



1 do have issues, great issues with our  
2 property, our area, and what's going to  
3 change. And we learned that here through the  
4 hearings.

5 Q. Okay. Thank you.

6 Ms. Heald, I'm going to move on to you.  
7 You've attended the hearings in this  
8 proceeding; is that correct?

9 A. (Heald) Yes, I have. I think all but one.

10 Q. Okay. And have you heard new things about  
11 the Project that would result in a change in  
12 your testimonies that you provided the  
13 Committee?

14 A. (Heald) I have heard many things that have  
15 given me much greater concern than I thought.  
16 And that has actually been the case along the  
17 whole process since I first got involved in  
18 it.

19 MS. BROWN: Can I ask the Chair for  
20 permission to do some slight leading? I'm sure  
21 Attorney Dumville will object if I am leading  
22 too much. But I think for the efficiency and  
23 orderly presentation of the numerous changes  
24 that Ms. Heald has, I'd like to walk her

1 through.

2 PRESIDING OFFICER WEATHERSBY: Any  
3 objection, Mr. Dumville?

4 MR. DUMVILLE: I think at this point  
5 the Applicant would object to specifically  
6 leading questions at this point. I think the  
7 changes that have been discussed so far by the  
8 panel members really haven't changed throughout  
9 the course of this proceeding, and it's all  
10 been already part of the Application at least  
11 filed in July. So I think that we satisfied  
12 that.

13 MS. BROWN: If I could reply.

14 PRESIDING OFFICER WEATHERSBY: Yes,  
15 please.

16 MS. BROWN: It's a position of Ms.  
17 Heald, and I believe from the Durham Residents,  
18 that they have heard new information that, or  
19 information that changed their understanding of  
20 the Project that they based their testimony on.  
21 And RSA 541-A allows parties to speak to those  
22 issues as they are raised. So they believe  
23 there is new -- that there has been new  
24 information and substantive enough that the

1 Committee ought to know their position as  
2 represented on paper has changed.

3 PRESIDING OFFICER WEATHERSBY: I'm  
4 going to overrule the question, and you may ask  
5 somewhat leading questions.

6 BY MS. BROWN:

7 Q. Okay. Ms. Heald, did your understanding of  
8 how the extent and use of timber mats in the  
9 Project change?  
10 A. (Heald) Somewhat, yes. I did know that the  
11 timber mats, back at the end of last winter,  
12 would kill everything that was under them,  
13 which I had not known from the beginning of  
14 the process. But I did know that back then.  
15 I did not know about the significant amount  
16 of gravel that will be brought in on access  
17 roads. I was never told anything about  
18 access roads until I heard it here, other  
19 than the fact that they were marked on a map.  
20 And it's my understanding now that the  
21 750 feet of length along the westerly side of  
22 my easement will be covered in gravel  
23 roadways, except maybe in the areas where the  
24 timber mats are. I don't know if the timber

1 mats are planned to be eliminated with the  
2 gravel roads. But because my gardening  
3 business is there, and because the westerly  
4 edge is the closest edge to the side that my  
5 house is on, the westerly edge has the  
6 greater number of plants in jeopardy of being  
7 destroyed. I was told back at the end of the  
8 winter that nothing would survive under the  
9 timber mats, and I had always believed that  
10 the part of my gardening that was in most  
11 jeopardy would be the plants that are in the  
12 area where I have my greenhouses, my  
13 landscape matting down and plants in pots and  
14 tables that I work on. But once I learned  
15 about the timber mats and the gravel roads, I  
16 have great concern that all the plants within  
17 the 100-foot easement, 750 feet long, will be  
18 destroyed, and therefore many, many, many  
19 more plants will need to be recovered from  
20 the easement before the Project can take  
21 place.

22 And some things that probably were not  
23 in my testimony, to the extent that I wish  
24 they were, knowing that information, is that

1           Eversource has agreed that an inventory would  
2           be done of my plants at their expense and  
3           that my plants would be relocated to  
4           somewhere off the easement. But in order to  
5           save the plants that I now believe will be  
6           totally destroyed by this construction  
7           project, the access roads, the work pads, the  
8           timber mats, and I don't know what areas will  
9           be disturbed and what will not be disturbed,  
10          but the inventory alone will need to take  
11          place over an entire gardening season because  
12          not all plants are visible at the same time.  
13          Some are ephemerals out there, some are  
14          bulbs. Things come up early, things  
15          disappear. Things come up later that didn't  
16          appear in the spring. And I now see the  
17          vastness of what needs to take place on my  
18          property if my plants are to be protected.  
19          It's daunting to me to even think about it,  
20          to think about how this could even happen  
21          with my plants and my 40 years of work and my  
22          livelihood being totally destroyed.

23        Q.    Ms. Heald, did your understanding of the  
24               extent of soil damage change as a result of

1           what you heard in the hearings?

2       A.   (Heald) Yes, greatly. I do believe now that,  
3           you know, when you put gravel on top of  
4           anything -- I was concerned about ruts from  
5           equipment. I thought the timber mats would  
6           take care of the ruts. Now, I think the  
7           weight of the timber mats, as well as the  
8           weight of the gravel, will compact and  
9           compress my soils, which will affect both --  
10          any plants that are not dug out, the quality  
11          of the soil. I am of the "no till" breed of  
12          gardeners because I think the soils are  
13          better left untouched. So if soils are  
14          greatly compacted, they will not even be able  
15          to accommodate replanting. Without somehow  
16          being loosened up, the plants won't be able  
17          to survive in them. So, yes, the condition  
18          of the soils, the weight of the trucks, the  
19          rutting. I was already concerned with  
20          rutting damage that's been done by general  
21          maintenance and hoping that would be  
22          repaired. And now I wonder if everything  
23          will be totally irreparable after this  
24          project goes through.

1 Q. Ms. Heald, did your understanding of the tree  
2 clearing change as a result of what you heard  
3 at the hearings?

4 A. (Heald) Yes, it did. I know that I was told  
5 that the easement would be cleared to its  
6 full 100 feet, which does mean that a lot of  
7 my plants will be cut down, will be  
8 destroyed. I did know about that. I was  
9 told that the many cedar trees that have been  
10 living on the power line and have only been  
11 topped rather than cut down fully, and which  
12 are the screening for my business and where I  
13 work, so that right now from the road it is  
14 impossible to see that there is anything  
15 going on in the way of growing and gardening  
16 on the power line. And I just can't imagine,  
17 now that I've also heard that this is a  
18 high-voltage power line that will be  
19 occupying the space of a low-voltage power  
20 line, distribution line that is currently on  
21 a 100-foot easement -- and my understanding  
22 is that the more usual for a high-voltage  
23 power line is 250 feet. So what that means  
24 is that with the work -- the access road

1 taking up space and the power line, the  
2 center of the power line only being 50 feet  
3 from the easement, that much more space will  
4 be required for maneuvering equipment and  
5 poles and wires. And I fear that all of the  
6 plants that I was told would stay, that if  
7 they weren't in jeopardy of encroaching on  
8 the lines after they were restrung, could  
9 stay. And I don't know if that will be the  
10 case. I fear that it will not be the case.

11 Q. And did you -- you offered testimony about  
12 your potential relocation plan, didn't you,  
13 in your testimony?

14 A. (Heald) Relocation what?

15 Q. A plan to relocate your plants.

16 A. (Heald) Yes, we've talked over many plans.  
17 I've had many, many, many visits with  
18 Eversource. I contacted them myself back in,  
19 I believe it was March of 2014 when I very  
20 first heard about this. And so our talking  
21 about things started very early on in this  
22 process. And I know at one time when I first  
23 learned about this, I thought that the only  
24 thing that was going to have to be moved was



1 my --

2 PRESIDING OFFICER WEATHERSBY: Ms.

3 Heald, I'm going to interrupt you. I think  
4 you've been asked for updates, not to restate  
5 your testimony, but if there's new information  
6 concerning, in this case, the relocation plan.

7 A. (Heald) Okay. The new information would be  
8 that originally I thought that the plants --  
9 the only plants that would have to move were  
10 the plants that were in pots. And I was made  
11 to understand that, oh, no, problem. We'll  
12 just pick them up and we'll move them out of  
13 the way and we'll put them back. And as  
14 things have progressed, it has now become  
15 many more plants in jeopardy, many more  
16 plants that need to be relocated. And the  
17 big issue is that there is no sunny location  
18 on my property anywhere where the plants  
19 could be moved to. And if in fact plant  
20 areas were to be cut out, that even if they  
21 were, they wouldn't get enough sun. But if  
22 they were, they would be displacing the  
23 plants that are already there growing in the  
24 shade. So does that answer the question?

1 Q. I think you've given the Committee a sense  
2 that the relocation plan that you had  
3 described in your testimony now needs to  
4 change. And I have another question about  
5 the relocation plan you have entered as an  
6 exhibit. And I think it was Exhibit 3  
7 described that you proposed relocating your  
8 plants offsite with other gardeners or  
9 greenhouses.

10 A. (Heald) Yes, that was something that was  
11 proposed by Eversource.

12 Q. And has the testimony that you heard in the  
13 hearings changed that suggestion?

14 A. (Heald) Yes, it has, because now I realize  
15 the Project is much more scary for my life  
16 and my plants than I ever thought it was.  
17 The thought of moving plants on the power  
18 line -- well, first of all, having them  
19 inventoried; second of all, once they are  
20 inventoried and identified, they have to be  
21 dug, have to be potted up by someone. It's  
22 taken me 40 years to do this. So they have  
23 to be potted up and they have to move. If my  
24 power line is 75,000 square feet, and there

1 are plants on the entire power line -- maybe  
2 not every inch of it, but in some areas  
3 one square foot might contain, you know, 10  
4 or 12 different plants that come up on  
5 multi-layers, multi-seasons -- and just the  
6 vastness of that is, you know -- it could  
7 take 10 times as much space of what's on the  
8 power line as what's actually taking up the  
9 space in the ground. And I have -- I can't  
10 even imagine where these plants would go --

11 PRESIDING OFFICER WEATHERSBY: Ms.  
12 Heald, we're talking about the change since the  
13 hearings have started, not --

14 WITNESS HEALD: That is --

15 PRESIDING OFFICER WEATHERSBY: I  
16 mean, it's all very interesting. But a lot of  
17 it is already in your testimony that's been  
18 filed, so --

19 A. (Heald) Okay. Well, when I wrote it, my  
20 concept of writing it was for many, many,  
21 many fewer plants than I thought would need  
22 to be moved. And now, with what I've  
23 learned, it is a far greater extent of damage  
24 that will be done to my plants. Far greater.

1           You know, in the range of 20 to 50 times more  
2           for me to worry about.

3    Q.   And did your understanding of the health  
4           impact change as a result of what you heard  
5           in the hearings?

6    A.   (Heald) Yes, it did, because if a  
7           high-voltage power line were on a 250-foot  
8           easement, that means that a house would have  
9           to be further away from it. And my existing  
10          house now, which was positioned where it is  
11          to be equidistant from the poles that existed  
12          on the property when I bought it, the house  
13          itself is 65 feet from the edge of the  
14          easement. And if the center of the easement  
15          is only 50 feet more, my house will be way  
16          closer to the edge of a power line, a  
17          high-voltage power line, than it would be if  
18          it were truly on a 250-foot easement.

19   Q.   One last question. Did you also, from the  
20          testimony that you heard during the hearing,  
21          have a change in your suggestion on the  
22          location of the gravel road?

23   A.   (Heald) Yes, I do.

24   Q.   And what is that change?

1     A.     (Heald) And it's for a couple of different  
2           reasons. One is that there are probably far  
3           greater numbers of plants on the western side  
4           where the proposed access road is than on the  
5           eastern side simply because it is closer to  
6           my home. Second of all, I have heard in  
7           testimony in these hearings that the access  
8           roads would be somewhat leveled and that  
9           gravel would be brought in which could stay,  
10          or in my case for sure, I would want it all  
11          removed afterwards. But when they mentioned  
12          that the roads would be somewhat leveled,  
13          it's puzzling to me because that side of my  
14          power line has a great deal of ledge --

15                         PRESIDING OFFICER WEATHERSBY: Ms.  
16           Heald, I'm going to stop you again. Your  
17           July 20th supplemental testimony goes into this  
18           relocating the access roads to the east side.

19                         WITNESS HEALD: Okay.

20                         PRESIDING OFFICER WEATHERSBY: Do you  
21           have anything updating from then?

22                         WITNESS HEALD: Okay. Yes, I do.

23     A.     (Heald) The concern here is that the road on  
24           the west side changes in elevation quite

1           drastically. And by my own -- and I don't  
2           claim to be a surveyor. It looks to me like  
3           there's a difference of probably 15 to  
4           18 feet between the lowest area of the land  
5           and the highest area of the ledge. And I  
6           heard that there would be no blasting. So I  
7           question whether they intend to bring in,  
8           like, 15 or 18 feet of gravel to level the  
9           road or whether there truly will be blasting.  
10          And if there is blasting, it is the high  
11          point that Eversource has tried to encourage  
12          me to stick with the original location of the  
13          pole because the ledge would somewhat, not  
14          very much, but somewhat mask at least the  
15          bottom several feet of the pole. So I don't  
16          know the answers to those, but they are  
17          concerns to me.

18       Q.    Mr. Fitch, I'd like to ask you if there's  
19              anything that you heard in the hearings that  
20              has changed your testimony, and if so, how.

21       A.    (Fitch) Well, there's been a lot of  
22              information. But I think it just affirms and  
23              augments my original testimony, so I have no  
24              changes or updates.

1 Q. And no updates? Okay.

2 MS. BROWN: And with that, the  
3 witnesses are available for cross-examination.  
4 Thank you.

5 PRESIDING OFFICER WEATHERSBY: Thank  
6 you.

7 Attorney Patch.

8 CROSS-EXAMINATION

9 BY MR. PATCH:

10 Q. Good afternoon.

11 A. (Witness Panel) Good afternoon.

12 Q. I think you know my name is Doug Patch. I  
13 represent the Town of Durham, and I represent  
14 also UNH.

15 I wanted to start by asking, is it true  
16 that each of you -- and we've already heard,  
17 I think, specifically from Ms. Heald. But  
18 each of you live and own property either  
19 directly next to the right-of-way or  
20 certainly within a view of the right-of-way?

21 A. (V. Miller) Yes.

22 A. (R. Miller) Yes.

23 A. (Fitch) Yes, the right-of-way traverses my  
24 property.

1 Q. And I think each of you have said at various  
2 points in your testimony and provided photos,  
3 and in some cases simulations, that show what  
4 you anticipate the differences would be  
5 between your view currently of the  
6 right-of-way and what it would look like in  
7 the event the Project's approved and built as  
8 it's been proposed. Is that fair to say?

9 A. (V. Miller) Yes.

10 A. (Fitch) Yes, that's accurate.

11 A. (Heald) Could you say that again, please?

12 Q. Sure. I'm not sure I can say it exactly how  
13 I said it. But effectively what I said was  
14 that each of you have said in your testimony,  
15 and in some cases in photographs and in  
16 photos simulations, you have essentially  
17 testified and showed the differences between  
18 the existing right-of-way and what you  
19 anticipate it will look like in the event the  
20 Project's approved in your testimony; right?

21 A. (Heald) Yes.

22 Q. Yes. And one of the differences between  
23 what's there now and what would be approved,  
24 what's been proposed by the Applicant, in the



1 event it's approved, one of those differences  
2 is between a distribution line and a  
3 transmission line. Is that your  
4 understanding?

5 A. (V. Miller) Yes, that's correct.

6 A. (Heald) Yes.

7 A. (Fitch) Correct.

8 Q. And were you here for the testimony by Dennis  
9 Hebert on behalf of the Town of Newington?

10 A. (Witness Panel) Yes.

11 Q. And do you recall his testimony about  
12 transmission lines not being a permitted use  
13 under the Newington zone ordinance?

14 A. (V. Miller) Yes.

15 Q. And to the best of your knowledge is that the  
16 same situation in Durham?

17 A. (V. Miller) Yes, it is. We're zoned rural  
18 conditional. And what that means is you need  
19 to go before the planning board and apply for  
20 any change or addition of structures, and you  
21 also need to notify abutters.

22 Q. And I have a couple specific questions about  
23 the zoning ordinances, too.

24 But is it true for the other members of

1 the panel, you know, in terms of the -- well,  
2 if you could explain the zone that you live  
3 in maybe, that would be helpful.

4 A. (Heald) Yes. I am also zoned rural. I'm on  
5 a --

6 MR. NEEDLEMAN: Madam Chair, I'm  
7 sorry. May I object? I think this is well  
8 beyond the scope of the witnesses' testimony.

9 MR. PATCH: I think it's very  
10 consistent with their testimony, actually.  
11 They're residents of Durham. I think it's  
12 important for the Committee to know, you know,  
13 where they live in relation to where the  
14 proposed transmission line is going to be. And  
15 I do have some questions about the zoning  
16 ordinances which we have introduced, even  
17 though the Applicant did not submit them as  
18 they were supposed to.

19 MR. NEEDLEMAN: We don't deny they're  
20 certainly residents of Durham. But this is  
21 really quite akin to friendly cross and an  
22 extension of what these witnesses have already  
23 testified to.

24 PRESIDING OFFICER WEATHERSBY: I'm

1 going to sustain the objection.

2 MR. PATCH: Okay.

3 BY MR. PATCH:

4 Q. I'm going to show you what's been marked as  
5 TD-UNH Exhibit 30, which is the Durham Master  
6 Plan. Are you familiar with the Durham  
7 Master Plan? This is a 574-page document.

8 A. (V. Miller) Well, this is one of the reasons  
9 we moved to Durham.

10 Q. Was because of the Durham Master Plan?

11 A. (V. Miller) And the way they control and care  
12 for their community and resources.

13 Q. And the others on the panel, are you familiar  
14 with the Durham Master Plan?

15 A. (Heald) I am familiar with the Master Plan,  
16 although I have not read the whole thing.

17 Q. And is it your understanding that the  
18 Applicant did not file this with its  
19 Application as required by the rules?

20 A. (Heald) That is my understanding.

21 Q. Could you find it anywhere in the  
22 Application?

23 A. (V. Miller) We could not.

24 Q. I'm going to show you Exhibit TD-UNH 31.

1           This is the zoning ordinances for the Town of  
2           Durham. Are you familiar with those?

3                     MR. NEEDLEMAN: Same objection.

4                     PRESIDING OFFICER WEATHERSBY: Mr.  
5           Patch, how is this --

6                     Don't answer.

7                     How is this within the scope of their  
8           testimony?

9                     MR. PATCH: I'm sorry. What was the  
10          question?

11                    PRESIDING OFFICER WEATHERSBY: How is  
12          this within the scope of their testimony?

13                    MR. PATCH: Well, they're Durham  
14          residents. They're talking about differences  
15          between what the current distribution line is  
16          like as compared to what it will look like,  
17          which is a transmission line. And there are  
18          provisions in the zoning ordinance that are  
19          very relevant to those differences. So I think  
20          it is relevant.

21                    MS. BROWN: May I also speak?

22                    PRESIDING OFFICER WEATHERSBY: Ms.  
23          Brown, go ahead.

24                    MS. BROWN: Just to refresh

1 everyone's memory here, Vivian Miller just  
2 testified that the zoning issues were new  
3 information that she learned during the hearing  
4 process.

5 (Discussion off the record between  
6 Presiding Officer and SEC Counsel.)

7 PRESIDING OFFICER WEATHERSBY: So I  
8 think her testimony concerned her understanding  
9 concerning going to the planning board for  
10 approval. I'm going to allow you to continue,  
11 and we'll see where the questions go. But try  
12 to base it on their testimony.

13 MR. PATCH: Okay.

14 BY MR. PATCH:

15 Q. So this is a copy of the Durham Zoning  
16 Ordinances; is that correct?

17 A. (Fitch) Yes.

18 Q. And is it your understanding again that the  
19 Applicant did not file these as required by  
20 the rules?

21 A. (V. Miller) Yes.

22 Q. You didn't see it anywhere in the  
23 Application?

24 A. (V. Miller) No. Can I elaborate? When we

1           were looking -- listening to Mr. Hebert and  
2           referring to his master plan and zoning, we  
3           started searching through the Application for  
4           Durham's plan and zoning, and that's how we  
5           understood it wasn't filed.

