

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

September 13, 2017 - 1:20 p.m. **DAY 33**
49 Donovan Street **Afternoon Session ONLY**
Concord, New Hampshire

{Electronically filed with SEC 09-22-17}

IN RE: SEC DOCKET NO. 2015-06
NORTHERN PASS TRANSMISSION -
EVERSOURCE; Joint Application of
Northern Pass Transmission LLC and
Public Service of New Hampshire d/b/a
Eversource Energy for a
Certificate of Site and Facility
(Hearing on the Merits)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Chmn. Martin Honigberg <i>(Presiding Officer)</i>	Public Utilities Comm.
Cmsr. Kathryn M. Bailey	Public Utilities Comm.
Dir. Craig Wright, Designee	Dept. of Environ. Serv.
Christopher Way, Designee	Dept. of Business & Economic Affairs
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member
Rachel Dandeneau	Alternate Public Member

ALSO PRESENT FOR THE SEC:

Iryna Dore, Esq. Counsel for SEC
(Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Cynthia Foster, LCR No. 14

I N D E X

WITNESS PANEL

TERRENCE DEWAN

JESSICA KIMBALL

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P R O C E E D I N G S**(Hearing resumed at 1:20 p.m.)**

PRESIDING OFFICER HONIGBERG: Mr. Berglund,
you may proceed.

CROSS-EXAMINATION**BY MR. BERGLUND:**

Q Good afternoon. I'm Erick Berglund from the
Deerfield Abutters. I'd like to say good
afternoon to the Chairman and the Committee and
to Mr. DeWan and Ms. Kimball.

A (DeWan) Good afternoon.

A (Kimball) Good afternoon.

Q This is a map of Deerfield. And just so you
know the area I'm going to be talking about has
to do with, well, all of Deerfield, first off,
and then I'll zero in on Nottingham Road from
the Parade down to 107. Can you indicate that
with just your finger?

Yes. The part from the Parade down to
James City. Just that one little segment.
Right in there. Okay.

The right-of-way is proposed to be used by
Northern Pass, and that's in the middle of the
page marked with dotted red lines. Maybe a

1 little bit faint. Do you see that?

2 A (DeWan) Yes, I do.

3 Q Okay.

4 A (DeWan) Yes.

5 Q So Mr. DeWan, did you visit in Deerfield in
6 preparing your analysis of the aesthetic impacts
7 of NPT on Deerfield?

8 A Yes. We did.

9 Q What areas did you visit?

10 A (DeWan) You can see a record of that in our
11 Visual Impact Assessment looking at the
12 photographs that we collected as part of doing
13 the work that we did. You've seen the work that
14 we did in Deerfield Center, the Upper Lamprey
15 River Scenic Byways, Meeting House Hill. We
16 rode with the SEC on site tours through the
17 area. I think we visited about every road
18 that's in the immediate vicinity of the line.

19 Q Did you study any traffic patterns in the town
20 to gauge the impact of Northern Pass
21 Transmission on travelers?

22 A (DeWan) When you say traffic patterns, what
23 specifically do you mean?

24 Q Well, volumes, potential, just volumes of

1 traffic and how it would travel relative to
2 where the power line is and perhaps cause an
3 impact?

4 A (DeWan) We do not do traffic volume counts, I
5 don't believe, in Deerfield.

6 Q Do you have any sense of drivers' reaction to
7 potentially Northern Pass if it's there?

8 A (DeWan) That would depend on factors such as
9 other transmission lines, other distribution
10 lines within or adjacent to the right-of-ways,
11 the amount of tree growth on either side, the
12 amount of openings that you see in the
13 landscape, the character of the landscape, the
14 quality of the villages that you may go through.
15 Lot of factors will influence how people
16 perceive the addition of another set of
17 structures within an existing corridor.