6    A.   (Fitch) Could I add just a little color as  
7           well.

8                   Both myself and Vivian and Jeff Miller  
9           went through the process of building our  
10          homes on the properties east of Durham Point  
11          Road. Throughout that process, that  
12          required, at least for me specifically, a  
13          knowledge of the zoning ordinances to  
14          specifically see what was and was not allowed  
15          for constructing a property. And so based on  
16          that, I specifically have knowledge of these.

17   A.   (Heald) And I might add that my information  
18          might be a little too old for this process,  
19          but when I came to Durham in 1979 and was  
20          considering the property that I am on, I went  
21          to both the planning board in Durham for the  
22          purposes of knowing whether I would be able  
23          to subdivide, but also to inquire about the  
24          easement and the zoning, and was told that it

1           was a distribution line that wouldn't change.  
2           And I also went to PSNH at the time and was  
3           told that it was a distribution line that  
4           would stay the same. So that's why I bought  
5           my property in 1979.

6    Q.   Following up on a statement you just made,  
7           Mr. Fitch, I'm showing you what is electronic  
8           Page 48. It's Section 175-11 of the Durham  
9           Zoning Ordinance. There's a sentence there  
10          I'm going to read to you. It says, "Any use  
11          not specifically permitted or permitted by  
12          conditional use permit is prohibited." Did I  
13          read that correctly?

14   A.   (Fitch) Yes, that's correct.

15   Q.   Is that your understanding also of how the  
16          zoning ordinances work?

17   A.   (Fitch) That is my understanding. And I have  
18          additional knowledge of that from a previous  
19          experience trying to go for a variance on my  
20          property in Durham.

21   Q.   And then, also to follow-up on that, I would  
22          like to show you Section 175-61 which talks  
23          about conditional uses in the WCOD, which  
24          stands for, if you'll accept my

1 representation, the Wetland Conservation  
2 Overlay District. And this is where  
3 conditional uses -- this is one of the two  
4 places I will represent to you that  
5 transmission lines appear. Is it your  
6 understanding that in the WCOD, transmission  
7 lines could be permitted as a conditional  
8 use?

9 A. (Fitch) That is my understanding.

10 Q. And then I'm going to show you electronic  
11 Page 106 in the same document where it talks  
12 about conditional uses in the SPOD. And I'll  
13 represent that's Shoreline Protection Overlay  
14 District. And similarly, it says that  
15 transmission lines could be permitted as a  
16 conditional use in that district as well; is  
17 that correct?

18 MR. NEEDLEMAN: Madam Chair, same  
19 objection at this point.

20 MR. PATCH: Well, I think Mr. Fitch  
21 testified about his knowledge of the zoning  
22 ordinances, and Ms. Heald testified about her  
23 trying to understand the differences between  
24 transmission and distribution and what was



1       allowed and not allowed under the zoning  
2       ordinances in Durham, so I'm trying to follow  
3       up on that.

4               PRESIDING OFFICER WEATHERSBY:   Are  
5       you trying to infer that this Committee doesn't  
6       override those provisions of the zoning  
7       ordinance?

8               MR. PATCH:   No, although I think  
9       there is an argument that the Committee --  
10      well, certainly by law, the Committee is  
11      required to take into consideration the views  
12      of regional and local planning boards and  
13      governing bodies.   And often the way in which  
14      the views are expressed is in the context of a  
15      zoning ordinance or master plan, so I think  
16      it's relevant for that reason.

17              PRESIDING OFFICER WEATHERSBY:   I'm  
18      not sure how this is adding.   We have the  
19      zone -- we have this document.   We understand  
20      what it says.

21              MR. PATCH:   Okay.

22              PRESIDING OFFICER WEATHERSBY:   I'm  
23      not sure these folks are the people to ask  
24      about the Shoreline Protection District.

1 MR. PATCH: Okay. I mean, my  
2 ultimate goal obviously is to make sure the  
3 Committee is aware of it and understands it.  
4 So thank you.

5 PRESIDING OFFICER WEATHERSBY:  
6 Understood.

7 BY MR. PATCH:

8 Q. And I had also introduced an exhibit which I  
9 want to show you just to verify that -- this  
10 is TD-UNH 31, and it includes three maps of  
11 the town of Durham, you know, which are --  
12 I'll represent to you they are essentially  
13 zoning maps, and they are district maps that  
14 show wetlands and conservation areas within  
15 the town of Durham. Are you familiar with  
16 those maps?

17 A. (V. Miller) Yes.

18 A. (J. Miller) Yes.

19 Q. Okay. I'll leave it at that in terms of  
20 those maps.

21 And I'll try one more question on  
22 conditional use, just to make sure that the  
23 record's clear. And obviously if the Chair  
24 thinks it should not be asked, I will not

1 follow through on it.

2 But in terms of under town regulations,  
3 if something is allowed by a conditional use,  
4 does that mean that it requires a  
5 several-part test to be met by the Applicant  
6 and a super majority of the planning board to  
7 approve, otherwise the proposed use is  
8 disallowed? Is that your understanding?

9 MR. NEEDLEMAN: Same objection.

10 PRESIDING OFFICER WEATHERSBY: I'm  
11 going to sustain the objection. It also calls  
12 for a legal conclusion.

13 MR. PATCH: Okay.

14 BY MR. PATCH:

15 Q. Now I want to focus your attention just a bit  
16 on the master plan. There's an exhibit that  
17 just has excerpts from the master plan that  
18 Durham had produced earlier in the document  
19 and we've asked a number of questions. It's  
20 TD-UNH Exhibit 24. And, for example, I guess  
21 I want to ask whether or not -- I mean,  
22 you've certainly heard the testimony about  
23 the impact on historic sites and historic  
24 resources in the town of Durham; is that fair

1 to say?

2 A. (V. Miller) Yes.

3 Q. And are there numerous provisions in the  
4 master plan that relate to protecting  
5 essentially historic resources within the  
6 town of Durham?

7 MR. NEEDLEMAN: Same objection.

8 PRESIDING OFFICER WEATHERSBY:  
9 Sustained.

10 MR. PATCH: I mean, again, they're  
11 Durham Residents. They care about what happens  
12 in Durham. The master plan is a document --

13 PRESIDING OFFICER WEATHERSBY: You're  
14 asking about specific provisions in the master  
15 plan. We have the master plan that speaks for  
16 itself. These folks are not the witnesses to  
17 be examining exact provision of the master  
18 plan.

19 MR. PATCH: Okay.

20 BY MR. PATCH:

21 Q. Now, Mr. Fitch, I'm going to show you an  
22 exhibit which has been marked and shown to  
23 various witnesses in the course of this  
24 proceeding, and it is Newington Exhibit 7.

1 Are you familiar with that exhibit? Just get  
2 it up on the screen. And this purports to  
3 be, and I have no reason to disagree with  
4 that, a presentation that was made to the  
5 Newington Planning Board about alternatives  
6 that Eversource had available to it other  
7 than the Project as proposed now. Are you  
8 familiar with this particular map?

9 A. (Fitch) Yes, I recall seeing it several  
10 times.

11 Q. And have you looked at this a little more  
12 closely? Have you thought about it a little  
13 bit more? Have you done any independent  
14 investigation of it?

15 A. (Fitch) I have, based on the fact that the  
16 proposed project has an impact on my property  
17 and I was very curious about the alternate  
18 routes that existed. And I recalled Mr.  
19 Jiottis's testimony, which I looked into  
20 further as well. And as we progressed  
21 throughout this proceeding and investigated  
22 and heard testimony on the challenges of  
23 traversing Little Bay, it heightened my  
24 awareness to look further into these. And I

1           was very interested in specifically the  
2           northern route and the fact that Mr. Jiottis  
3           had mentioned --

4                       MR. NEEDLEMAN:  Madam Chair, sorry to  
5           interrupt.  This is far beyond anything in  
6           their testimony.

7                       MR. PATCH:  I mean, again, I think  
8           it's very relevant.  It's something that's come  
9           up in the course of the hearings and may not  
10          have been in their testimony because they  
11          weren't aware of it.  On direct examination,  
12          Ms. Brown asked them about things that had  
13          changed as a result of what's come up in the  
14          hearing, and I think this is one of those  
15          things.

16                      PRESIDING OFFICER WEATHERSBY:  It was  
17          changes to their testimony.  This is far beyond  
18          the scope of their testimony, so I'm going to  
19          sustain the objection.

20                      MR. PATCH:  Okay.

21  BY MR. PATCH:

22  Q.   Mr. Miller, I heard you, in response to a  
23       question from Ms. Brown, talk about the  
24       visibility of concrete mattresses.  Do you

1 recall that?

2 A. (J. Miller) Yes, I do.

3 Q. And I would like to show you an exhibit that  
4 was presented by Public Counsel, CFP 17. I  
5 think you told Ms. Brown and the Committee  
6 that when things are at low tide, you know,  
7 it looks quite a bit different than the  
8 visual simulations that were offered by Mr.  
9 Raphael; is that fair to say?

10 A. (J. Miller) Yes, that's right.

11 Q. Is this a good representation of what it  
12 looks like at low tide?

13 A. (J. Miller) I'd say that it is.

14 Q. And you have an exhibit, actually, I believe  
15 it's Durham Residents 8, which were some  
16 pictures that I believe you had offered as  
17 testimony, you and Vivian. Are these  
18 pictures that you had offered in your  
19 testimony?

20 A. (J. Miller) They are.

21 Q. And again, would you say they're  
22 representative of what the Durham shoreline  
23 looks like at low tide?

24 A. (J. Miller) It is what it looks like at low

1           tide. The white blocks there was just to try  
2           to represent where the concrete mattresses  
3           were going to be put down and what we would  
4           see from our property. And the picture below  
5           was really going out towards the channel,  
6           trying to show how far the mud flats can  
7           extend.

8       Q.   And I'm not sure if you did, and you may  
9           have, but did any members of the panel --  
10          were you here when you heard, when we heard  
11          Mr. Raphael talking about visual impacts from  
12          concrete mattresses?

13      A.   (V. Miller) Yes.

14      Q.   And do you recall him saying that essentially  
15          the visual impact was going to be very  
16          minimal?

17      A.   (V. Miller) That's correct.

18      Q.   Do you agree with that?

19      A.   (V. Miller) No. And he provided a visual  
20          simulation of concrete mattresses. And if  
21          you look at the dimension he put on his  
22          picture, and the date and time, it sorely  
23          underestimates low tide. It's two hours  
24          after low tide. And as you can see, low tide



1 goes out almost a half a mile to the channel.  
2 So I think his visual simulation was  
3 inaccurate.

4 Q. And I believe there's a picture, I'm not sure  
5 if it's in this exhibit or not, but there's a  
6 picture -- there it is -- of concrete  
7 mattresses that you had included in your  
8 testimony.

9 A. (V. Miller) That's right.

10 Q. Is that consistent with your understanding of  
11 what concrete mattresses -- and I'm not  
12 saying that they would look exactly like  
13 this -- but that the mattresses themselves  
14 would be very similar to what's in the  
15 photograph here?

16 A. (V. Miller) Well, that's what's unfortunate.  
17 We tried on several occasions to request  
18 simulations or actual concrete mattresses to  
19 see what do they look like, and nothing was  
20 provided. So we went on a search, on a  
21 Google search, and said what do these things  
22 look like, and we got a variety of pictures.  
23 And I believe that after we provided this,  
24 Eversource had Mr. Raphael provide his

1 simulation. But we have yet to see the  
2 actual mattress. We've only seen a  
3 helicopter holding the mattress. So I'm  
4 still unsure of what these mattresses will  
5 look like.

6 MR. PATCH: That's all the questions  
7 I have. Thank you.

8 PRESIDING OFFICER WEATHERSBY:  
9 Attorney Geiger.

10 BY MS. GEIGER:

11 Q. Good afternoon.

12 A. (Witness Panel) Good afternoon.

13 Q. I'm Susan Geiger, and I represent the Town of  
14 Newington. I'd like to first start, probably  
15 start on the left and go sequentially over to  
16 Mr. Fitch. Start with Dr. Miller.

17 Dr. Miller, I'd like to get a better  
18 understanding of exactly where your home is  
19 in relation to this project. And I looked  
20 for a map of your property and was unable to  
21 find one. So I'm going to... I'm not sure  
22 this map actually is going to show your  
23 house. But is your property located sort of  
24 in the center of this map where I'm pointing?

1 A. (R. Miller) It's actually under the first  
2 white square.

3 Q. Right there?

4 A. (R. Miller) Yes.

5 Q. Okay. So it's fair to say that your property  
6 overlooks Little Bay; is that correct?

7 A. (R. Miller) Yes, it does.

8 Q. How do you use the bay? Do you engage in any  
9 activities on the bay?

10 A. (R. Miller) Several. We have just under  
11 1500 feet of waterfront, and we use the bay  
12 to swim, to boat, kayak. And we really enjoy  
13 it. Kayaking is my favorite activity.

14 Q. Do you believe that this project will  
15 interfere with your current usage of the bay?

16 A. (R. Miller) Well, there's no question. I'm  
17 no longer going to swim in the bay. If the  
18 oysters are being moved, I'm not sure it will  
19 be safe for me or my children or  
20 grandchildren to swim in the bay. So we  
21 won't be swimming. And while I said that  
22 kayaking is my favorite activity, I don't go  
23 far. I hug the shoreline and I stay very  
24 close to land. I feel safer that way. And

1 I'm extremely concerned about how the  
2 concrete mattresses are going to impact my  
3 ability to kayak along the shoreline. And  
4 not only that, but you saw the extent of the  
5 low tide. It goes out almost a half-mile,  
6 and it takes a while for that water to come  
7 back in. So you're waiting for the tide to  
8 come back in so you can kayak. I now have to  
9 wait longer because I have to wait to go over  
10 the concrete mattresses. So there's no  
11 question that my enjoyment of the bay will  
12 have an impact. The Project will have an  
13 impact.

14 Q. Okay. So in addition to swimming and  
15 kayaking, are there any activities -- do you  
16 walk? Are you able to walk along the  
17 shoreline in front of your property?

18 A. (R. Miller) Yes, we are. I'm not sure that  
19 the concrete mattresses will be directly in  
20 the spot that I walk along the shoreline.

21 Q. Okay. Now, is it -- are you -- is your  
22 property located in close proximity to the  
23 existing right-of-way in which there is an  
24 electric distribution line?

1 A. (R. Miller) Yes. It directly abuts the south  
2 side of where the proposed high transmission  
3 towers are expected to be placed.

4 Q. And was that distribution line there when you  
5 bought the property, or was it installed  
6 afterward?

7 A. (R. Miller) The right-of-way was there with  
8 some distribution poles in it. You could  
9 barely see it. And to this day you can  
10 barely see it. And so my husband and I were  
11 not that concerned about it. We asked  
12 someone, I can't remember if it was a  
13 neighbor or broker, you know, what's up with  
14 these poles. And she said not to worry about  
15 it, or he, that they'd been dead for decades,  
16 no power going through them.

17 Q. So is it fair to say that when you purchased  
18 your property, you had knowledge of the  
19 existence of these distribution lines, but  
20 you were not concerned about them because you  
21 believed that the lines were not being used  
22 to transmit electricity? Is that your  
23 testimony?

24 MR. NEEDLEMAN: Objection, Madam

1 Chair. I think this is again beyond the scope  
2 and essentially eliciting friendly cross.

3 MS. GEIGER: I think these witnesses  
4 are in a very unique position because, unlike a  
5 lot of the other witnesses we've heard from,  
6 these folks are going to be directly impacted  
7 by this project. And so I'm just trying to get  
8 a sense, and hopefully the Committee will want  
9 to get a sense, of exactly how these people are  
10 going to be impacted in their daily lives by  
11 this project. So I think it's a fair question,  
12 and I think it's relevant.

13 PRESIDING OFFICER WEATHERSBY: I'm  
14 going to overrule the objection. The witness  
15 can answer.

16 A. (R. Miller) Can you repeat the question?

17 BY MS. GEIGER:

18 Q. Sure. I just wanted to understand what you  
19 were telling me about when you purchased the  
20 property, having knowledge of the existence  
21 of these distribution lines and perhaps  
22 knowing they were there, but not being  
23 concerned about them at the time.

24 A. (R. Miller) That's correct. We bought our

1 house in July of 2014. And I'm upset hearing  
2 now that people knew about this project  
3 earlier than that. We would not have bought  
4 our home had we known about this proposed  
5 project. There were other beautiful homes  
6 along the seacoast that we could have  
7 purchased. We love this house, and we still  
8 do, but I wish we had known about this when  
9 we -- before we bought our house.

10 Q. Is it your understanding that with the  
11 construction of these higher transmission  
12 towers that you will be able to see them from  
13 your property?

14 A. (R. Miller) Not from our home. But we will  
15 absolutely see them from the end of our  
16 driveway. Our driveway is a half-mile long.  
17 And the first one third of our driveway, we  
18 will see the poles. We'll lose our marsh  
19 land, which I love. And we'll see our  
20 neighbor now that you can barely see at all.  
21 So, yes, the visual imagery that we have  
22 every time we leave our property or enter our  
23 property will be forever changed by this  
24 project.

1 Q. And I understand from your testimony that you  
2 have a family of bald eagles living on your  
3 property; is that correct?

4 A. (R. Miller) We do.

5 Q. And do you know approximately how long those  
6 eagles have been there?

7 A. (R. Miller) They've been there since we've  
8 owned our home. So for at least four years.  
9 A little over four years now.

10 Q. And approximately how far -- do you know how  
11 far away -- is there an eagle's nest there?

12 A. (R. Miller) Yes, there's a very large nest  
13 that's right along the shoreline. And  
14 it's -- I actually have a picture.

15 Q. Well, let me see if I can help you there. I  
16 believe this has been marked as Durham  
17 Resident Exhibit 16.

18 A. (R. Miller) Yes, that's what I was looking  
19 for.

20 Q. And this shows the approximate distance  
21 between I believe your home and the bald  
22 eagle's nest; is that correct?

23 A. (R. Miller) No. The bald eagle's nest is  
24 what you see at the top of the page. And



1           this picture shows the distance between the  
2           bald eagle nest and the proposed project,  
3           which is --

4   Q.    Oh, I stand corrected. Thank you for that.

5   A.    (R. Miller) You're welcome.

6   Q.    And what is that distance?

7   A.    (R. Miller) About 642 feet. And more  
8           importantly, at the Project, the proposed  
9           site, which is, you know, right above the  
10          cable house, I have a picture of that as  
11          well. It's where the eagles perch and forage  
12          morning, noon and night. That spot was seen  
13          by the Eversource team that came out to my  
14          house, as well as by Chris Marston, an eagle  
15          expert from New Hampshire Audubon, who came  
16          out to my house. The eagles were there  
17          perched right above the cable house. If you  
18          went there right now, you would see them  
19          above the cable house.

20   Q.    And does the photograph that I just put up on  
21          the Elmo, again from the same Durham Resident  
22          exhibit, does that depict the cable house  
23          that's been the subject of conversation in  
24          this docket?

1 A. (R. Miller) Yes.

2 Q. So do you know the approximate distance  
3 between that eagle's nest and the cable  
4 house?

5 A. (R. Miller) It's about 642 feet.

6 Q. Same distance.

7 A. (R. Miller) Yes.

8 Q. So we're talking about the same location --

9 A. (R. Miller) Oh, wait a second. Oh, I'm  
10 sorry. I misunderstood your question.  
11 You're asking where the eagle is now to the  
12 cable house?

13 Q. Yes.

14 A. (R. Miller) I'm sorry. I misunderstood your  
15 question. Very close. Very close, like  
16 three trees away.

17 Q. Three trees away. Okay. Close enough for a  
18 Friday afternoon.

19 And you have another photograph of a  
20 close-up of a bald eagle.

21 A. (R. Miller) I just wanted people to see who  
22 we were talking about. These are just  
23 absolutely magnificent.

24 Q. Is this bald eagle, was this photograph

1           taken -- is it a close-up of the eagle that  
2           was shown from --

3    A.     (R. Miller) Yes.

4    Q.     -- a distance away --

5    A.     (R. Miller) Yes.

6    Q.     -- in a prior photograph?

7    A.     (R. Miller) Yes.

8    Q.     Wait for me to finish.

9    A.     (R. Miller) Sorry.

10   Q.     So if we turn back to the cable house  
11           photograph, we saw an eagle's nest in the  
12           distance. Is the blown-up photograph that I  
13           just showed you the same eagle? Is that what  
14           you're telling me, it's same -- that was the  
15           first photograph. There's an eagle's nest  
16           there. And then the next photograph is a  
17           larger --

18   A.     (R. Miller) I understand. I'm not sure it's  
19           the same eagle. The big, blown-up picture of  
20           the eagle is one of the eagles that lives on  
21           the property.

22   Q.     Okay. Thank you.

23   A.     (R. Miller) You're welcome.

24   Q.     Do you have concerns about the Project's

1 impacts on the eagles?

2 A. (R. Miller) I do.

3 Q. Have you expressed these concerns to  
4 Eversource?

5 A. (R. Miller) I have.

6 Q. And has Eversource responded to those  
7 concerns in any way?

8 A. (R. Miller) Just when I expressed them when  
9 they came out for the site visit, I shared  
10 with them what Chris Marston had told me  
11 about disturbing eagles and how they react to  
12 ongoing disturbances.

13 Q. And you put that in your testimony; correct?

14 A. (R. Miller) Yes, I did.

15 Q. Okay. So we don't need to go into it here.

16 Also in your testimony, you also  
17 expressed concerns generally about the  
18 Project's impacts to your use of the bay and  
19 impacts to your property; is that correct?

20 A. (R. Miller) Yes.

21 Q. Have you spoken to Eversource about your  
22 concerns?

23 A. (R. Miller) Not about my use of the bay.

24 I've spoken to them about my concerns about

1           the high tower transmission lines that are  
2           going to go up.

3       Q.    Have you reached any mitigation agreements  
4           with Eversource?

5       A.    (R. Miller) We've worked on it. We haven't  
6           reached a final agreement yet. They came out  
7           twice to discuss mitigation. After the first  
8           time, I was a little bit confused by the  
9           maps. I had a lot of trouble understanding  
10          the Eversource maps, I'll be honest with you.  
11          But they came out a second time, on  
12          October 4th. And it was a little bit more  
13          confusing for me because the maps they had  
14          presented when they came out had less trees.  
15          But they apologized and said it was mistake;  
16          it wasn't the correct map. And also when  
17          they came out, they informed me that they  
18          were going to be cutting down a lot more  
19          trees than what they initially told me when  
20          they came out for their site visit in July.

21       Q.    Excuse me, Dr. Miller. When you say July and  
22           you referenced October 4th, is that of this  
23           year, 2018?

24       A.    (R. Miller) Yes.

1 Q. Had Eversource approached you prior to that  
2 time at all?

3 A. (R. Miller) No. No, they -- when I went to  
4 one of the technical sessions, I was asked a  
5 question if Eversource had ever approached  
6 me, and I said no. And that day, at the end  
7 of the day someone in the parking lot came  
8 and asked if I would like a site visit, and I  
9 said yes. So they came out in July,  
10 July 20th I think.

11 Q. What occurred during that site visit?

12 A. (R. Miller) We walked down our driveway and  
13 looked at -- and they shared with me what the  
14 impact would be, what trees would be cut  
15 down, generally speaking, and went over the  
16 mitigation plan with me. And then we walked  
17 back down to my back yard, and they observed  
18 the eagles.

19 Q. So is it fair to say that Eversource has  
20 offered you a mitigation plan, but it's not  
21 acceptable to you?

22 A. (R. Miller) At this point it's not acceptable  
23 to me. Correct.

24 Q. Okay. Thank you.

1 A. (R. Miller) You're welcome.

2 Q. Move on now to Vivian and Jeffrey Miller,  
3 please.

4 I'd like to start the same way I started  
5 with Dr. Miller, just trying to get a sense  
6 of where your house is.

7 A. (V. Miller) You can actually see it on the  
8 map.

9 Q. Right. This is the same map that I referred  
10 to before, although I'm not sure I correctly  
11 identified it. I think it's Applicant's  
12 Exhibit 84, and it's Map 17 of 28. And I'm  
13 going to point to the area that I believe is  
14 your property. Please tell me if I'm right  
15 or wrong. I think it's sort on the  
16 right-hand side of the map?

17 A. (V. Miller) That's correct. It's right next  
18 to where it says "restore saltmarsh," yes.

19 Q. Right in that area?

20 A. (V. Miller) Yes.

21 Q. Approximately how many feet of frontage do  
22 you have on Little Bay?

23 A. (V. Miller) Around a hundred feet.

24 Q. Do you use the bay?

1     A.     (V. Miller) We do. We walk along the shore.  
2           We're always cleaning up the shore from buoys  
3           and everything else coming in. We kayak, we  
4           motorboat, we stand-up paddleboard. We use  
5           the bay almost every day.

6     Q.     Is it your understanding that the proposed  
7           concrete mattresses for this project will be  
8           located in front of or nearby your property?

9     A.     (V. Miller) Well, if you look at the route on  
10          their map, the environmental map, and you see  
11          where the concrete mattresses extend, that's  
12          about 150 feet. They don't know how far  
13          they're going to go. So, yes, we believe  
14          that they will traverse our property as they  
15          head out into the bay.

16    Q.     Will you be able to see the concrete  
17          mattresses from your home?

18    A.     (V. Miller) Looking at that low tide picture,  
19          absolutely.

20    Q.     Do you believe the placement of the concrete  
21          mattresses in front of your home will impair  
22          your ability to use the bay as you currently  
23          use it?

24    A.     (V. Miller) Absolutely. Not only the ability



1 to use it, scenic value.

2 Q. Okay. Do you believe that the visual  
3 assessment that Mr. Raphael did on behalf of  
4 the Applicant accurately depicts the impact  
5 or the visual effect that these concrete  
6 mattresses will have in the area of your  
7 property?

8 A. (V. Miller) No. And I mentioned that before.  
9 Mr. Raphael's depiction, his dimensions were,  
10 I believe, 26 by 34. That would be visible  
11 at low tide. And he took the picture on a  
12 day and time that reflected two hours after  
13 low tide, so I feel it was misrepresented.

14 Q. Okay. Now, on what's been marked Durham  
15 Resident Exhibit 7, and this is your direct  
16 prefiled testimony, you note on Page 12,  
17 Line 8, that you have concerns that the  
18 entrance of your driveway will be impacted by  
19 the Project; is that correct?

20 A. (V. Miller) That's correct.

21 Q. And is it your -- are your concerns stemming  
22 from the fact that there will be two  
23 transmission poles on either side of the  
24 driveway and the high-voltage overhead line

1 will cross over your driveway? Is that --

2 A. (V. Miller) That's correct. Twice. It will  
3 cross over the driveway twice.

4 Q. And are the photographs that you submitted as  
5 Durham Resident Exhibit 18 intended to show  
6 what these poles will be, where they'll be  
7 located and what they will look like? I'm  
8 going to show you a photograph that I have,  
9 and please tell me if what I'm showing you is  
10 consistent with what I just said.

11 Is this your -- first of all, did you  
12 create this photograph with the illustrations  
13 of the transmission towers on it?

14 A. (V. Miller) Yes, we did. Amateurishly, we  
15 admit. However, this is the best information  
16 we had. We had the transition structure  
17 picture provided to us by Eversource. We had  
18 an overhead picture of, if you see the house  
19 closest to the bottom of the page is the  
20 Getchell, now Eversource house. The driveway  
21 is directly in between those two poles. The  
22 conservation easement is to the right. So  
23 now -- Jeff was describing it. The pole on  
24 the right is a tri-pole with 17 guy wires.

1 And it will be completely cleared out 100  
2 feet there. So we'll have that on one side  
3 and the transition pole on the bay side.

4 Q. And is the location that I'm pointing to your  
5 home?

6 A. (V. Miller) That's correct.

7 Q. Okay.

8 A. (V. Miller) But there's another building. Do  
9 you see on the other side of the transition  
10 pole? That's a garage that we own that we  
11 plan to rebuild. So, actually, the  
12 transition pole is now closer to our property  
13 and that garage.

14 Q. Okay. In your supplemental prefilled  
15 testimony on Page 4, Lines 55 to 56, you say  
16 that a new 73-foot transition pole will be  
17 located within 15 feet of your driveway and  
18 entrance to your home; is that correct?

19 A. (V. Miller) That's what was originally  
20 proposed. Since then, Eversource has talked  
21 with us about moving the pole further back.

22 Q. Okay. And does that satisfy your concerns  
23 about that pole?

24 A. (V. Miller) No. A 73-foot pole, whether it's

1           50 feet back or 78 feet back, it's still a  
2           73-foot pole. And that's the side we look  
3           because that's when you come to the opening  
4           of the bay. I believe the Committee saw that  
5           when they were on the bus. As soon as you  
6           get there and you look to the bay, now it's  
7           going to be obstructed by the view of this  
8           transition pole.

9    Q.    Ms. Miller, are you aware of any plans to  
10          bury any of the poles and wires on your  
11          property?

12   A.    (V. Miller) No, we're not aware of plans. We  
13          were hoping that they would be able to bury  
14          them on the conservation easement on the  
15          right-hand side of the driveway. And there  
16          were discussions regarding that with the  
17          owner, but those discussions have ceased.

18   Q.    Do you know why?

19   A.    (V. Miller) Apparently the owner wanted other  
20          mitigation measures, and apparently  
21          Eversource wasn't going to do them.

22   Q.    Do you know whether the -- I think in a  
23          couple of places in your prefiled testimony  
24          you refer to your deeded driveway. I wasn't

1           sure what that meant. Could you explain what  
2           you mean by the term "deeded driveway"?

3       A.   (V. Miller) We do not own the driveway land.  
4           It is owned by the DeCapos who live on the  
5           right, who actually have a conservation  
6           easement. And in the deed, way back when,  
7           like in the '20s, it was deeded to anyone who  
8           owned a house down by the bay. So we just  
9           have an access to it. We do not own it. But  
10          we are responsible for maintaining it. And  
11          it was designed for our house and the  
12          Getchell property, two residential homes in a  
13          rural area.

14       Q.   Okay. Do you know whether the Applicant  
15           plans to use your deeded driveway as an  
16           access road for this project?

17       A.   (V. Miller) They have it marked on their  
18           plans as an access road.

19       Q.   Do you know the type and weight of the  
20           equipment that the Applicant intends to use  
21           for this project on that road?

22       A.   (V. Miller) We don't know the type and  
23           weight, but we've been informed that it will  
24           be small trucks, technically. However,

1 occasionally, it was put in that some heavy  
2 equipment would have to go down there. We do  
3 not know the details.

4 Q. And turning to the Getchell property that I  
5 think you referred to a couple times as the  
6 "Eversource property," this house that I'm  
7 pointing to on the map in your supplemental  
8 filing, Eversource now owns that property; is  
9 that correct?

10 A. (V. Miller) Correct. They bought it almost  
11 two years ago.

12 Q. Do you know what plans Eversource has for  
13 that property?

14 A. (V. Miller) No, we don't. And we've asked.

15 Q. And what has the response been?

16 A. (V. Miller) "We're looking at it to see what  
17 we can use it for." And again, this is  
18 residential rural area. To turn it into  
19 something commercial or to change what it's  
20 supposed to be and who's going to use it is  
21 of great concern to us.

22 Q. Another concern that you expressed in your  
23 testimony is that you believe the Project  
24 will adversely impact your property's value.

1 Can you please explain why that's your  
2 opinion?

3 A. (V. Miller) Well, if you came down there and  
4 you were going to take a look at our house,  
5 how would you like to be greeted by a canopy  
6 of wires and two poles? That's first. In  
7 addition, concrete mattresses that are not  
8 [sic] there, the view of the bay, and  
9 everything that's going to change with the  
10 clearing coming down the driveway, the  
11 clearing in the right-of-way. The entire  
12 environment and the scenic value of the area  
13 is going to be altered forever.

14 Q. And why did you purchase your home?

15 A. (V. Miller) Well, we've lived in Durham for  
16 over 25 years. We always wanted to be on the  
17 water. And we found a little camp that was  
18 down on the water in 2011, and so we checked  
19 it out. And we found that this area was  
20 probably one of the most pristine areas on  
21 Durham Point Road. It's very private. Right  
22 now we don't see people, we don't see lights  
23 at night, we don't hear noise. It truly is  
24 one of the beautiful spots. So we said,

1           okay, this is worth coming down and living in  
2           the camp while we try to build our house.  
3           And that's what we did.

4                     But we checked out the zoning. We  
5           checked out the right-of-way. When Public  
6           Service came out to work on putting a pole in  
7           for us with the new construction, they said  
8           to us, "This will never change. We'll never  
9           go across the bay because of the  
10          environmental issues. This will always be a  
11          distribution line."

12    Q.    Have you approached the Applicant, or have  
13           they offered you any measures to mitigate any  
14           potential adverse effects that this project  
15           will have on your property?

16    A.    (V. Miller) No. So far, just a landscape  
17           plan, which quite honestly is really  
18           ridiculous. I don't know how you shield  
19           poles from a driveway in a hundred-foot  
20           right-of-way. And they've offered to move  
21           the pole.

22    Q.    What remedies or mitigation proposals would  
23           satisfy your concerns?

24    A.    (V. Miller) I guess, first, go another way.



1           Second, if the Committee feels that this is  
2           the only way to go, then I would like to see  
3           the poles buried from Durham Point Road all  
4           the way down to our location and then HDD  
5           used under the bay. And I've heard all the  
6           problems with HDD and everything that it  
7           creates for the residents. And quite  
8           frankly, if they did do it, we would be most  
9           impacted. But if it's the right thing for  
10          the bay, we're willing to put up with that.  
11          And I have to say that would be the only way  
12          we could stomach what they're going to do in  
13          this area.

14   Q.    Thank you.

15                Ms. Heald, I have a few questions for  
16                you. Now, in your testimony, both your  
17                original and your supplemental, you indicate  
18                you have a gardening business; is that  
19                correct?

20   A.    (Heald) Yes.

21   Q.    Do you have two different gardening  
22           businesses?

23   A.    I do. I currently do most of my work as a  
24           garden designer and maintenance and -- oh,

1 I'm sorry. Yes, most of my work right now  
2 for my income is that I maintain gardens for  
3 my clients, and design work is part of that.  
4 And I do garden consultations.

5 And in planning my lifetime planning for  
6 my retirement, I grow a lot of plants and I  
7 propagate a lot of plants. And I am working  
8 toward transitioning to the time when I may  
9 not be able to do the heavy-duty gardening  
10 work, the physical work, and will be doing  
11 garden consultations and selling my plants  
12 from my home. That was partly prompted by  
13 some eye issues I had and thought, coming  
14 down the road, I may never be able to drive  
15 again, which thankfully I can right now.

16 Q. Ms. Heald, how long have you been engaged in  
17 your businesses at the location where you  
18 currently reside?

19 A. (Heald) Oh, I've been growing plants on my  
20 land in the shade and on the power line for  
21 the 39 years that I've been living there,  
22 because I grow for foraging and medicinal and  
23 enjoyment and landscape. And so I have been  
24 planting and growing plants for the whole

1           time I've been there.

2       Q.    So is it fair to say that, based on the  
3           testimony that I've read from you, that you  
4           believe that this project will have a  
5           negative impact on your plant businesses? Is  
6           that correct?

7       A.    (Heald) Absolutely.

8       Q.    Okay. Have you entered into any agreement  
9           with the Applicant to address your concerns?

10      A.    (Heald) We've talked about a lot of things,  
11           and so far a solution has not been  
12           satisfactory. We've looked at mitigation  
13           planting plans, which, because the pole that  
14           is located in very close proximity to my  
15           house is absolutely not acceptable, I have  
16           asked for the pole to be moved. I have asked  
17           for a third pole to even be put on to get  
18           that pole away from my house. I have asked  
19           for, you know, planting plans. Basically,  
20           the pole right now is indicated that it will  
21           be, the pole itself, 110 feet from my house,  
22           103 feet tall, about 4 feet in diameter, as  
23           close as any place on the power line that it  
24           could be to my house.

1           And the mitigation planting plan is  
2           suggesting, I believe it is six 5-foot trees  
3           like hemlocks, and sixteen 3-foot shrubs,  
4           which, frankly is a big joke because that  
5           won't do a thing. And once they clear the  
6           100 feet, I will be basically on the edge of  
7           the power line. And because it faces  
8           northeast -- and I guess we'll all find out  
9           what that's going to be like when we get the  
10          storm tomorrow. But once they take out  
11          anything that's bigger than what is left  
12          existing, they will clearly blow over in the  
13          wind. There will be nothing to protect what  
14          trees are remaining.

15                So my small house will be sitting on the  
16                edge of a high-voltage power line and never  
17                be the same as what it has been for 40 years.

18    Q.    In your opinion, what do you believe would be  
19           a satisfactory proposal or plan for  
20           mitigating any anticipated adverse effects  
21           that this project might have on your home or  
22           your property or your business?

23    A.    (Heald) Well, I have been asking since 2013,  
24           or maybe not quite that early, but as soon as

1 I found out where the pole was proposed to be  
2 located, I have been asking for the pole to  
3 be moved to the location that a pole  
4 currently exists now, which is closer to  
5 Longmarsh Road. And they have offered me the  
6 ability to move the pole 35 to 50 feet in  
7 either direction. And frankly, moving it in  
8 one direction puts it right in the middle of  
9 where my tables and greenhouses are almost  
10 and --

11 Q. Ms. Heald, I'm sorry to interrupt you. The  
12 question I posed really is not what you've  
13 been offered --

14 A. (Heald) Oh, okay.

15 Q. -- but in a perfect world, if you had your  
16 way, what would you prefer to have as a  
17 mitigation plan if one were offered to you.

18 A. (Heald) I would like the pole to be buried  
19 and the lines to be buried.

20 Q. Okay. Thank you.

21 Mr. Fitch, in your prefiled testimony, I  
22 think you listed a number of concerns that  
23 you had with respect to this project; is that  
24 correct?

1 A. (Fitch) That's correct.

2 Q. And just to get some perspective, I believe  
3 your testimony indicates that your home is  
4 80 feet from Eversource's right-of-way; is  
5 that correct?

6 A. (Fitch) That was an estimate at that time.  
7 And additional since that time, I understand  
8 it to be a little bit further; I believe it's  
9 125 feet.

10 Q. Okay. Now, you've also indicated some steps  
11 that you believe that were conditions that  
12 you believe the Applicant should be required  
13 to meet if this project is approved; is that  
14 correct?

15 A. (Fitch) I have made some suggestions, yes.

16 Q. Okay. Has the Applicant agreed to provide  
17 you with any of the mitigation steps to  
18 address your concerns?

19 A. (Fitch) Something very recently was with  
20 regard to EMF from the lines. And I  
21 understand the Applicant has agreed -- and at  
22 least on my property, I'm not sure if this is  
23 throughout the entire line -- to take pre-  
24 and post-construction measurements of EMF

1 readings from the line, from the existing  
2 right-of-way, and then post-construction.

3 Q. And Mr. Fitch, have the entirety or all of  
4 the concerns that you've expressed in your  
5 prefiled testimony been adequately addressed  
6 by the Applicant?

7 A. (Fitch) No, I would say they have not.

8 Q. And which concerns are still outstanding?

9 A. (Fitch) Primarily I am very concerned about  
10 issues with property value, the impact, the  
11 negative impact to property value, and the  
12 visual aspect or aesthetics aspect of what  
13 the line will look like, and specifically  
14 with regard to the 85-foot transmission  
15 structure that will be on my property.