18 Q Okay. The impact of Northern Pass if it comes
19 to Deerfield on the citizens is just not
20 confined to those living near or by or under the
21 power lines. The vast majority of our citizens
22 will experience Northern Pass and its impact on
23 them from driving underneath the lines or
24 parallel to it or near them. So using traffic

1 data gathered by Southern New Hampshire Planning
2 Commission, an analysis was conducted of the
3 visual impact of Northern Pass Transmission on
4 Deerfield Road travelers, and this study, this
5 focused on seven Deerfield locations. And you
6 could bring that slide up.

7 Where roads crossed the right-of-way and
8 there's one scenic drive and that's the one that
9 I asked Robert to point out before from, on
10 Nottingham Road from Deerfield Parade down to
11 Mountain Road.

12 The premise for this study is that there is
13 no aesthetic pleasure in viewing the proposed
14 Northern Pass Transmission line,
15 its insulators --

16 PRESIDING OFFICER HONIGBERG: Mr. Berglund,
17 you're testifying here.

18 MR. BERGLUND: I'm coming to a question.
19 I'm leading up to it. Okay?

20 BY MR. BERGLUND:

21 Q And the towers and monopoles that support it.
22 We wanted to learn how significant these impacts
23 would be on Deerfield Road travelers.

24 Mr. DeWan, do you agree with this statement

1 that there is no aesthetic pleasure in viewing
2 the proposed Northern Pass Transmission, its
3 insulators, and the significantly higher lattice
4 towers and monopoles that support it?

5 A (DeWan) You're reading from a report from a
6 Planning Commission?

7 Q No. I'm quoting from my words. I'm asking you
8 a question.

9 A Because you referenced a planning report which I
10 have not seen.

11 PRESIDING OFFICER HONIGBERG: So after all
12 that, question is do you agree with the
13 following statement?

14 MR. BERGLUND: Yes, it is.

15 PRESIDING OFFICER HONIGBERG: Why don't you
16 then ask him, repeat the statement because I
17 doubt he remembers it.

18 A (DeWan) Please repeat the statement.

19 Q Do you agree with the following statement: That
20 there is no aesthetic pleasure in viewing the
21 proposed Northern Pass Transmission line, its
22 insulators and the significantly higher lattice
23 towers and monopoles that support it?

24 A (DeWan) I would not agree with that statement.

1 Q You do not agree. Could you help me understand
2 what the difference is? Why you do not agree?

3 A (DeWan) You presented it with a universal
4 statement, and we always, with statements like
5 that, we always ask the question, are there
6 times when there may actually be some delight in
7 looking at -- now, granted, that may be a
8 stretch. The other day I came home from work.
9 There was an incredible rainbow which I had
10 photographed over the power line which is part
11 of the Maine Power Reliability Program. Much
12 larger than this Project. It's a spectacular
13 view, and if it wasn't for the transmission
14 corridor, I wouldn't have been able to see this
15 rainbow. Now, granted, that's the exception.
16 And I think that's what I'm looking for. There
17 are exceptions to what you've posited as a
18 universal truth.

19 Q Okay. I'll accept that.

20 There were, there are, as noted on this
21 chart, circles that indicate the areas that we
22 measured traffic.

23 MS. DORE: The Exhibit, Deerfield Abutter
24 138?

1 MR. BERGLUND: What's that say, Bob?

2 MR. COTE: The slide that's here says 138.

3 MR. BERGLUND: 138.

4 BY MR. BERGLUND:

5 Q There are two outlined in black with a green dot
6 in the middle, and those are the high volume
7 traffic areas. One is actually on Nottingham
8 Road. It's parallel to the line. Not crossing.
9 The other one is on Route 107 and 43. And that
10 does actually cross the line.