16 Q. Will that structure be visible from your  
17 home?

18 A. (Fitch) I believe it will be. And this is  
19 something that's very difficult to really get  
20 your head around. I guess since it's not  
21 there currently, we're not going -- the  
22 unfortunate thing is we're not going to know  
23 how visible it is until it's already there.  
24 And that's too late.

1 Q. Thank you very much for all of your  
2 testimony. I appreciate very much the time  
3 and effort that you've put into this docket.

4 PRESIDING OFFICER WEATHERSBY: I  
5 don't see anyone here for the Conservation Law  
6 Foundation; is that correct?

7 [No verbal response]

8 PRESIDING OFFICER WEATHERSBY: No one  
9 to ask questions. Okay. Moving along then.

10 Ms. Mackie.

11 BY MS. MACKIE:

12 Q. Mrs. Miller, can you tell me, since you live  
13 on Durham Point Road, what the history is of  
14 how that road became a scenic road?

15 A. (V. Miller) Well, in 1971, a group of  
16 residents got together and decided to declare  
17 it a scenic road. And they had to put it to  
18 a town vote to get it in effect. And  
19 90 percent of the people voted yes, and in  
20 1971 it became a scenic road to the  
21 community.

22 Q. Thank you.

23 There's quite a glare on this shiny  
24 paper, but this is a stone wall map which



1 doesn't have the white tree boxes all over  
2 it. This is DHA Exhibit 3. And your house  
3 is right here; is that correct?

4 A. (V. Miller) That's right.

5 Q. Okay. And the historic cable house at this  
6 point is --

7 A. (J. Miller) Right there, yeah.

8 Q. -- right here; correct?

9 A. (V. Miller) That's correct. Right at the  
10 shore.

11 Q. You can see it from your house; is that  
12 right?

13 A. (V. Miller) We can see it from our house and  
14 from the driveway entering into our property.

15 Q. And this yellow outline section here is the  
16 conservation land that the DeCapos own, is  
17 that correct --

18 A. (V. Miller) That's correct.

19 Q. -- with the conservation easement with public  
20 access?

21 Can you tell me after -- I understand  
22 the cable house is going to be moved slightly  
23 north towards the Getchell house or the  
24 Eversource house?

1 A. (V. Miller) I'm not sure.

2 Q. Yeah. Well, what I'm wondering is if it's  
3 moved from here up to here, will it still be  
4 visible from the conservation land do you  
5 think?

6 A. (V. Miller) It's hard to say. I really don't  
7 know.

8 Q. Will you be able see it through the pylon by  
9 your driveway, or will your view be blocked?

10 A. (V. Miller) Well, the view to the bay is  
11 blocked by the transition pole. So I really  
12 couldn't tell you where that is looking at it  
13 right now.

14 Q. Okay. Dr. Miller, can you see the cable  
15 house from your house?

16 A. (R. Miller) Not from my house. I can see it  
17 from my shoreline.

18 Q. I see. Will you able to see it after it's  
19 moved?

20 A. (R. Miller) I'm not sure.

21 Q. You're not sure where it's going? All right.  
22 Okay. Thank you.

23 PRESIDING OFFICER WEATHERSBY: Ms.  
24 Frink.

1 BY MS. FRINK:

2 Q. For the record, I'm Helen Frink, representing  
3 the Darius Frink Farm if Newington. I have  
4 just a few questions.

5 Besides Vivian and Jeff Miller, are any  
6 of the other members of the panel going to  
7 have concrete mattresses right on your  
8 shoreline?

9 [No verbal response]

10 Q. So Vivian and Jeff Miller are the only people  
11 who will actually have these extending on  
12 your shoreline.

13 A. (V. Miller) Yes.

14 Q. And if people who are boating or walking  
15 there are injured on these concrete  
16 mattresses after they've been put in place by  
17 Eversource, do you know whether you'll be  
18 personally liable or Eversource or -- what  
19 about liability in the case of injury?

20 A. (V. Miller) We have no -- sorry.

21 MR. NEEDLEMAN: Objection. That  
22 calls for a legal conclusion.

23 MS. FRINK: I'm assuming property  
24 owners would want to know. And I think I'm

1 asking whether they know, not whether they'll  
2 be liable or not.

3 A. (V. Miller) We don't know.

4 BY MS. FRINK:

5 Q. Don't know. Thank you.

6 I heard how some of you use the bay at  
7 present. But I don't think I heard the  
8 answer from Ms. Heald or Mr. Fitch.

9 Ms. Heald, would you explain how you use  
10 the bay at present? Are you a swimmer or a  
11 kayaker?

12 A. (Heald) I swim at the bay usually at the  
13 Adams Point boat launch ramp or somewhere  
14 around Adams Point shoreline, which is where  
15 I have access to it because I am not on the  
16 water. I kayak there. I have a little  
17 Sunfish sailboat that I put in the water  
18 there sometimes. I go there very, very  
19 frequently for the last sunset because that's  
20 one of the best places to see sunset. I'm on  
21 the bay as much as I can possibly be, or at  
22 least on the water somewhere.

23 Q. And will that change at all if this project  
24 is constructed?

1     A.     (Heald) I believe that it will change. I  
2           believe it will change greatly. I think that  
3           the view from the bay onto the shore will be  
4           forever changed. And I can't even fathom  
5           myself what these concrete mattresses will be  
6           like. I know myself, from having done it  
7           once and gotten caught out in the bay in a  
8           small boat, a motorboat I had one time,  
9           actually jumping off the boat to go swimming,  
10          not realizing that there was 6 feet -- about  
11          6 inches of water because I wasn't quite  
12          stuck yet, about 6 inches of water and 6 feet  
13          of mud, and I jumped right into it. And the  
14          thought occurred to me, you know, thank  
15          heavens there weren't concrete mattresses  
16          down there at that point.

17     Q.     Yes.

18                 Mr. Fitch, are you a swimmer or a  
19                 boater?

20     A.     (Fitch) I have family members that have a  
21           boat, and we launched the boat from the  
22           marina in Newington and enjoyed the bay and  
23           watched the air shows there a few years ago.

24                 From the shore perspective, my children

1           and I ride our bicycles up and down the  
2           driveway down towards the Millers' house and  
3           beyond up to Adams Point. So, we enjoy it as  
4           residents in the area.

5   Q.   And will that change if this project is  
6           constructed?

7   A.   (Fitch) There will certainly be a change to  
8           my property and the driveway and how we  
9           perceive the area we live in if it's  
10          constructed.

11   Q.   I think it was Vivian and Jeff Miller who  
12          answered a question about the possible impact  
13          on property values.

14                Mr. Fitch, what is your feeling about  
15                any impact on the value of your property if  
16                this project is constructed?

17                       MR. NEEDLEMAN: Objection, Madam  
18                       Chair. This is repetitious. It's already in  
19                       the testimony.

20                       PRESIDING OFFICER WEATHERSBY: Would  
21                       you like to respond to that? I think it is in  
22                       his testimony.

23                       MS. FRINK: Very well. A different  
24                       question, then, if I may.

1 BY MS. FRINK:

2 Q. Mr. and Mrs. Miller, you mentioned concerns  
3 about your deeded driveway being used as an  
4 access road. Did I understand that  
5 correctly?

6 A. (V. Miller) Yes.

7 Q. During the construction process.

8 Is there any way, aside from using your  
9 driveway, that Eversource could reach the  
10 site where that transition tower would be  
11 constructed?

12 A. (V. Miller) By boat.

13 Q. But other --

14 A. (V. Miller) They could go through the  
15 right-of-way versus the deeded access road.  
16 There is a right-of-way that runs along the  
17 driveway. And my understanding is that's  
18 where they will stage a lot of the large  
19 equipment, and also on the Getchell property.

20 Q. And do I understand that this would be beside  
21 your deeded driveway?

22 A. (V. Miller) That's correct.

23 Q. And do you anticipate that there would be any  
24 impact onto your driveway -- for example,

1 drainage issues or additional dust or  
2 tracking on your driveway?

3 A. (V. Miller) Yeah, it's just a dirt road. So  
4 it's going to be compacted down. There are  
5 four culverts that would be impacted by  
6 heavier machinery, and we've made Eversource  
7 aware of that.

8 Q. And a question for each of you in turn.

9 As individual property owners, as I am  
10 myself, has this hearing process adequately  
11 addressed your needs when expressing your  
12 concerns about this project? Dr. Miller,  
13 let's start with you.

14 Has this hearing process adequately  
15 addressed your needs when bringing your  
16 concerns about this project before the  
17 Committee or before the public?

18 A. (R. Miller) Can I have a minute to think  
19 about that?

20 Q. Certainly.

21 A. (R. Miller) Thank you. Maybe move on to  
22 someone else and get back to me?

23 Q. Is there anyone else who'd like to go first  
24 or sooner? Mr. Fitch.



1     A.     (Fitch) I don't mind going first.

2             I've been fortunate to be able to be  
3     here and attend many of the hearing days.  
4     And it's been a massive learning experience  
5     to see how the process unfolds. And what  
6     I've discovered going through this process,  
7     and this is a personal feeling is that it  
8     feels very biased towards the Applicant,  
9     because at least as individual property  
10    owners, we don't know this process. And it's  
11    not something in my normal daily life that I  
12    would be exposed to understand the ins and  
13    outs of. So as we've proceeded through  
14    months and years to this point, it's been  
15    overwhelming in many regards, and it's been  
16    discouraging as well. There's so much  
17    information involved in this docket, as has  
18    been referenced. The sheer amount of data  
19    that we need to digest to participate has  
20    been a struggle at times. And compared to  
21    the vast resources that are employed by the  
22    Applicant to be able to do this -- and  
23    understandable, as I'm a business owner  
24    myself, and this is how you'd want to do it.

1 But as an individual and as a property owner  
2 that's directly impacted, this process, from  
3 my feeling, feels inadequate to address our  
4 specific concerns.

5 And to finalize that, I believe it goes  
6 back to how it's handled at the very  
7 beginning from an outreach perspective. And  
8 hopefully we'll have an opportunity to speak  
9 to that further because that as well feels  
10 inadequate.

11 Q. Thank you.

12 And Vivian and Jeff Miller, would you  
13 like to address that question, whether or in  
14 what way this hearing process has adequately  
15 addressed your needs and your concerns about  
16 the Project?

17 A. (V. Miller) You know, that's a really tough  
18 question because there are personal needs and  
19 there are needs we have for the environment  
20 and our community. So, you know, on a  
21 personal level, none of our needs have been  
22 addressed. And to our great disappointment,  
23 there hasn't been a lot of discussion.  
24 Before the Project was filed, after the

1 Project was filed, we had to do the outreach.  
2 And it's very disappointing to then come here  
3 and have Eversource put a list of times they  
4 reached out to people when nothing has been  
5 accomplished. You know, and we wish there  
6 would have been more dialogue from the onset.  
7 So our needs, personal needs, environmental  
8 needs, community needs, they are lacking.

9 Q. Mr. Miller, did you wish to add anything?

10 A. (J. Miller) No. I think the feeling is very  
11 much the same. The information was slow to  
12 come at the beginning. And by the time --  
13 feels like by the time you come up to speed  
14 and you fully understand the Project, you're  
15 80 percent down the road and it becomes very  
16 difficult to catch up. So I think if things  
17 were from the beginning, here's what we're  
18 going to do, when, how, it would have been  
19 much easier to understand.

20 Q. Thank you.

21 And Dr. Regis Miller?

22 A. (R. Miller) I feel much the same way as my  
23 neighbors have described, and particularly in  
24 the lack of outreach. I found out about this

1 project when Viv, who I had never even met  
2 before, in 2016 came knocking on my front  
3 door and, you know, and said -- you know,  
4 explained to me what this project was all  
5 about. And I was stunned. I was absolutely  
6 stunned. And, you know, my husband comforted  
7 me and said, "Don't worry. It's not going to  
8 happen. We're in New Hampshire. Things like  
9 this don't happen in New Hampshire." So I  
10 have felt frustrated.

11 And also to Matt's point, the sheer  
12 amount of data that I feel obligated to have  
13 to read, and I have not read every attachment  
14 that has been sent to me over the last few  
15 years, it's been overwhelming.

16 A. (V. Miller) Can I add one thing?

17 Q. Yes. Sure.

18 A. (V. Miller) What's become apparent during  
19 these hearings is that Eversource was very  
20 selective with who they reached out to. And  
21 the fact that the Newington folks were lucky  
22 enough to have Dennis Hebert at Gundalow  
23 Landing living there and got a jump on  
24 working on this project, and as you see,

1           there's not one intervenor from Gundalow.  
2           Now, why didn't they exercise the same  
3           courtesy to the abutters in Durham? Not one  
4           single knock on the door. Not one certified  
5           letter. Why did they choose to deal with  
6           Newington in a different manner than they  
7           chose to work with the Durham folks? So,  
8           sitting through these hearings, you really  
9           feel like you were taken advantage of.

10       Q.    Thank you.

11                   And Ms. Heald, I'll repeat the question  
12           for you. As an individual property owner,  
13           has this hearing process adequately addressed  
14           your concerns about this project? Put the  
15           microphone closer if you would.

16       A.    (Heald) Thank you. It's overwhelming. I  
17           mean, I'll start with that. It is absolutely  
18           overwhelming. Starting with the fact that  
19           everything is done electronically, that was  
20           overwhelming in itself to me. I am a person  
21           who takes my time, thinks about things  
22           thoroughly before acting, as was the case  
23           before I even bought my property. And I was  
24           one of the very lucky few in Durham that

1       happened to hear about this project because  
2       my one of my clients lives on Great Bay in  
3       Newington adjacent to Gundalow Landing and  
4       happened to know that I lived on a power line  
5       and was the first to mention it to me. And I  
6       reached out to Eversource as soon as I heard  
7       that. And I tried to be a proactive person.  
8       And I have been aware of all the, you know,  
9       things that might affect me and have tried to  
10      address them since March of 2013. And I am  
11      very frustrated and even more concerned now  
12      because a lot of things that were told to me  
13      don't seem to be possibilities anymore.

14             And this project is ruining my life. I  
15      don't know how I will survive this, honestly.  
16      It's just overwhelming. You know, when you  
17      buy a property, you do your due diligence.  
18      You find out what's there. You plan  
19      accordingly. You plan for your life. It's  
20      like taking a tablecloth and leaving  
21      everything smashed on the floor. How does a  
22      person recover from that? How do you value a  
23      person's life, and how do you value a  
24      person's ability to make a living? I don't

1 know. I just think it's absolutely wrong  
2 that an easement that came into play in 1948  
3 for a simple little line in maybe an area  
4 that perhaps nothing existed there at the  
5 time -- I wasn't even born then -- I'm not  
6 sure. But I checked everything out as far as  
7 I could. I made all my decisions -- I made  
8 all my decisions about where to place my  
9 house. I purchased a property that I  
10 intended to live on for the rest of my life.  
11 And now I'm not sure that I feel safe living  
12 this close to power lines. And certainly I  
13 will be concerned about doing my work out  
14 underneath those power lines every day of my  
15 life once this project goes through. I don't  
16 know what else to say. It's devastating.

17 Q. Thank you very much for your testimony.

18 MS. FRINK: I have no further  
19 questions.

20 MR. IACOPINO: Madam Chair, can I  
21 just correct one -- well, see if it's  
22 corrected.

23 Mr. and Mrs. Miller, Ms. Frink  
24 asked you -- I'm sorry. Dr. Miller, Ms.

1 Frink asked you if your property, like the  
2 other Miller property, was going to have the  
3 concrete mattresses on your shoreline. If I  
4 understand correctly, you don't -- it's not  
5 your position that --

6 Mr. and Mrs. Miller, it's not your  
7 position that they are going to be on your  
8 shoreline; correct?

9 WITNESS V. MILLER: Not at the  
10 shoreline. They will be in the bay across from  
11 our shoreline.

12 MR. IACOPINO: They will be on the  
13 shoreline from the property that is now owned  
14 by Public Service.

15 WITNESS V. MILLER: Correct.

16 MR. IACOPINO: Thank you.

17 PRESIDING OFFICER WEATHERSBY:  
18 Counsel for the Public, Ms. Niczwizcki [sic].

19 BY MS. NICEWICZ:

20 Q. Good afternoon. My name is Lindsey Nicewicz.  
21 I represent Counsel for the Public. And most  
22 of my questions have already been asked, so  
23 hopefully I can make this quick.

24 So I believe that Attorney Geiger asked



1       most of you about communications with  
2       Eversource. Was there ever discussions about  
3       Eversource's claim process? Anyone can  
4       answer. These are all general questions.

5     A.   (V. Miller) Did you say claims process?

6     Q.   Yes.

7     A.   (V. Miller) No, there has not been for us.

8     A.   (R. Miller) Nor for me.

9     A.   (Heald) Not personally with me about the  
10       claims process -- well, actually, yes,  
11       personally with me, because I had questions  
12       about what would happen if my well that is on  
13       the other side is damaged. So a little bit  
14       was addressed in writing.

15               And it just seems very absurd to me that  
16       I could be left without water and have to go  
17       through a claims process. So now Eversource  
18       has agreed that they will put a truck on my  
19       property, a water truck. And I don't know  
20       the details of that. That's not acceptable  
21       without knowing the details, because if it's  
22       a truck that generally waters down a road, am  
23       I going to have to sterilize water? Am I  
24       going to be getting water from water bottles?

1 I can't be without water for, you know, even  
2 a two-hour period of time when plants need to  
3 be watered and you need water for yourself as  
4 well. So that part of it is my experience,  
5 personal experience. I have read that there  
6 are claims processes, but it doesn't seem  
7 adequate enough.

8 Q. Okay. Mr. Fitch.

9 A. (Fitch) Nope, no direct communication on  
10 that. I believe I saw e-mails as we were  
11 walking up here that referenced claims  
12 process. But that's the extent of my  
13 familiarity with it.

14 Q. Do you have more comfort knowing that a  
15 claims process exists?

16 A. (Fitch) I don't know any of the details of  
17 the claims process, so I can't answer that.

18 Q. Okay.

19 A. (R. Miller) Same with me.

20 Q. And in your -- I believe most of you  
21 referenced environmental concerns in your  
22 prefiled testimony. Could you provide more  
23 specific information about what those  
24 concerns are.

1     A.     (V. Miller) Where do you want us to start?  
2           Environmentally, for our property, we're  
3           concerned about the impact to the shoreline,  
4           to everything that's going to die when the  
5           concrete mattresses go in, with the jet  
6           plowing, to the fish, the lobsters, the  
7           horseshoe crabs that are ancient. Everything  
8           that's going to be disrupted and impacted  
9           environmentally in the bay is important to us  
10          because we do fish and we do eat oysters. We  
11          do all that on the bay. So environmentally,  
12          that's our biggest concern.

13    Q.     Okay.

14    A.     (R. Miller) I'm also concerned with the  
15          mowing down of the wetlands that's going to  
16          happen adjacent to my driveway. There are a  
17          ton of turtles in there that come out and  
18          sunbathe on my driveway every day. There are  
19          a lot of birds there and snakes and reptiles.  
20          I'm serenaded by the bull frogs when I walk  
21          down there in May. And I'm very concerned  
22          about what's going to happen to the things  
23          living the marsh and around it.

24    A.     (Heald) I agree with everything that's been

1       said so far. And I also am concerned about  
2       my own personal environment, which is a bird  
3       sanctuary, a wildlife sanctuary. And  
4       everything there is going to be disturbed. I  
5       mean, I can't -- everything is going to --  
6       nothing will exist the way I have lived with  
7       it.

8               But my biggest environmental concern is  
9       the bay. And the problem with the bay is  
10      that Newington -- the Great Bay is on the  
11      shores of Newington, which is the site of  
12      Pease Air Force Base, which is a superfund  
13      site. And the bay is the lowest level that  
14      any of the toxic wastes can be. And I fear  
15      that horrible things could be brought up in  
16      sediment. And I know what tides are like,  
17      and I know that the water never leaves the  
18      mouth of the river, or a very, very small  
19      percentage of it ever leaves the river. And  
20      having worked with the Nature Conservancy on  
21      some projects, and being involved with  
22      sailing, racing around the sea and  
23      everything -- and the Nature Conservancy has  
24      identified the Great Bay Watershed Area as

1           its No. 1 target area for acquiring lands  
2           that this -- this project, should it bring up  
3           toxic waste sediments that could be dispersed  
4           along Little Bay, Great Bay, Piscataqua River  
5           and the seven to nine rivers that feed into  
6           it, that this toxic waste could be  
7           devastating to our bay for eternity, we could  
8           be living in an environment that will be  
9           irreparably damaged. That is my biggest  
10          concern for the environment.

11       Q.    Mr. Fitch.

12       A.    (Fitch) My immediate concern -- or I have an  
13           immediate concern with the activities in the  
14           right-of-way adjacent to and through my  
15           property, the impacts associated with that.  
16           But to echo what the others have said here,  
17           my primary concern is with the bay and the  
18           potential impacts associated with that.

19                   And I would like to frame that from the  
20           perspective of, you know, the best laid plans  
21           put into place with the best of intentions,  
22           they don't always go with the plan,  
23           unfortunately. And to essentially set the  
24           stage and refer to -- or defer to DES and/or

1 the consultants associated with the Project  
2 and those that are putting forth the plans  
3 and doing the various investigations, to  
4 couch them from the perspective of being  
5 almost infallible, to say, well, you know,  
6 these folks have this plan in place and so  
7 this is where the mitigation will come from,  
8 that's a leap of faith that I don't have  
9 confidence in. That's just based on real  
10 world work and dealing with the microcosms  
11 that we deal with every day. I mean, we  
12 struggle to identify what this schedule is  
13 going to look like here in our little world  
14 of this proceeding. And I've got a mailing  
15 right here where Eversource is telling me  
16 that they're going to begin construction on  
17 this project in 2017. And here we are, and  
18 all those -- the plans just, as we all know,  
19 they don't come to fruition as we hope. And  
20 this is something that I fear could have  
21 dire, long-term consequences if something  
22 goes wrong. There's just, in my personal  
23 opinion, a high potential for something like  
24 that to happen.

1 Q. Okay. I believe that Attorney Geiger also  
2 talked about property values. And are you  
3 all familiar with Dr. Chalmers' report on  
4 property values?

5 A. (V. Miller) Yes.

6 A. (Fitch) Yes.

7 Q. Have any of you had independent property  
8 appraisals done for your properties?

9 A. (V. Miller) No.

10 Q. And my next question I believe applies  
11 specifically to the two Millers.

12 Are you familiar with Dr. Chalmers'  
13 opinion that homes within 100 feet of the  
14 right-of-way will be negatively impacted?

15 A. (V. Miller) Yes, we are.

16 Q. Do you know if your home falls within that  
17 100-foot range?

18 A. (V. Miller) Our property line and our garage  
19 falls within that 100-foot range.

20 Q. But not your actual home.

21 A. (V. Miller) Correct.

22 Q. And Dr. Miller?

23 A. (R. Miller) My driveway, not my home.

24 Q. Okay. Thank you.

1           So, Jeff and Vivian Miller, I'd just  
2           like to clarify a couple of things. In  
3           relation to your property, where is the  
4           easement located and where does, if anywhere,  
5           does the easement cross your property?

6    A.   (V. Miller) The easement does not cross our  
7           property. It crosses the deeded driveway  
8           twice. And it is adjacent to our property.  
9           So, from the driveway down to the bay runs  
10          the right-of-way. We are on the other side  
11          of the right-of-way. So are you looking  
12          at --

13   Q.   Yup. So this is --

14   A.   (V. Miller) You see where we are.

15   Q.   Yup.

16   A.   (V. Miller) Okay. And you can see where the  
17          right-of-way is. So it does not cross our  
18          property.

19   Q.   Okay. Thank you.

20                I believe that you also in your prefiled  
21                testimony mentioned conditions of  
22                construction. Have any of those been  
23                addressed?

24   A.   (V. Miller) Not yet.



1 Q. Okay.

2 MS. NICEWICZ: I believe that's all I  
3 have. Thank you.

4 PRESIDING OFFICER WEATHERSBY: Thank  
5 you. I apologize for mispronouncing your name,  
6 Ms. Nicewicz.

7 Off the record.

8 (Discussion off the record.)

9 PRESIDING OFFICER WEATHERSBY: Mr.  
10 Dumville.

11 BY MR. DUMVILLE:

12 Q. Thank you. Good evening, or early afternoon,  
13 everyone. My name is Adam Dumville. We've  
14 all met before. Thank you very much for  
15 being here. And I think most of you probably  
16 know where I'm going to start off.

17 MR. DUMVILLE: So, Dawn, can you  
18 please pull up Applicant Exhibit 235.

19 Q. And Ms. Miller and Mr. Miller, in front of  
20 you here is a brief summary of the contact  
21 history that the Applicant had. This was  
22 provided earlier, so I'm sure you've had a  
23 chance to look at it.

24 A. (V. Miller) Glad you brought it up, Adam.

1           So --

2       Q.    Did you have a chance to look through it?

3       A.    (V. Miller) We did.  And, you know, the first  
4           three voicemails, we didn't even have a land  
5           line back then.  So, not sure of who you left  
6           the voicemail for.

7                   As far as visits, again, you know,  
8           e-mails, phone calls, I wish it was  
9           productive and we were in a better place at  
10          this point.  So I can't tell you if they've  
11          all happened.  I just think they were all  
12          minor.

13       Q.    Sure.  So aside from the three voicemails,  
14           you wouldn't disagree with me, though, that  
15           we had multiple site visits and multiple  
16           e-mails exchanged between the parties; is  
17           that fair to say?

18       A.    (V. Miller) You have had multiple site visits  
19           and e-mails.

20       Q.    And on those site visits, we've discussed  
21           things relating from the location of the pole  
22           to the visual mitigation, to access to the  
23           driveway; is that fair to say?

24       A.    (V. Miller) That's fair to say.

1 Q. And I believe you corrected part of the  
2 testimony today, but I just wanted to call  
3 your attention to your supplemental testimony  
4 where you said that the concrete mattresses  
5 could span 300 feet out into Durham Bay --  
6 into Little Bay.

7 A. (J. Miller) I can answer that. I think on  
8 the map it shows 150 feet.

9 Q. Correct.

10 A. (J. Miller) Going back to one of their  
11 earlier visits, we were told by Jim Jiottis,  
12 who I know is no longer here, that if the  
13 hand jetting wasn't successful, they may go  
14 out to 300 feet.

15 Q. Well, you're aware that since that time the  
16 Applicant has done additional testing in the  
17 near shores; correct?

18 A. (J. Miller) I'm not sure. I'm not aware of  
19 that.

20 Q. And the Applicant was permitted the maximum  
21 extent allowable for the use of the concrete  
22 mattresses. Are you aware of that?

23 A. (V. Miller) Maximum extent? My understanding  
24 is they will put them where they need to.

1           There's no maximum or minimum length into the  
2           bay. There might be a maximum square  
3           footage, but they do not describe the length  
4           into the bay.

5   Q.    So you're aware that the Applicant has  
6           submitted permits to the Department of  
7           Environmental Services; right?

8   A.    (V. Miller) Yes, we are. And they've  
9           increased the number of mattresses, the  
10          square footage.

11   Q.   And if the Applicant needed to increase  
12          those, it would have to go back through a  
13          permitting process; is that fair to say?

14   A.    (V. Miller) I don't know if it's fair to say.  
15          What we know is they don't know how much  
16          they're going to use at this point.

17   Q.    Okay. I think the record can speak for  
18          itself on that issue.

19                But as part of Durham Residents Exhibit  
20                7 and 8, and also we saw some from Durham  
21                Residents 18 today, you submitted various  
22                diagrams and pictures with pictures  
23                superimposed on maps, et cetera. Does that  
24                sound right?

1 A. (V. Miller) Yes, we have.

2 Q. And those weren't done to scale; correct?

3 A. (J. Miller) Actually, they probably are not  
4 perfect. But we made every effort to take  
5 the scale on the map we were using and to try  
6 to make it as close as we could. Obviously  
7 we're not experts in that area. But we just  
8 didn't make something look five times as big.  
9 We used the scale that was on the map.

10 Q. Right. And they were prepared by you, not by  
11 an expert.

12 A. (J. Miller) No, by us.

13 Q. Okay.

14 MR. DUMVILLE: So, Dawn, can we --

15 Q. So is it fair to say that the Applicant has  
16 been working with you on certain commitments  
17 that the Applicant has offered to make with  
18 you -- the side letter agreement we sent to  
19 you in August and September?

20 A. (Heald) Talking to me?

21 Q. No, to Mr. and Mrs. Miller.

22 A. (V. Miller) Repeat the question.

23 Q. Sure.

24 MR. DUMVILLE: Dawn, can we pull up

1           Applicant's Exhibit 236, please.

2       Q.     And this is a letter that Eversource sent to  
3           you on August 2nd. Does this look familiar?

4       A.     (V. Miller) Yes.

5       Q.     Okay. And I believe after this letter we had  
6           a site visit. Does that sound right?

7       A.     (V. Miller) That's right.

8                       MR. DUMVILLE: Dawn, can you pull up  
9           Applicant's Exhibit 237, please.

10      Q.     And this is the most current version of what  
11           Eversource refers to as a "side letter  
12           agreement." Does this look familiar?

13      A.     (V. Miller) Yes, it does. You don't have the  
14           whole letter up there, though, but --

15      Q.     Sure. I think it's three pages.

16                       MR. DUMVILLE: Dawn, can you flip  
17           through it quickly? Great.

18      Q.     And this has been signed by Eversource's  
19           project manager; right?

20      A.     (V. Miller) That's correct.

21      Q.     So these are actually commitments that  
22           Eversource has made to you as of today; is  
23           that fair to say?

24      A.     (V. Miller) They're not all encompassing.

1 Q. Okay. But these are the commitments that  
2 have been made to date?

3 A. (V. Miller) So far.

4 Q. Okay. So, as one of those commitments that  
5 have been made, you had raised issues about  
6 the location of the transition station;  
7 correct?

8 A. (V. Miller) That's right.

9 Q. And we had discussed a bit about this earlier  
10 today. And we, the Applicant, had originally  
11 offered to move the structure approximately  
12 30 feet. Does that sound right?

13 A. (V. Miller) That's right.

14 Q. And we had further discussion and we offered  
15 an additional 43 feet. Does that sound  
16 familiar?

17 A. (V. Miller) That's right.

18 Q. Okay. And those are all as a result of  
19 collaborations between the Applicant and  
20 yourselves; right?

21 A. (V. Miller) The first collaboration, yes.

22 Q. Okay. So, also as part of the side letter  
23 agreement and the negotiations, we've been  
24 working with you on a planting plan; is that

1 fair to say?

2 A. (V. Miller) You provided a planting plan.

3 Q. Right. And I believe the first planting plan  
4 was proposed back in 2016. Does that sound  
5 right?

6 A. (V. Miller) No, it doesn't.

7 MR. DUMVILLE: Dawn, can you pull up  
8 Applicant's 238, please? In the bottom  
9 right-hand corner there's a date.

10 A. (V. Miller) Okay. I stand corrected.

11 Q. Okay. So you -- so Eversource -- it's fair  
12 to say that Eversource has been working with  
13 you on a planting plan since at least that  
14 date; is that fair?

15 A. (V. Miller) You've been providing plans to us  
16 since that date. You haven't been working  
17 directly with us.

18 Q. Okay. Well, you then provided us with a  
19 revised planting plan in June of 2018; right?

20 A. (V. Miller) Correct.

21 MR. DUMVILLE: And Dawn, could we  
22 pull up Applicant's 239, please.

23 Q. And this is a revised planting plan to try  
24 and address some of the concerns; is that



1 right?

2 A. (V. Miller) That's correct.

3 Q. And this is the planting plan that was  
4 accompanied with the side letter agreement;  
5 correct?

6 A. (V. Miller) That's correct.

7 Q. And we have committed to working with you  
8 pre- and post-construction to finalize this  
9 plan; is that fair to say?

10 A. (V. Miller) That's fair to say.

11 Q. So the next issue that you had raised in your  
12 testimony were concerns about the deeded  
13 driveway.

14 MR. DUMVILLE: Dawn, can we pull back  
15 up 237, please, Page 2?

16 Q. So the deeded driveway section here, so as  
17 part of this, we had informed you, or at  
18 least told you that the majority of the  
19 traffic would be in the Eversource  
20 right-of-way; is that fair to say?

21 A. (V. Miller) Yes, but then you added that  
22 there will be some other vehicles.

23 Q. Right. Cars and pickup trucks and the  
24 occasional heavier vehicle.

1           And further down, it says that we will  
2           commit to document, photograph and take  
3           videos of driveway conditions prior to  
4           construction and as soon as possible after  
5           construction. Is that --

6   A.   (V. Miller) That's correct.

7   Q.   And any damage caused by Eversource will be  
8           repaired -- at any time will be temporarily  
9           repaired as soon as possible at Eversource's  
10          expense and will be restored to the  
11          driveway's pre-existing condition or better;  
12          is that fair to say?

13   A.   (V. Miller) Well, that's what you have  
14          written there. But I would like to know  
15          specifically what "pre-existing" or "better"  
16          is specifically. How much gravel? How much  
17          stone? What are you going to do with the  
18          culverts? I mean, that to me would be a  
19          better way to go about preparing this.

20   Q.   Well, the commitment has been made. And also  
21          the commitment has been made to survey  
22          culverts in your driveway, which is one of  
23          the concerns you raised; right?

24   A.   (V. Miller) That's correct. But how will you

1 repair them, and to what degree?

2 Q. So the next concern that you had raised were  
3 concerns about contact during construction;  
4 is that correct?

5 A. (V. Miller) Yes.

6 Q. And as part of the side letter agreement --

7 MR. DUMVILLE: Dawn, on Page 1 --

8 Q. -- we had the commit communications --  
9 commitment to maintain communications with  
10 you during construction. Is that fair to  
11 say?

12 A. (V. Miller) It's fair to say.

13 WITNESS HEALD: And Dawn, could we  
14 pull up Applicant's 268 for a second -- oh,  
15 sorry -- 270, yeah. And could we go to  
16 Paragraph I.A., please.

17 Q. And this is the final version of the executed  
18 Memorandum of Understanding with the Town of  
19 Durham that was submitted today as Exhibit  
20 270. And this is a further commitment to the  
21 Town that it will maintain construction  
22 communications with the public throughout  
23 construction. Have you seen this before?

24 A. (V. Miller) I have not seen this before. But

1 I can only go on previous experience with  
2 Eversource. And you claim to have an  
3 outreach program, and you claim to have an  
4 open communication. And we had to reach out  
5 to you to start this process. So I can't say  
6 I have a great degree of confidence in what  
7 you have here.

8 Q. Well, based on the numbers of site visits and  
9 e-mails and communications since we've been  
10 talking here, wouldn't you say it's fair that  
11 Eversource has been working with you?

12 A. (V. Miller) I don't know what "fair" means,  
13 Adam.

14 Q. Thank you very much, Mr. and Mrs. Miller.

15 Mr. Fitch, a few questions for you.

16 MR. DUMVILLE: Dawn, can we pull up  
17 Applicant's Exhibit 240, please.

18 Q. Again, this is the contact summary. Mr.  
19 Fitch, I'm sure you've had a chance as well  
20 to review this since it was provided earlier  
21 today?

22 A. (Fitch) Briefly. And I can -- yup, I can see  
23 it. And I can comment on a couple --

24 Q. Well, I'll just skip -- I don't need to run

1 through them all. But it's fair to say we've  
2 had a few site visits with you; is that  
3 right?

4 A. (Fitch) Well, in looking at the dates here  
5 and seeing the first three, those top three  
6 were apparent efforts for outreach prior to  
7 the Application being filed in April of 2016.  
8 And it was my understanding -- and something  
9 that was confusing to me, because looking at  
10 the outreach here, my understanding of the  
11 SEC rules, Site 201.01 Part B requires -- it  
12 says, "The Applicant shall mail a copy of  
13 this notice" -- it's specifically talking  
14 about the Notice of Application -- to each of  
15 the affected communities by First Class  
16 Mail," and then says specifically "to each  
17 owner of abutting property by Certified  
18 Mail." And I certainly don't see that there.  
19 I was provided electronically a copy of a  
20 post card that was sent out on April 1st,  
21 2015, that I don't have a recollection of  
22 receiving. And it's possible, based on it  
23 being a post card, that it could have just  
24 been thrown out as junk mail. Could have

1       been from Red's Shoe Barn for all we know.  
2       So that's just to provide some additional  
3       details on there with respect to the  
4       contacts.

5               But we did have, to answer your question  
6       specifically, we did have some site visits in  
7       2018, after I had filed testimony, and we  
8       began communication together.

9    Q.    Okay.  So I see on here in 2018 at least two  
10   site visits in the July time frame.  Does  
11   that sound about right to you?

12   A.    (Fitch) Yes, that's accurate.  And  
13   interestingly, though, too, above that where  
14   the outreach is, going back to -- we had some  
15   e-mails back and forth in 2016 that ended on  
16   August 26th, 2016.  And as you can see in the  
17   topic headings there, we had discussed the  
18   site visit.  But at that time, based on my  
19   concerns, I was told specifically -- and this  
20   is part of Durham Residents Exhibit 19,  
21   that -- let's see --

22   Q.    Well, Mr. Fitch, I don't mean to interrupt,  
23   but in the interest of time, I'm only asking  
24   you about the site visits right now.

1           So we had a couple site visits in July  
2           and a couple in August; right?

3    A.   (Fitch) That is correct, of 2018, because I  
4           was specifically told that I needed to  
5           address my concerns through this very process  
6           instead of communicating directly with  
7           Eversource.

8    Q.   Okay. And as part of your testimony, you had  
9           raised some concerns about electric and  
10          magnetic fields; is that right?

11   A.   (Fitch) That is correct.

12   Q.   And as part of the process here, a site visit  
13          was conducted on August 8th, 2018, to  
14          actually take pre-construction measurements  
15          at your property; is that right?

16   A.   That is correct.

17                   MR. DUMVILLE: And, Dawn, could we  
18          pull up Applicant's 241, please.

19   Q.   And this is a map of the actual readings that  
20          were taken at your property. Have you seen  
21          this before?

22   A.   I have. And I have it in front of me, yes.

23   Q.   Okay. And No. 5 says "Pole in the  
24          right-of-way"; correct?

1 A. Yes.

2 Q. And that's actually .2 milligauss; is that  
3 right?

4 A. (Fitch) That's accurate. And it corresponds  
5 with the same reading as my side porch.

6 Q. Okay. And if you look in the key up there,  
7 No. 1 says the electric meter is actually  
8 significantly higher than what's currently in  
9 the right-of-way; is that right?

10 A. (Fitch) That is accurate.

11 Q. Same with the crock pot and other common  
12 kitchen appliances; is that fair to say?

13 A. (Fitch) That's correct.

14 Q. And you would agree with me, and I believe  
15 you actually said earlier today that your  
16 house is actually over 100 or 120 feet from  
17 the center of the right-of-way?

18 A. (Fitch) Approximately is my understanding.

19 MR. DUMVILLE: Dawn, can we pull up  
20 Applicant's Exhibit 61, PDF Page 19, please.

21 Q. And this is Eversource's electric and  
22 magnetic field calculations.

23 MR. DUMVILLE: Dawn, if you could  
24 just highlight that real quickly for me,



1           please.

2   Q.   And at 100 feet on either side of the  
3       right-of-way, you would agree with me that  
4       that's essentially zero by the time it  
5       reaches you; correct?

6   A.   (Fitch) And just to clarify, are we looking  
7       at proposed or pre-existing?

8   Q.   Those would be the proposed levels.

9   A.   (Fitch) Let's see. Yeah, based on the graph  
10      provided, as I understand from the  
11      calculations made, that's accurate.

12   Q.   Okay. Thank you.

13               And you would agree we also that those  
14      magnetic fields are significantly below any  
15      international standard; correct?