11 A (DeWan) I see them. Yes. When you say high
12 volume, do you have traffic counts for those?

13 Q Yes, I do. I do. Do you want to bring that
14 slide up, Bob, on the numbers?

15 So to give you a top down, over one year of
16 traffic, with data from the Southern New
17 Hampshire Planning Commission, the number of
18 vehicles that will be crossing all of those
19 points together is over three million, and if
20 you assumed one and a half people per vehicle,
21 that's over four and a half million. That's in
22 one year. So this is not a -- this is
23 significant, and there's going to be a lot of
24 impact. And maybe some, as you suggest, and

1 maybe a little bit that's positive, but I
2 suspect, I believe it will be mostly negative.
3 So this is a major impact on Deerfield. And we
4 didn't go across the state to look at all of
5 other towns but I guess we could be up into
6 maybe close to 100 million. Who knows?

7 MR. NEEDLEMAN: Objection.

8 PRESIDING OFFICER HONIGBERG: Mr. Berglund,
9 what's your question?

10 MR. BERGLUND: I guess I'm just adding that
11 in as a --

12 PRESIDING OFFICER HONIGBERG: And you
13 should refrain from doing that, please.

14 MR. BERGLUND: I'll continue to try and do
15 that. Thank you.

16 PRESIDING OFFICER HONIGBERG: Mr. Berglund,
17 did you understand what I just said? That you
18 would refrain from doing that going forward,
19 correct?

20 MR. BERGLUND: I will refrain from doing
21 that.

22 PRESIDING OFFICER HONIGBERG: Thank you.

23 MR. BERGLUND: I appreciate the reminder.

24 BY MR. BERGLUND:

1 Q So moving on to the next topic which is we just
2 had lunch. Time for a walk. Let's take a walk
3 down Nottingham Road.

4 MR. NEEDLEMAN: Mr. Chair, I'm sorry to
5 interrupt. Were there any questions regarding
6 that exhibit? If there weren't, I'm going to
7 object to it.

8 PRESIDING OFFICER HONIGBERG: I don't know.
9 I don't recall there being specific questions
10 about that.

11 MR. BERGLUND: About the exhibit of the
12 traffic?

13 PRESIDING OFFICER HONIGBERG: Yes. Did you
14 ask any questions about this?

15 MR. BERGLUND: I asked him if he thought
16 there was any impact on Northern Pass, from
17 Northern Pass on Travelers in Deerfield. And so
18 this was an expression of information that tells
19 us what we found in our study in Deerfield.

20 PRESIDING OFFICER HONIGBERG: Okay.

21 MS. DORE: Exhibit 39.

22 PRESIDING OFFICER HONIGBERG: You may
23 proceed.

24 PRESIDING OFFICER HONIGBERG: Thank you.

1 BY MR. BERGLUND:

2 Q So let's look at the next slide. Nottingham
3 Road Rural Historic just to give you context
4 here. I'm going to walk down Nottingham Road
5 from, and that Historic District is right in the
6 middle, and as we go down the road on the lower
7 side, it's to the south where you can see the
8 right-of-way, towers. The hay fields are
9 visible in this photo just under the word
10 "proposed," and that's the direction that I'm
11 going to show you some photos that I'll ask you
12 some questions about.

13 So slide number 5.

14 MS. DORE: That was Deerfield Abutter 46.

15 MR. NEEDLEMAN: Same issue.

16 PRESIDING OFFICER HONIGBERG: I don't know
17 how they're ultimately using it. I gather you,
18 Mr. Berglund, you were providing, you were
19 showing the witnesses that map so they had
20 context for what you were about to do. Correct?

21 MR. BERGLUND: That's correct.

22 PRESIDING OFFICER HONIGBERG: All right.

23 BY MR. BERGLUND:

24 Q This is a view of the existing right-of-way

1 looking to the south. There's two existing
2 poles in the hay field and vegetative cover
3 below.

4 Mr. DeWan, how would you rate the
5 aesthetics of this view?

6 A (DeWan) As I've testified in the past many
7 times, we don't rate aesthetics or visual impact
8 on the basis of a single photograph from a
9 single viewpoint, especially based upon
10 photographs that we have not taken.