16   A.   (Fitch) That is now my understanding based on  
17      testimony heard during the proceeding.

18   Q.   And as part of this docket, we've also  
19      committed to taking post-construction EMF  
20      measurements at your home; is that right?

21   A.   (Fitch) That's correct, and appreciated.

22   Q.   And Applicant's 193, and we don't need to  
23      pull it up, but Conditions 34 and 35 also  
24      require the Applicant to conduct pre- and

1 post-construction EMF measurements. Were you  
2 aware of that?

3 A. (Fitch) I am now aware of it, yes.

4 MR. FITZGERALD: I would appreciate  
5 it if those could be pulled up.

6 MR. DUMVILLE: Sure.

7 Dawn, 193, Conditions 34 and 35.  
8 These are the proposed conditions between the  
9 Applicant and Counsel for the Public.

10 MR. FITZGERALD: Thank you.

11 MR. DUMVILLE: You're welcome.

12 Q. And you also raised concerns about tree  
13 clearing and planting and views of the  
14 Project; is that right, Mr. Fitch?

15 A. (Fitch) That is correct. And now seeing, I'm  
16 sorry, the electric and magnetic field items  
17 here in front of me, with respect to the  
18 post-construction measurements, I guess a  
19 continued concern I have is are there any  
20 mitigation factors -- if there are any  
21 mitigation factors that would be employed if  
22 those levels were to reach the levels of some  
23 of these standards. Oh, and I'm sorry. I'm  
24 reading it as I go. I see that a mitigation

1 plan would be designed, but I am not familiar  
2 with what that would look like at this time.

3 Q. So with regards to your concerns about the  
4 tree clearing and plantings, we had a site  
5 visit in July where we discussed those  
6 issues; correct?

7 A. (Fitch) That is correct.

8 Q. And following that specific site visit, we  
9 had -- or the Applicant sent you a proposed  
10 landscape mitigation plan; is that right?

11 A. (Fitch) That's right.

12 MR. DUMVILLE: Dawn, can you pull up  
13 Applicant's 243, please?

14 Q. And this is the planting plan that we had  
15 worked with you on. And I believe you  
16 indicated that you found this plan  
17 acceptable; is that right?

18 A. (Fitch) Yes. And to contextualize that, I  
19 believe that my wife and I responded as we  
20 felt that it was reasonable. However, this  
21 is in the context of essentially a hedge for  
22 our personal -- not referencing the plants,  
23 but more in the sense of a financial hedge,  
24 where this is assuming that we have no other

1 options, in that if this is being constructed  
2 on our property, what other choice do we have  
3 than to try to do something to mitigate it as  
4 best we can.

5 MR. DUMVILLE: Dawn, can you  
6 highlight the notes for one second, please?

7 Q. And on No. 1 and No. 6, I'd like to call your  
8 attention to that. So if there are  
9 additional plantings that you would like,  
10 you're aware that Eversource and you can  
11 modify the planting plans to further satisfy  
12 your concerns.

13 A. (Fitch) Yes, I understand that to be  
14 accurate. But a quote from Ms. Widell  
15 certainly comes to mind on how my wife and I  
16 view this. And when she referred to the  
17 Pickering property as experiencing an  
18 "unmitigatable adverse effect," that is --  
19 that's how we view what could potentially be  
20 on our property, assuming the Project is  
21 approved and constructed.

22 So, again, this is our, from our  
23 perspective, our last chance to try to do --  
24 to work with you folks to have some sort of

1 mitigation if we're collateral damage and  
2 have no say and this is a foregone conclusion  
3 and we live with it.

4 Q. Well, but just so we're aware, No. 1, I mean,  
5 your agreement with this plan is not your  
6 last chance, isn't that right, based on note  
7 No. 1, that we can work with you further?

8 A. (Fitch) For planting, absolutely, but not for  
9 not having a pole on my property with  
10 high-voltage transmission lines traversing  
11 the entire neighborhood.

12 Q. And you also raised some concerns about  
13 construction access on your driveway;  
14 correct?

15 A. (Fitch) Correct.

16 Q. And you heard the discussion we just had with  
17 Mr. and Mrs. Miller about restoration of the  
18 driveway?

19 A. (Fitch) I did, yeah.

20 Q. And we just had a conversation with Mr. and  
21 Mrs. Miller about the construction schedule  
22 as well, and you raised concerns about that.

23 A. (Fitch) Yes.

24 Q. And the Applicant agrees to keep you

1 informed, as part of the Durham MOU, of all  
2 updates and all work on your property?

3 A. (Fitch) One thing I was not -- I didn't have  
4 an opportunity directly. Was that a direct  
5 communication with us as property owners, or  
6 was that direct communication with the Town  
7 that would then deliver that message to us as  
8 property owners?

9 MR. PATCH: Madam Chair, I just want  
10 to object to that question because the  
11 question, I think, is inconsistent with the  
12 MOU. It implies that the MOU requires direct  
13 communications with Mr. Fitch and some of the  
14 other individual residents. That's not what's  
15 in the MOU.

16 MR. DUMVILLE: The MOU is the  
17 commitment to communicate with all project --  
18 -- with all abutters.

19 PRESIDING OFFICER WEATHERSBY: Could  
20 you pull up the section of the MOU since none  
21 of us have seen it until today.

22 MR. DUMVILLE: So that's 270.

23 (Pause in proceedings)

24 PRESIDING OFFICER WEATHERSBY: Could

1           you restate the question.

2   BY MR. DUMVILLE:

3   Q.    I'm just wondering if you were aware of the  
4           commitment the Applicant has made to continue  
5           project outreach throughout the construction,  
6           which includes mailings and door hangers, and  
7           if there are any questions, you can reach out  
8           to the Project.

9   A.    (Fitch) I'm reading that here now. But that  
10          goes with something Vivian mentioned earlier,  
11          however. And based on the prior outreach, my  
12          level of confidence is not as high as I would  
13          hope it to be that all that would happen.

14   Q.    Thank you.

15                 Dr. Miller, a few questions for you.

16                         MR. DUMVILLE: Applicant's Exhibit  
17                         245, please, Dawn.

18   Q.    Again, this is a similar contact history  
19          here. And Dr. Miller, in the interest of  
20          time, we've had a few site visits with you  
21          recently; is that fair to say?

22   A.    (R. Miller) You've had two site visits.  
23          Correct.

24                         MR. DUMVILLE: And Dawn, can you pull

1 up --

2 A. (R. Miller) Wait. Before you leave this,  
3 there's just a lot of -- I have no idea what  
4 any of this stuff is on here. I have two  
5 site visits and some e-mails from Lauren Cote  
6 and me. And other than that, I mean -- this  
7 is it? Oh, well, open house, soil boring  
8 notification, project status letter, HDD  
9 supplement -- oh, that meeting. Okay. I  
10 don't know. Anyway, I just have questions on  
11 a lot of this. We had e-mails, Lauren Cote,  
12 like I said, scheduling two site visits and  
13 the two site visits. Other than that, I  
14 don't know what --

15 Q. Okay.

16 MR. DUMVILLE: And, Dawn, could we  
17 pull up Applicant's Exhibit 148, please, PDF  
18 Page 20.

19 Q. And I believe some of this was discussed  
20 earlier with Attorney Geiger, I believe. And  
21 this is a map of where the Project crosses  
22 Durham Point Road and is adjacent to your  
23 property; is that correct?

24 A. (R. Miller) If you say so. I have trouble



1           with these maps. But I'll take your word for  
2           it.

3                       MR. DUMVILLE: So, Dawn, on the  
4           Durham Point Road, can you kind of zoom in on  
5           the right-hand side of all that? Yeah, right  
6           there and just go down.

7   Q.    Okay. So your property is just above the  
8           right-of-way; is that right?

9   A.    (R. Miller) Correct.

10   Q.   So your property does not actually intersect  
11          with the right-of-way; is that fair to say?

12   A.    (R. Miller) Correct.

13   Q.    Okay. And you're aware that there will be no  
14          tree clearing on your property; correct?

15   A.    (R. Miller) Well, the last site visit, I'm  
16          forgetting his last name, your arborist,  
17          first name is Michael, did point to one tree  
18          that was on our property. And I had a fit  
19          because he didn't -- that one wasn't  
20          identified the first time you came out. And  
21          he said we may have to take it --

22                       (Court Reporter interrupts.)

23   A.    (R. Miller) It wasn't identified the first  
24          time at the site visit in July.

1 Q. So you're aware the Applicant does not have  
2 legal rights to cut down trees that aren't  
3 within the easement; is that fair to say?

4 A. (R. Miller) That's what I thought. And I  
5 said that to Mike. And he said, "When it  
6 comes to a project like this, sometimes we  
7 have to go on your property." And if he was  
8 wrong, I'm thrilled.

9 Q. Well, I certainly don't mean to speak for  
10 Mike. But I would relate to you that that is  
11 not the Project position, and that prior to  
12 construction, the Applicant has committed to  
13 surveying your property to make sure that it  
14 is within the bounds. All tree clearing is  
15 within the easement bounds.

16 A. (R. Miller) Okay.

17 Q. (R. Miller) Does that alleviate any of your  
18 concerns?

19 A. (R. Miller) If what Mike told me was  
20 incorrect. Because one of the trees he  
21 identified was on the other side of the stone  
22 wall that's there on our property.

23 Q. So if there are no trees cut on your  
24 property, will that satisfy your concern?

1 A. (R. Miller) About trees being cut on my  
2 property?

3 Q. Yes.

4 A. (R. Miller) Yes, but not about the whole  
5 cutting in general.

6 Q. Understood. So in part of your prefiled  
7 testimony, you also raised concerns about the  
8 possibility of interference with your  
9 driveway; right?

10 A. (R. Miller) Yes.

11 Q. And still on this map there's no indication  
12 of an access road being used on your  
13 driveway; is that right?

14 A. (R. Miller) No. Lauren Cote assured me that  
15 nothing would set foot on my driveway.

16 Q. Now, relating to views of the property, am I  
17 correct that for the overhead portion of the  
18 Project, you may have a view of two  
19 structures as you enter your house along your  
20 driveway? Is that fair to say?

21 A. (R. Miller) I may have a view? You mean  
22 post-construction?

23 Q. Yes.

24 A. (R. Miller) I will definitely have a view.

1 Q. Okay. And the Applicant has been working  
2 with you on mitigation plans to mitigate some  
3 of those impacts as well; right?

4 A. (R. Miller) They've been working with me. We  
5 haven't come to an agreement yet because they  
6 were just so unsure of what it actually was  
7 going to look like post-construction.

8 Q. Well, sure. But the Applicant provided you  
9 with a draft plan in August of 2018; is that  
10 right?

11 A. (R. Miller) Yes.

12 Q. And based on comments, which is Applicant's  
13 246, for the record. And based on additional  
14 discussions with you, we worked on a new  
15 planting plan and provided that to you on  
16 October 10th of 2018; is that fair to say?

17 A. (R. Miller) That's correct.

18 MR. DUMVILLE: Dawn, can you pull  
19 that up for one quick second, Applicant's 247?

20 Q. These are plantings that the Applicant  
21 proposed to place along your driveway to  
22 screen the poles. Does that look right to  
23 you?

24 A. (R. Miller) Yes, that's the last plan they

1           presented to me.

2       Q.   All right.  And again, as we mentioned to Mr.  
3           Fitch, there's notes on here that indicate if  
4           there are additional issues, those can be  
5           worked out after post-construction, correct,  
6           post-construction evaluation?

7       A.   (R. Miller) Lauren and Mike agreed that,  
8           really, the mitigation plan, while I  
9           appreciate your effort, until we see exactly  
10          what the area looks like, it's very hard to  
11          propose what's going to happen, because they  
12          couldn't even guarantee me which trees would  
13          come down or not.  Mike said, "I'm not a  
14          surveyor.  I'm not exactly sure what's going  
15          to happen."  So this won't mean anything to  
16          me until I see the total devastation of the  
17          area we're talking about.

18      Q.   Thank you, Dr. --

19      A.   (R. Miller) I don't mean to be difficult,  
20          Adam.  That's just how I feel about this.

21      Q.   Thank you, Dr. Miller.  I appreciate it.  
22          Actually, just one other quick thing.

23                   MR. DUMVILLE:  Dawn, that Google Map  
24          photo, could you pull that up one quick second?

1 Q. So, just while you were talking, Dr. Miller,  
2 you stated something that you like to come up  
3 close to the shore while you're kayaking; is  
4 that fair to say?

5 A. (R. Miller) Yes.

6 Q. There's actually a rock cropping [sic] that  
7 goes out 200 feet or so into the water  
8 already; right?

9 A. (R. Miller) Hmm-hmm.

10 Q. It's kind of hard to see there. But you can  
11 see rock cropping that --

12 MR. DUMVILLE: Keep going, Dawn. A  
13 little further out.

14 MS. GAGNON: Like that?

15 Q. See the rock cropping in the bottom right?

16 A. (R. Miller) Yes.

17 Q. That actually extends probably 200 or more  
18 feet out into the water; is that fair to say?

19 A. (R. Miller) I'm not sure how far it extends.

20 Q. Okay.

21 MR. DUMVILLE: Dawn, could you zoom  
22 out for one quick second.

23 Q. The scale's in the bottom right-hand corner.  
24 It says 100 feet. But I don't want to get

1           into that. So that's okay. Thank you, Dr.  
2           Miller.

3           All right. So, Ms. Heald. I wanted to  
4           ask you a few questions. And that will be as  
5           quick as possible here.

6           MR. DUMVILLE: Could we pull up  
7           Applicant's Exhibit 228, please.

8   Q.   Ms. Heald, this is the same outreach summary,  
9           but specifically for you. And based on this,  
10          I count seven site visits that we've had with  
11          you. Does that sound about right?

12   A.   (Heald) Well, actually, I have in front of  
13          me, which was filed -- it was responses to my  
14          data request and has been filed as Attachment  
15          DH2 in DR Exhibit 1, which I had asked the  
16          questions to please send me a listing of all  
17          meetings. And your list here does not seem  
18          to look very much like what I have that you  
19          prepared for me. So I'm trying to look at  
20          this. I have not --

21                 PRESIDING OFFICER WEATHERSBY: Ms.  
22                 Heald, I'm sorry to interrupt, but you need to  
23                 speak right into the mic.

24                 WITNESS HEALD: Oh, I'm sorry. I'm

1           trying to see and do this.

2   BY MR. DUMVILLE:

3   Q.   Well, maybe I can shortcut this quickly.  I  
4       think your --

5                   MR. DUMVILLE:  Dawn, can you pull up  
6       Donna Heald's Attachment DH2, please, which  
7       is -- do you have that?  Never mind.

8   Q.   So I believe that you filed a response.  And  
9       there were approximately 42 contacts.  Does  
10      that sound right?

11  A.   (Heald) Yes.  I was going to say my list is  
12      much more extensive than this.  It gives much  
13      more information.  I'm just looking the very  
14      first one on what you're showing here, the  
15      12/20/13, and I don't know anything about  
16      that.

17  Q.   Okay.  But I was at this point asking about  
18      site visits.  So we've had numerous site  
19      visits with you; correct?

20  A.   (Heald) Yes.

21  Q.   And we've sent you various letters throughout  
22      this process; is that right?

23  A.   (Heald) Yes, I have some letters.  I don't  
24      know that I have all of them.



1           And I will just say here that somewhere  
2           along this process, pretty late, I realized  
3           that I had received some letter from  
4           Eversource that I didn't read until very late  
5           because it ended up in the junk mail pile.  
6           It was addressed to, I believe, Donna Heald  
7           or Donald Heald McCosker, or Current  
8           Resident. And honestly, if I get something  
9           that says "Current Resident" on it, I assume  
10          it's junk mail. So could I for the future  
11          here request that you send all my  
12          correspondence by certified letter because --

13   Q.    Sure. I can take that back to the Project.

14   A.    -- we have a problem in a rural neighborhood  
15          where the mailboxes are not anywhere near the  
16          house, that sometimes the mail gets put in  
17          the wrong box even. So at least if something  
18          important is sent --

19                   PRESIDING OFFICER WEATHERSBY: Ms.  
20          Heald, Ms. Heald, that's not responsive to his  
21          question. You guys can talk about that later.

22                   WITNESS HEALD: Okay. Thank you.

23                   PRESIDING OFFICER WEATHERSBY: Thank  
24          you.

1 BY MR. DUMVILLE:

2 Q. So I don't mean to repeat some of the issues  
3 that were discussed earlier.

4 So one of the issues you had raised was  
5 the location of the pole in your property;  
6 correct?

7 A. (Heald) Yes.

8 Q. And Eversource had offered to move it 50 feet  
9 in either direction; is that right?

10 A. (Heald) Correct.

11 Q. Okay.

12 MR. DUMVILLE: And could we pull up  
13 Applicant's 229, please.

14 Q. At the bottom of Page 1, the very top of  
15 Page 2, that has memorialized where that  
16 offer has been made; correct?

17 A. (Heald) Let me read it.

18 (Witness reviews document.)

19 A. (Heald) Yes, I see what is written there. It  
20 is not acceptable to me.

21 Q. So you also raised concerns about tree  
22 removals on your property; correct?

23 A. (Heald) Correct.

24 Q. And we had Mike Stanek, who was discussed

1 earlier today, the arborist who visited your  
2 property on two different occasions --

3 A. (Heald) Yes, on several occasions.

4 Q. -- and marked the boundaries of the  
5 right-of-way and everything for you; correct?

6 A. (Heald) Yes. And I'm hoping that there will  
7 be an official survey because those markings  
8 were put on overhanging limbs and so forth  
9 and not very accurate.

10 Q. Sure. And we discussed a landscape  
11 mitigation plan at those meetings as well;  
12 right?

13 A. (Heald) Yes, you did.

14 Q. Okay. And we had provided you one as far as  
15 back as August 3rd of 2016. Does that sound  
16 right, Applicant's 230?

17 A. (Heald) Could you show that to me?

18 Q. Sure.

19 A. (Heald) I want to say yes, but I want to make  
20 sure what I'm saying yes to.

21 (Witness reviews document.)

22 A. (Heald) Yes, I'm familiar with that. And it  
23 also does not work.

24 Q. So we met with you after this meeting,

1 correct, or after this planting plan was  
2 given to you; right?

3 A. (Heald) Let me check.

4 (Witness reviews document.)

5 Q. Well, let me shortcut that. So after that we  
6 provided you a new planting plan on  
7 December 8th. Does that sound about right?  
8 That's Applicant's Exhibit 231.

9 A. (Heald) I do know that I received two  
10 planting plans, neither of which worked.

11 Q. But on this exhibit, I believe I counted 24  
12 trees and shrubs; is that fair to say?

13 A. (Heald) I don't have it in front of me. If  
14 you could get me another copy or --

15 Q. (Heald) Well, I'll just represent for the  
16 record --

17 A. (Heald) I would say --

18 (Court Reporter interrupts.)

19 Q. I'll just represent for the record that  
20 that's what it shows.

21 A. (Heald) I would say that's okay. Yes.

22 Q. Okay.

23 MR. DUMVILLE: Dawn, can we pull back  
24 up 229, please, and on Page 2, the planting

1 plans.

2 Q. So this is the August 3rd, 2018 letter. And  
3 it references the December 8, 2016 planting  
4 plan. And Eversource committed to working  
5 with you; correct?

6 A. (Heald) Yes. You say that you work with me  
7 and you do call me. But we haven't come up  
8 with anything that is suitable enough to  
9 visually block a 103-foot pole in very close  
10 proximity to my house.

11 Q. Well, the letter states that we are looking  
12 forward to reaching an agreement with you;  
13 correct?

14 A. (Heald) Yes, I'm looking forward to reaching  
15 an agreement also.

16 Q. Right. And since the August 3rd letter, we  
17 offered to meet on August 7th; is that fair?

18 A. (Heald) Yes, that is fair.

19 Q. And you haven't contacted us back since that  
20 time; is that right?

21 A. (Heald) I believe my lawyer has contacted  
22 you.

23 Q. About setting up a meeting?

24 A. (Heald) With some paperwork that I don't know

1           if I am supposed to discuss.

2       Q.   Well, the mitigation plan has not been  
3           addressed since this August 3rd meeting.

4       A.   (Heald) No, it has not.

5       Q.   Okay. So are you still willing to meet with  
6           Eversource to work through the issues on the  
7           planting plan?

8       A.   (Heald) On a mitigation plan for the  
9           mitigation of blocking the view of the  
10          103-foot pole, yes. But I don't believe that  
11          can be done with planting.

12      Q.   On Page 5 of your testimony, you raised  
13          concerns about your gardening business which  
14          we heard about today. And from a data  
15          request --

16      A.   (Heald) Could I ask you to start over? I was  
17          trying to look at something, but I don't  
18          think there's anything for me to look at yet.

19      Q.   Sure. We'll go right there. Applicant's  
20          234, please. And this is a data request that  
21          we had asked you about your gardening  
22          business; correct?

23                   (Witness reviews document.)

24      A.   (Heald) Yes, it is.

1 Q. Okay.

2 MR. DUMVILLE: And, Dawn, can you  
3 highlight the third paragraph, the second -- or  
4 the third, fourth and fifth paragraph.

5 Q. And there's specific recommendations for  
6 Eversource to consider; is that fair?

7 A. (Heald) Please repeat that.

8 Q. There's specific recommendations that you  
9 have for Eversource to consider as part of  
10 your gardening business; is that right?

11 A. (Heald) Yes.

12 Q. And one of them is to conduct an inventory?

13 A. (Heald) Correct.

14 Q. Develop a relocation plan?

15 A. (Heald) Correct.

16 MR. DUMVILLE: Dawn, could we go to  
17 Page 3.

18 Q. And relocate your plant stock with the use of  
19 one of these four companies; is that fair to  
20 say?

21 A. (Heald) I believe it was one of those four  
22 companies or another company. I am still  
23 researching that.

24 Q. Sure.

1                   MR. DUMVILLE: And Dawn, can we go  
2 back to Applicant's Exhibit 229, please,  
3 Page 2. Now please highlight the Gardening  
4 Business Accommodation.

5 Q. And these are exactly what you had requested;  
6 isn't that fair to say?

7                   (Witness reviews document.)

8 A. (Heald) So what is the question again? I  
9 just read it.

10 Q. Your data request asked for us to conduct an  
11 inventory, develop a relocation plan and  
12 relocate your plant stock with one of those  
13 four mutually agreed upon nurseries; is that  
14 fair to say?

15 A. (Heald) Or another company.

16 Q. And we committed to doing that; is that fair  
17 to say?

18 A. (Heald) Yes, you have.

19 Q. Thank you.

20 A. (Heald) Some of that, what's in there,  
21 doesn't work. There's --

22 Q. But the Applicant has agreed to doing this;  
23 correct?

24 A. (Heald) Yes, you have.



1 Q. Okay. So you also raised concerns about  
2 access to your well for water; is that right?

3 A. (Heald) Correct.

4 MR. DUMVILLE: And, Dawn, can you  
5 zoom out a little bit.

6 Q. And at the bottom the Applicant has marked  
7 the location of your well and water line and  
8 will require its contractors to protect the  
9 existing water line. Has Eversource made  
10 that commitment to you as well?

11 A. (Heald) That's what I'm reading. But I would  
12 like the details of that.

13 Q. And we've also committed to providing you  
14 with a mobile water truck at all times during  
15 construction. Is that what that says, too?

16 A. (Heald) Yes. And I would also like all the  
17 details of that. Will that be fully  
18 connected to my plumbing system at all times,  
19 and is this drinking water? And where will  
20 this truck be and... I need details.

21 Q. Well, again, this letter was dated  
22 August 3rd, 2018; right?

23 A. (Heald) That is correct. And I have been  
24 preparing in here a great deal of the time.

1 Q. And you also raised concerns that we heard  
2 today about gravel along your property;  
3 correct?

4 A. (Heald) Correct.

5 Q. And you would agree with me that most of your  
6 property is a wetland; is that fair to say?

7 A. (Heald) I wouldn't say most of it. But a  
8 good portion of it is, yes.

9 Q. Well, where your gardening business is is  
10 within the wetland; is that right?

11 A. (Heald) Well, the gardening is in the entire  
12 easement, so... but in various areas, yes,  
13 there is some wet.

14 Q. And you're aware that the Applicant must use  
15 timber mats within wetlands; is that right?

16 A. (Heald) That is what I thought. But then  
17 when I heard gravel roads, I didn't know. I  
18 don't know if it's changed. And I don't know  
19 how that works with gravel versus timber  
20 mats.

21 Q. But that is also something that could be  
22 discussed with Eversource; right?

23 A. (Heald) I hope so.

24 Q. Okay. And you're aware that as part of the

1 DES Wetland Permit, DES requires the  
2 Applicant, within three days of completing  
3 work, expose -- all exposed soils must be  
4 stabilized and seeded. Are you aware of  
5 that?

6 MS. BROWN: I'd like to object, if  
7 you don't mind.

8 Donna, just hold up a minute.

9 I'd like to object on the basis  
10 that Donna Heald is not a wetlands scientist.  
11 And the way that the questions are coming are  
12 presuming that she's agreeing that the areas  
13 she knows that are wet are wetlands. And so  
14 it would be important to clarify in the  
15 questioning a distinction between the wet  
16 areas that she knows and the wetlands that  
17 she's being questioned to agree about  
18 characterizations of.

19 MR. DUMVILLE: At this time I've only  
20 asked the witness about whether or not she's  
21 aware of the condition of the wetland permits.

22 PRESIDING OFFICER WEATHERSBY: The  
23 objection's overruled.

24 BY MR. DUMVILLE:

1 Q. Ms. Heald, are you familiar with the wetland  
2 permit that requires the Applicant to  
3 stabilize and seed in all areas three days  
4 after completion of the work?

5 A. (Heald) No, not particularly, I'm not.

6 Q. And if that is in fact in the DES wetland  
7 permit, would that satisfy any of your  
8 concerns?

9 A. (Heald) I don't know. Because I only want  
10 back what was exactly there before it got  
11 started. And if it's my plants, I don't want  
12 it seeded with something else. I want the  
13 plants that have been growing there in  
14 pre-condition -- I mean pre-project  
15 condition.

16 Q. The only other question I have is there was a  
17 question about whether or not you were aware  
18 of the mitigation dispute resolution process.  
19 Have you seen those conditions that the  
20 Applicant and Counsel for the Public have put  
21 forth?

22 A. (Heald) Well, the only thing I know about,  
23 what do you call it again, a resolution?

24 Q. Mitigation and dispute resolution process.

1     A.     (Heald) I believe you wrote me something in  
2            answer to one of my data requests, but that's  
3            in a letter you wrote me. But that's the  
4            only thing I know about that kind of a  
5            request.

6                   MR. DUMVILLE: And, Dawn, quickly  
7            could we pull up Applicant's 268, please.

8     Q.     And this is the dispute resolution process  
9            that has been submitted to the Committee this  
10           afternoon as Applicant's Exhibit 268.

11    A.     (Heald) But will I have -- I don't know  
12            anything about that.

13    Q.     I understand. So if you haven't seen this  
14            yet, we can --

15    A.     (Heald) This was today?

16    Q.     Yes.

17    A.     (Heald) How would I have had a chance to look  
18            at this today?

19    Q.     I understand that timing is tight, so I was  
20            just asking if you had seen it.

21    A.     (Heald) No, I have not.

22    Q.     All right. Thank you very much.

23                   PRESIDING OFFICER WEATHERSBY: Thank  
24            you.

1                   Committee members look carefully at  
2                   your questions. If there's some you feel as  
3                   though are essential to your understanding in  
4                   making a decision, we'll ask them. I have  
5                   one.

6       QUESTIONS BY SEC MEMBERS AND COUNSEL:

7       BY PRESIDING OFFICER WEATHERSBY:

8       Q.     Ms. Heald.

9       A.     (Heald) Yes.

10      Q.     Your activities in the right-of-way that  
11              you've done -- and your plants sound lovely.  
12              But do you have any type of joint use  
13              agreement with Eversource or PSNH to use that  
14              area, or is it just you've kind of expanded  
15              your business into that area?

16      A.     (Heald) No, I just use it. I have always  
17              used my lands from the day that I lived  
18              there. I had the understanding, and still  
19              do, that I have the right to use my land,  
20              that I don't have the right to build  
21              permanent structures. And I have not built  
22              any permanent structures.

23      Q.     Thank you.

24      A.     (Heald) Do you want me to clarify that?

1 Q. Sure.

2 A. (Heald) Any small greenhouses I have are  
3 constructed of aluminum window frames, two  
4 large ones that I duct taped at the time top  
5 and I pick up and I move around by myself and  
6 cover with plastic. So, you know, my use of  
7 that word "small greenhouse" is not anything  
8 at all that can't be moved.

9 Q. Okay. Thank you.

10 PRESIDING OFFICER WEATHERSBY: Any  
11 other Committee members have questions? Mr.  
12 Shulock.

13 QUESTIONS BY MR. SHULOCK:

14 Q. Mrs. Healed, if you would assume for a  
15 moment, doesn't mean it's going to happen,  
16 but assume for a moment that the Committee  
17 were to approve the siting of this project  
18 and not require undergrounding, meaning that  
19 it would cross your property, what is your  
20 preference for where the pole would be  
21 located? Either where it is currently  
22 planned to be located, 50 feet northwest or  
23 50 feet southwest?

24 A. (Heald) None of those locations. It wouldn't

1           be southwest.

2   Q.    If you have to pick one.

3   A.    (Heald) It wouldn't be southwest. I guess it  
4           would have to be 50 feet north -- I'm sorry.  
5           It wouldn't be southeast. I guess it would  
6           have to be 50 feet south.

7   Q.    Northwest?

8   A.    (Heald) Northwest. But that makes no  
9           difference in the distance from my house from  
10          the location, just because of the angle of  
11          it, it is -- that 50 feet really makes no  
12          difference.

13   Q.    And do you have any estimate at all of the  
14          value of your plant stock?

15   A.    (Heald) I do not. And as I'm trying to do  
16          the research on who can value my plants, I'm  
17          finding that it is much more extensive than I  
18          ever believed. And in fact, I have found out  
19          recently some information that it appears,  
20          and it has not been checked out yet, that  
21          what I have growing on my power line would  
22          qualify me to be certified as a botanical  
23          sanctuary.

24   Q.    Thank you.



1 A. (Heald) And I don't have the details on all  
2 of that yet.

3 Q. Thank you.

4 PRESIDING OFFICER WEATHERSBY: Mr.  
5 Way.

6 QUESTIONS BY MR. WAY:

7 Q. Good evening. Thank you.

8 Dr. Miller, I was just interested  
9 because this is something that few of you  
10 have said, that there was the impression  
11 given to you, that there wasn't going to be  
12 an expansion of the right-of-way. And you  
13 mentioned that -- did I hear you say you  
14 bought your property back in 2014?

15 A. (R. Miller) That's correct.

16 Q. And someone conveyed to you at that point  
17 that there wasn't going to be an expansion or  
18 it would never happen and --

19 A. (R. Miller) No. No, we just asked about the  
20 power line. We noticed that there was some  
21 power lines that were going, you know, down  
22 our driveway on the easement. And we asked,  
23 you know, what's up with those power lines.  
24 And they said, oh, that's, you know --

1           they've been dead for decades. There's no  
2           power going through them.

3   Q.   And when you say "they" --

4   A.   (R. Miller) It was either a neighbor or a  
5           broker.

6   Q.   Okay. And then you also said that everybody  
7           was aware of this project at the time, and if  
8           you had been aware of it, you might have made  
9           a different decision.

10   A.   (R. Miller) For sure.

11   Q.   So those -- the "they" didn't know about the  
12           Project?

13   A.   (R. Miller) No, they did not.

14   Q.   Okay. Mr. Fitch.

15   A.   (Fitch) Yes.

16   Q.   A phrase you used, "the best laid plans," I'm  
17           trying to get a sense from you. What  
18           happens? What's the worst that you see  
19           happening? What happens if those "best laid  
20           plans" don't work out?

21   A.   (Fitch) Specifically with the bay?

22   Q.   Yeah.

23   A.   (Fitch) That's a great question. I guess the  
24           worst-case scenario that I can think of would

1           be at least parallel to something that Donna  
2           said earlier with respect to Pease being a  
3           superfund site with various chemicals  
4           leaching into the area at, what we've learned  
5           through this proceeding, some unknown  
6           capacity. And without proper -- at least my  
7           understanding, without a full and complete  
8           understanding, from my layman's perspective,  
9           of borings or whatnot to determine what may  
10          be at those depths where the cable would be  
11          laid, to stir something up through there  
12          potentially, and I guess potentially mercury  
13          as well from the mills that were in existence  
14          decades ago, something along those lines  
15          which creates a potentially toxic event, that  
16          would have long-term, potentially permanent  
17          damage to the water body. And so to  
18          encapsulate and keep it short, that's what I  
19          would imagine as being a worst-case scenario.

20       Q.    So I've noticed that you've been here I think  
21           just as much as the rest of us, and that's  
22           commendable. And we're going to have to  
23           assess "best laid plans" up here as well.  
24           And so I'm trying to get a sense of what you

1       heard that might suggest that that fear is a  
2       reality versus just a fear. Am I making  
3       sense? What have you heard that would  
4       support that if we don't do X, Y and Z,  
5       that's going to happen?

6    A.   (Fitch) I understand what you're saying. And  
7       I guess that is premised on the sheer amount  
8       of dollars and energy and commitment that  
9       have been put into preserving, protecting and  
10      trying to rehabilitate that body of water  
11      based upon prior contaminations from the  
12      mills, et cetera; that based on the PREP  
13      reports and other materials that we've seen  
14      here, again, my layman's interpretation, is  
15      that this is a fragile ecosystem, that  
16      dragging a jet plow through just doesn't seem  
17      to be, for lack of a better term, a proper  
18      thing to do. And that's where, you know,  
19      whether founded or not, I take those things  
20      as a cumulative perspective. That's how I  
21      form that opinion, I guess. That's the  
22      simple way to say it.

23   Q.   Fair enough.

24               MR. WAY: Mr. Fitzgerald.

1 A. (V. Miller) Mr. Way, can I add to that?

2 Q. Sure.

3 A. (V. Miller) The jet plow, from my  
4 understanding, has never been done in New  
5 Hampshire. And my concern is if DES doesn't  
6 have experience with the process and what the  
7 outcomes are, how can we say it's not going  
8 to have any impact? So, you know, it's never  
9 been described as the "safest" way for the  
10 bay. It's only been described as  
11 "technically and financially viable."

12 Q. All right. Thank you.

13 PRESIDING OFFICER WEATHERSBY: Mr.  
14 Fitzgerald.

15 QUESTIONS BY MR. FITZGERALD:

16 Q. So with regard to those concerns, are you  
17 aware that DES is part of a number of these  
18 significant efforts that you've described to  
19 preserve the bay and that DES participated in  
20 the Piscataqua Region Partnership and DES  
21 regulates the wastewater treatment plants, et  
22 cetera? Is it your understanding that DES  
23 has a significant concern and participates in  
24 the protection of the bay?

1     A.     (Fitch) I personally have a general  
2           understanding of that.

3     Q.     So I think what I've heard a couple times is,  
4           well, with everything that we're doing to  
5           preserve the bay -- not we, not DES. And let  
6           me explain. I am part of DES. I'm an air  
7           administrator. But given -- I've heard a lot  
8           of times the concern, with all of the things  
9           being done to protect the bay, this seems to  
10          be something that would go against that.

11                 Would you, knowing that DES is part of  
12           all those efforts to protect the bay and has  
13           regulatory requirements over a number of  
14           processes that may contribute to the bay  
15           degradation, that it would make sense to you  
16           that we would let something go that would  
17           have a significant degradation to it? Does  
18           that --

19    A.     (J. Miller) I think part of the issue is that  
20           all of us -- we just built our home on the  
21           bay. We had to put up a silt fence to  
22           essentially hold back a trickle of mud that  
23           could go into the bay, you know, with the  
24           food chain. And I'm familiar -- well, I'm

1       also familiar with all the work that the  
2       local water treatment plants have done to  
3       reduce the nutrients and some other  
4       contaminants that go into the bay. Seems  
5       like all the efforts take years and decades  
6       to really start to turn the bay around to  
7       where it's at least sort of able to sustain  
8       itself.

9               I think the big worry here is this is  
10       just such a big event. They're going to go  
11       five feet deep, I'm not sure how wide, three  
12       times. The amount of sediment that's going  
13       to be churned up in a short period of time in  
14       tidal waters, shallow tidal waters, is really  
15       huge, and then combine that with the concrete  
16       mattresses and what's going to happen with  
17       that.

18              So I think the event just seems so big.  
19       We're not experts. I'm not a -- you had the  
20       experts here. But if you look at all small  
21       efforts that have gone on to protect the bay  
22       over decades, and then to do something like  
23       this in a period of a month, it just seems  
24       like a big experiment.

1           And I guess the question I would have  
2           is, suppose there is damage, whether it's  
3           oysters or contamination that prevents people  
4           from using the bay. Who is responsible for  
5           that? Do we just live with it, or does  
6           somebody -- I don't even know that there's a  
7           method of mitigation after it happens. And  
8           that, to us, is a big concern, that once the  
9           damage is done and everybody goes home,  
10          that's just left out there to see what the  
11          next few decades hold.

12    Q.    Does the fact that there's going to be a  
13          1,000-foot trial run with all the  
14          environmental monitoring associated with it  
15          give you any solace?

16    A.    (Fitch) Sure, that would be a big help. But  
17          I'm not sure that that's been agreed to yet.  
18          I don't know that.

19    Q.    That's part of the plan.

20    A.    (Fitch) Okay.

21    A.    (Heald) Can I say something to that?

22    Q.    Yes.

23    A.    (Heald) I have concerns that the trial run  
24          could be just as devastating to the bay as



1 the real thing. We don't know that either.

2 Q. Okay.

3 A. (V. Miller) It goes back to the methods and  
4 the monitoring. And I think we've all heard  
5 that there's a lot of concern about both, and  
6 that the initial testing with wind and other  
7 requests were not done. And then who is  
8 going to watch and who is going to be there?  
9 I mean, I love DES. I will tell you that.  
10 We've worked with them and we think they're  
11 great. And we're sorry to hear that Dory  
12 Wiggin isn't there anymore.

13 But the point is that it all comes down  
14 to who's doing it. And right now, I don't  
15 have a lot of confidence in the Applicant's  
16 ability because of past history. I mean,  
17 look at what happened at Boston Harbor and  
18 that cable being pulled up. There are things  
19 that happen. Who's watching? And how does  
20 it get executed? And once the damage is  
21 done, what do you do?

22 A. (Fitch) Could I add one --

23 Q. Go ahead.

24 A. (Fitch) -- small thing here? This is based

1           upon the assumption that DES has not ever  
2           approved or reviewed a jet plow operation in  
3           the state of New Hampshire, which that is my  
4           assumption. With that potentially being the  
5           case, does DES even have a mechanism to deny  
6           a review of something like that that they've  
7           never reviewed before? And it's just a  
8           rhetorical question that I have in my mind.

9    Q.    Okay.

10                       PRESIDING OFFICER WEATHERSBY:   Mr.  
11           Fitzgerald, I'm just going to pause for a  
12           second and go off the record.

13                       (Discussion off the record)

14                       PRESIDING OFFICER WEATHERSBY:   Please  
15           proceed.

16   BY MR. FITZGERALD:

17   Q.    So, with respect to -- concerns were  
18           expressed with respect to the Getchell  
19           property and possible development in the  
20           future. The Getchell property does not lie  
21           in the easement; is that correct?

22   A.    (V. Miller) I believe part of it does. I  
23           don't know what's been re-demised or whatever  
24           to give the right-of-way more -- I don't

1 know. But it's right next to the easement.

2 A. (J. Miller) Well, it's part of the easement.

3 A. (V. Miller) And part of the easement.

4 Q. So if the -- I think you expressed some  
5 concern that Eversource had purchased that  
6 and may change the use somehow.

7 A. (V. Miller) Correct.

8 Q. But the buildings themselves are not in the  
9 easement; is that correct?

10 A. (V. Miller) That's correct.

11 Q. So if they had wanted to re-purpose that,  
12 that would be subject to all of Durham's  
13 requirements; is that correct?

14 A. (V. Miller) Well, my understanding, and I was  
15 told, that they were going to come to the SEC  
16 to determine that, which would circumvent the  
17 Town and the residents.

18 Q. Only with respect to the SEC's role, which is  
19 approving the work within the easement.

20 A. (V. Miller) Well, what if the easement now  
21 includes the home?

22 Q. I understand your question. But based on the  
23 maps we've seen, the buildings are not in the  
24 easement.

1 A. (V. Miller) Okay.

2 Q. So, assuming that that's correct, that  
3 would...

4 PRESIDING OFFICER WEATHERSBY: Mr.  
5 Fitzgerald, do you have any other questions?

6 MR. FITZGERALD: Yeah. No. Thank  
7 you.

8 PRESIDING OFFICER WEATHERSBY: Okay.  
9 Director Muzzey.

10 QUESTIONS BY DIR. MUZZEY:

11 Q. Good evening. One question for Mr. Fitch.

12 There was some discussion with the  
13 Applicant a few minutes ago about different  
14 contacts with you and some discussion of a  
15 August 26, 2016 e-mail. And you seemed to  
16 want to say more and you were interrupted at  
17 that time. It seemed to be something about  
18 your thoughts about the outreach or the  
19 e-mail. I'm not sure. But if you have any  
20 other, anything else you'd like to contribute  
21 about outreach contacts, e-mails, that type  
22 of thing.

23 A. (Fitch) Sure. That was specifically relating  
24 to the outreach list that was provided. It

1       showed the final e-mail contact, which I  
2       submitted as an exhibit on August 26th of  
3       2016. And then moving forward, the next one  
4       was a single date in 2017, which was  
5       referencing, I believe, tree cutting or some  
6       sort of maintenance of the right-of-way. And  
7       then the next communication after that listed  
8       on that document was in 2018. And what I am  
9       saying here is that my last e-mail that I  
10      received from the Applicant, I interpret it  
11      to say that we cannot speak together, that my  
12      concerns need to be addressed through this  
13      process. And, for example, and you can read  
14      the e-mail as well, it says -- I'll read from  
15      it. "Based on your letter to the SEC" --

16               (Court Reporter interrupts.)

17    A.   (Fitch) Sorry. "...regarding EMF and your  
18           concerns relative to our expert's report, any  
19           future correspondence on this topic should be  
20           addressed through the formal siting process  
21           with the SEC and not at a site meeting." And  
22           then it went on to direct me to a public  
23           hearing, which I attended both of those. And  
24           then further down, another quote. "In

1           addition, an underground design is not being  
2           considered through the Durham Point Road  
3           neighborhood, and so therefore we do not feel  
4           that a site visit would be productive at this  
5           point." And then, "If there are other topics  
6           you'd like to discuss at a site visit, other  
7           than EMF and underground, please let me know  
8           and we can coordinate schedules."

9       Q.    Can you just tell me if that's an exhibit  
10           number and what --

11       A.   (Fitch) That is Exhibit No. DR19.

12       Q.    Thank you. I'm sorry. I interrupted you.

13       A.   (Fitch) I interpreted that to be that any  
14           concerns I had would need to be addressed  
15           through this process.

16       Q.    Thank you.

17                        DIR. MUZZEY: All set.

18                        PRESIDING OFFICER WEATHERSBY: Mr.  
19           Way.

20       QUESTIONS BY MR. WAY:

21       Q.    Dr. Miller, ask you a bit of an unfair  
22           question.

23       A.    (R. Miller) Oh-oh.

24       Q.    Because one thing that struck me about your

1 testimony is when you were asked, well, what  
2 would happen if this occurred. And as  
3 boater, a kayaker -- I'm kayaker, too -- you  
4 know, walking along the beach, swimming,  
5 there was whole host of activities, and it  
6 seemed to me that those activities would end.  
7 And one thing, you know, having grown up  
8 close to the ocean myself in that area, that  
9 type of area, knowing that rock outcroppings  
10 and such like that, that was pointed out by  
11 the attorney just few moments ago, I'm trying  
12 to get a sense from you, is it because of the  
13 visceral reaction to what you're seeing with  
14 the concrete mats, or is it something more  
15 sustainable? I mean, is that really what's  
16 going to happen? Will you stop boating  
17 because of those mats?

18 A. (R. Miller) I don't know what the effect of  
19 the mats are going to be. These huge,  
20 thousands and thousands of pounds of concrete  
21 slabs are going to be along the shoreline and  
22 well into the bay. I think that the  
23 Applicant has seriously underestimated the  
24 length of low tide. And so I do believe that

1           the concrete mattresses will interfere with  
2           boating and kayaking for sure.

3       Q.    One thing I was just wondering, and I don't  
4           know if you've thought about this. It was  
5           brought up that a permitted -- there will be  
6           a permitted limit to these concrete mats.  
7           And I think it was actually brought up that,  
8           well, if you have square footage, you don't  
9           necessarily know the length. But you're only  
10          going to go so wide by necessity for these  
11          mats. So I would imagine you have a fairly  
12          good idea -- or we will have a good idea what  
13          that maximum amount will be at some point.

14       A.   (R. Miller) Well, I guess I have to see that.  
15            I mean, I haven't been told exactly how many  
16            concrete mattresses are going to be used, so  
17            I --

18       Q.    It's not something that can just keep on  
19            going further and further.

20       A.    (J. Miller) What is the maximum? What are  
21            they applying for? We don't know --

22       Q.    Yeah, I don't know off the top of my head --  
23            (Court Reporter interrupts.)

24                           PRESIDING OFFICER WEATHERSBY: One at



1 a time. Mr. Way's question was to Dr. Miller  
2 concerning whether her use of the bay would  
3 stop. And I think her answer was she's not  
4 sure until it is built what her reaction is  
5 going to be. Is that correct, Dr. Miller?

6 WITNESS R. MILLER: Correct. Because  
7 we don't know what it's going to be. Hence, I  
8 think that's what you meant by an "unfair  
9 question," because we don't know the extent of  
10 the concrete slabs yet.

11 MR. WAY: All right. I think that  
12 answers it. Thank you very much.

13 WITNESS R. MILLER: You're welcome.

14 PRESIDING OFFICER WEATHERSBY: Any  
15 other questions from the Committee? Mr.  
16 Iacopino?

17 MR. IACOPINO: No.

18 PRESIDING OFFICER WEATHERSBY:  
19 Attorney Brown.

20 MS. BROWN: I have redirect for Donna  
21 Heald. I understand someone else is asking  
22 redirect for the other witnesses.

23 REDIRECT EXAMINATION

24 BY MS. BROWN:

1 Q. Ms. Heald, you were asked a question about  
2 the claims process. Have you read the  
3 document that -- or I don't know if you  
4 remember Adam Dumville showing you a claims  
5 process document, an agreement with the  
6 Counsel for the Public. Do you remember that  
7 document?

8 A. (Heald) Are you referring to the one that he  
9 said was just filed today?

10 Q. Yes.

11 A. (Heald) No, I have not even looked at it. I  
12 didn't even know it was there yet.

13 Q. So do you know how that document will impact  
14 you?

15 A. (Heald) I have no idea.

16 Q. And you've not been able to cross-examine  
17 that document; is that right?

18 A. (Heald) Correct.

19 Q. With respect to the outreach exhibit that you  
20 were shown, I think that was Exhibit 228,  
21 have you had a chance to thoroughly review  
22 that document?

23 A. (Heald) Which one of those documents was  
24 that? Was that the one that had the dates

1           and letters and site visits?

2       Q.    Yes.  It was also the one that was submitted  
3           today to the Committee.

4       A.    (Heald) I only saw it on the screen.  It was  
5           more useful to me to look at what I had from  
6           my own records from my data requests, which  
7           did not match it.

8       Q.    Okay.  And in either of those lists of the  
9           outreach, do they list a certified letter  
10          having been sent to you?

11      A.    (Heald) No, no certified letters.

12      Q.    Regarding the planting plan that Mr. Attorney  
13           Dumville showed you, was that planting  
14           plan -- did you receive that before you heard  
15           new information at the hearings?

16      A.    (Heald) I believe both of those planting  
17           plans I've had for a while, yes.

18      Q.    Prior to the hearings?

19      A.    (Heald) Correct.

20      Q.    You were asked about an MOU with --

21      A.    (Heald) But if you -- I don't know that I --  
22           any planting plans that I am familiar with  
23           were from before any of the filings.  If  
24           there was something that I'm not aware of,

1           then I don't know. I only know the two  
2           planting plans that were presented to me were  
3           not effective at masking any part of a  
4           103-foot pole.

5   Q.    Okay. And are you aware that one of the  
6           planting plans has a square-footage  
7           delineation of the nursery that Eversource  
8           has committed to relocate?

9   A.    (Heald) Yes, I was aware of that back then.  
10          And that was when I, way back, when I thought  
11          that the only thing that was going to have to  
12          be moved was the small area that was used for  
13          potted plants and tables and the small  
14          greenhouses.

15   Q.    And so does that square footage accurately  
16          depict what you believe needs to be moved  
17          presently?

18   A.    (Heald) Oh, not at all. Not even close. The  
19          plants are within the entire easement, which  
20          is 75,000 square feet. So the plants are  
21          anywhere within that area, not just that  
22          small, designated area.

23   Q.    And with respect to the cross-examination  
24          regarding the Durham MOU, have you had a

1 chance to review that document?

2 A. (Heald) No, I have not seen that.

3 Q. So do you have an understanding of how that  
4 document impacts you?

5 A. (Heald) I do not.

6 Q. Okay. With respect to Durham Residents  
7 Exhibit 3, which was your response to --

8 A. (Heald) I'm sorry. Could you repeat that  
9 from the beginning?

10 Q. You were asked a question about the planting,  
11 temporary relocation plan and inventory  
12 request that you had made through a data  
13 response. Do you remember that data  
14 response?

15 A. (Heald) Yes.

16 Q. And have your circumstances, as you  
17 understand, changed -- or actually, let me  
18 rephrase this.

19 The suggestions that you had in that  
20 discovery response, do they need to change?

21 A. (Heald) Well, now that I know that there are  
22 many, many more plants that I thought there  
23 were, and I realize what the area is going to  
24 take, yes, that would definitely change my

1           responses because I actually have no idea how  
2           this could possibly be done. I don't have a  
3           crew. I don't know who knows my plants  
4           better I do. And I don't know everything.  
5           And a vast number of them -- it sounds like  
6           an impossibility to me. I don't have a lot  
7           of confidence that my plants will survive  
8           this --

9    Q.    (Heald) With respect to --

10   A.    (Heald) -- or me.

11   Q.    Sorry. I didn't mean to interrupt.

12                    You were asked a question about do you  
13           know the value of your plants. Do you recall  
14           that question?

15   A.    (Heald) Yes, I do.

16   Q.    And did you attempt to come up with a  
17           valuation in your testimony?

18   A.    (Heald) Yes, I did. In the original  
19           testimony, just by, you know, how plants are  
20           developed and examples of what things cost.  
21           But that was not -- it did not have any  
22           correlation to the numbers of plants that are  
23           in the ground in particular, and any of them  
24           for that matter.

1 Q. So is the difficulty in determining a value  
2 on more the quantity of the plants is unknown  
3 versus how to value the plants?

4 A. (Heald) Both. It's both.

5 Q. Okay. When you were asked about a preferred  
6 location of the pole, I believe your answer  
7 was limited to just 50 feet. But if you  
8 weren't limited, what would be your preferred  
9 location of the pole?

10 A. (Heald) I have asked right from the beginning  
11 that the pole be located where there is  
12 already one existing, closer to Longmarsh  
13 Road. That would take it out of my -- or it  
14 wouldn't take it completely out of my  
15 viewshed, but it would take it more out of my  
16 viewshed. It would take it away from the  
17 corner of my house. And it would be more  
18 acceptable. That doesn't mean that I  
19 wouldn't see the wires, no matter where this  
20 will be. And I learned through this process  
21 that they're still moving poles for people.  
22 And I have no understanding of why the pole  
23 can't be moved on my property when it's been  
24 moved for just about everybody else. And

1           there doesn't seem to be an environmental  
2           restriction for it.

3   Q.    Thank you.

4                   MS. BROWN:   That was all I had for  
5           redirect for Donna Heald.   And I don't know who  
6           was going to ask if the other panelists had  
7           anything to ask.

8                   PRESIDING OFFICER WEATHERSBY:   Thank  
9           you.   I will ask.

10                   REDIRECT EXAMINATION OF WITNESSES

11   BY PRESIDING OFFICER WEATHERSBY:

12   Q.    I'm going to ask each of you, and I'll start  
13           with Dr. Miller, whether there's anything in  
14           your testimony this afternoon that you'd  
15           like to clarify.   Dr. Miller.

16   A.    (R. Miller) I guess there's just one other  
17           thing that I'd like to say, that I hope that  
18           the SEC will not be misled by the innocuous  
19           language of things like "silt curtains" and  
20           "concrete mattresses," which makes this  
21           project sound like they're constructing a  
22           cozy bedroom rather than intrusive barriers  
23           and huge concrete slabs.   I just want to make  
24           sure that you're aware of that.



1           And I guess the last thing I want to  
2           say, too, is it was explained to me that to  
3           bury the cables going down our driveway  
4           towards the bay would -- it would just make a  
5           huge difference in the visual impact that  
6           we're going to have to experience every day.  
7           And I find it unacceptable that the reason  
8           they won't do it is because it's too  
9           expensive. Thank you.

10       Q.   Mrs. Miller and Mr. Miller, either speak as  
11           one voice or two. You can do it separately  
12           if needed.

13       A.   (V. Miller) We're pretty good at that.

14           The only thing I really have to add is I  
15           just really appreciate the work the SEC does.  
16           And I just hope that you put yourselves in  
17           our shoes. There's only a few of us here.  
18           And you guys are going to go on to go do  
19           other things, and we're going to be left with  
20           this project and these poles and the concrete  
21           mattresses. And who knows what condition the  
22           bay is going to be in. Please, you know, if  
23           there's any question in your mind, please say  
24           no.

1 Q. Ms. Heald, I'm not going to ask -- oh, sorry.  
2 Mr. Miller. Anything to add?

3 A. (J. Miller) I was just going to agree  
4 totally, keep it short.

5 Q. Secret to a happy marriage.

6 [Laughter]

7 Q. I'm going to skip you, Mrs. Heald, since  
8 Attorney Brown has already asked you  
9 redirect. But Mr. Fitch --

10 A. (Heald) I just also want to say thank you for  
11 your time in all of this.

12 Q. Thank you.

13 Mr. Fitch, do you have anything about  
14 your testimony this afternoon you'd like to  
15 clarify?

16 A. (Fitch) Yes. And I hate to belabor points  
17 and whatnot, but I truly believe this is my  
18 last and only opportunity to have something  
19 to say.

20 Throughout this proceeding, we've been  
21 talking about this project as going into an  
22 existing right-of-way, which it's true, the  
23 right-of-way does exist currently. But it's  
24 a distribution line. And to understand the

1 perspective of where I'm personally coming  
2 from, and I believe Vivian and Jeff Miller as  
3 well, is that the understanding for us, for  
4 many decades -- I've been living there since  
5 2005, built my home there -- that the  
6 existing line was abandoned and not in use.  
7 And I personally believe that the Applicant  
8 confirms that with their Exhibit 061,  
9 Pages 39 through 42, when you look at the  
10 tabulated magnetic fields. The tabulated  
11 electric fields for average and peak loads  
12 from Durham Point to Little Bay launch for  
13 all of the pre-existing loads, they read 0.00  
14 straight through. When taking the EMF  
15 readings on my property, it registered the  
16 same as the porch on the side of my house.

17 My perspective when building a home and  
18 moving into the area was that this -- there  
19 was essentially nothing there. There were  
20 these old, derelict poles. And so viewing  
21 this as being an existing right-of-way or an  
22 active right-of-way, that's like saying  
23 Durham Point Road or Nimble Hill Road,  
24 they're roads. They're existing roads.

1           We're going to put a four-lane highway  
2           through because they exist. That's a  
3           parallel that I can make to this, based on my  
4           understanding of the pre-existing conditions.  
5           And it's just something that's been bothering  
6           me since Day 1, and that's what it is.

7                     Thank you all for your time. And we'll  
8           see you more days when we're here.

9    Q.    Okay. Thank you. That's the end of the  
10   questioning of you. Thank you all for your  
11   testimony. You may step down.

12                    PRESIDING OFFICER WEATHERSBY:  
13   Attorney Iacopino, is there anything else we  
14   need to do before we close the record?

15                   MR. IACOPINO: Well, we need to go  
16   through the exhibits. I don't know that you  
17   need to keep the entire panel here -- or the  
18   entire Committee here because it really would  
19   be procedural rulings, if there are any rulings  
20   to be made.

21                   PRESIDING OFFICER WEATHERSBY:    So  
22   any SEC members who need or want to leave, feel  
23   free to do so. And those of us who must stay  
24   will, and we'll go through any issues with

1 exhibits. Let's take a few minutes' break, a  
2 five-minute break.

3 (Whereupon Day 15 Afternoon  
4 Session was adjourned at 6:36 p.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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I further certify that I am neither  
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employed by any of the parties to the  
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relative or employee of any attorney or  
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financially interested in this action.

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Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)

	<b>accessible (1)</b> 65:11	<b>164:13,14;166:3</b>	<b>adversely (5)</b> 18:23;39:8;59:8; 73:22;150:24	<b>226:5;227:17;258:3</b>
<b>[</b>	<b>accommodate (1)</b> 102:15	<b>add (12)</b> 88:4;90:11;92:16; 93:13;118:6,17; 171:9;172:16;237:1; 241:22;257:14;258:2	<b>Aesthetic (6)</b> 45:12,15;60:4; 64:2;77:8;78:3	<b>agreed (8)</b> 101:1;158:16,21; 177:18;213:7; 224:13,22;240:17
<b>[Laughter] (1)</b> 258:6	<b>Accommodation (1)</b> 224:4	<b>added (3)</b> 41:13,16;193:21	<b>aesthetics (11)</b> 37:23;45:11;59:17; 74:20;76:8,11;79:15; 80:4;81:10,20; 159:12	<b>agreeing (1)</b> 227:12
<b>[No (2)</b> 160:7;163:9	<b>accompanied (1)</b> 193:4	<b>adding (1)</b> 121:18	<b>affect (4)</b> 43:9;92:13;102:9; 174:9	<b>agreement (13)</b> 141:6;155:8; 189:18;190:12; 191:23;193:4;195:6; 205:5;212:5;221:12, 15;230:13;250:5
<b>[sic] (4)</b> 39:9;151:8;176:18; 214:6	<b>accompanying (1)</b> 83:5	<b>addition (7)</b> 25:19;67:7;69:15; 113:20;132:14; 151:7;246:1	<b>affected (8)</b> 18:23;43:17;44:18; 59:7,8;62:24;73:22; 197:15	<b>agreements (3)</b> 19:4;20:16;141:3
<b>A</b>	<b>accomplished (1)</b> 171:5	<b>additional (15)</b> 20:15;42:15;43:1; 87:10;94:15;96:11; 119:18;158:7;168:1; 187:16;191:15; 198:2;204:9;212:13; 213:4	<b>affirms (1)</b> 110:22	<b>agrees (1)</b> 205:24
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**SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY ADJUDICATIVE HEARING - DAY 15 AFTERNOON ONLY**  
**APPLICATION FOR CERTIFICATE OF SITE & FACILITY**  
**October 26, 2018**

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**SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY ADJUDICATIVE HEARING - DAY 15 AFTERNOON ONLY**  
**APPLICATION FOR CERTIFICATE OF SITE & FACILITY**  
**October 26, 2018**

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