11 Q Would you agree this possesses scenic quality?

12 A (DeWan) On Nottingham Road?

13 Q Yes.

14 A (DeWan) It does have scenic quality, yes.

15 Q Does the vegetative buffer play a part in your
16 valuation of the aesthetics of this view?

17 A (DeWan) The vegetative buffer that may offer a
18 certain amount of screening between an
19 observation point and an object being observed
20 will definitely play a role in determining its
21 visibility, lack of visibility or screened
22 visibility.

23 Q Does it contribute to the quality of the
24 aesthetics?

1 A (DeWan) By "it," you mean the vegetative buffer?

2 Q Yes.

3 A That would be dependent upon the makeup of the
4 material that's used to create the screen. In
5 other words, there are certain types of plant
6 material because of their flowering
7 characteristics, let's say, or the color of
8 their bark may be more attractive at close range
9 than others.

10 Q What about the durability of the vegetative
11 cover? How is that factored into the aesthetic
12 value of a view?

13 A (DeWan) We typically don't look at durability,
14 but I don't know what you mean by durability.

15 Q Life expectancy.

16 A (DeWan) Life expectancy. Okay. We typically
17 look at the vegetation, the way it exists right
18 now with the assumption that nature being as it
19 is, it will continue to evolve. Some of the
20 vegetation will grow taller. Plant succession.
21 Some of the vegetation may die, but the resource
22 assessments that we do is pretty much looking at
23 the way things are at the time that we took the
24 photograph and visited the site with the

1 realization that things will evolve.

2 Q So in essence I'm hearing you say it's a
3 snapshot? It is how it is right now?

4 A (DeWan) It's a consideration of the way things
5 exist right now.

6 Q So it's based on that that you make a
7 determination as to the quality of the view?

8 A (DeWan) That's part of it.

9 Q If you were certain the vegetative cover would
10 disappear in three years, how would you rate the
11 aesthetics? Would it rate low knowing that the
12 right-of-way would be fully exposed in three
13 years?

14 A (DeWan) Are you asking me to rate this
15 particular scene or are you just asking
16 hypothetically?

17 Q I'm asking you how it fits in, this vegetative
18 cover. I think I'm hearing you say it fits in
19 in that first shot and that's it. Whatever
20 happens happens. And there's a risk to that
21 life of the vegetative cover, as I see it, and I
22 wonder how that plays into your thinking.

23 A (DeWan) Well, we look at what's out there right
24 now, and one of the questions that you ask, is

1 there a likelihood that it's going to disappear,
2 is there a likelihood it's going to increase in
3 size and perhaps in screen value, is it going to
4 remain the same.

5 But to answer your question, do we make
6 assumptions about whether or not it's going to
7 disappear in the next X number of years, we
8 generally don't because we typically don't have
9 that information.

10 Q Right. We all don't have that. But there are
11 forces out there. I mean, you probably heard of
12 some of the insect attacks on hardwoods in New
13 Hampshire and hemlocks. Well, anyway. I wanted
14 to see where this fit because it's key, I mean,
15 it's not, vegetative buffer is not under control
16 of the power company.

17 A (DeWan) Just like buildings are also. You drive
18 along this road, and there are a lot of
19 buildings, barns and houses and outbuildings
20 that are part of the landscape, but we're
21 assuming they're going to be there for the long
22 run. And I don't know if you can assume that
23 well, maybe there is going to be a fire. Maybe
24 they're going to move the building. We can't.

1 We have to look at the landscape the way it is
2 right now.

3 Q The blue horizontal line in that -- yeah, it is
4 blue. That's the believed-to-be height of
5 Northern Pass Transmission towers. That would
6 exceed the height of the vegetative buffer. So
7 would you agree that Northern Pass Transmission
8 towers, structures rising above that vegetative
9 buffer would create an unreasonable adverse
10 impact?

11 A (DeWan) I will not come to that conclusion.
12 Again, as the reason I stated before, we're
13 looking at a photograph of unknown origin. We
14 also do not make determinations of
15 reasonableness or unreasonableness based upon a
16 single viewpoint. What we're doing, this is, I
17 believe, on the Upper Lamprey River Scenic
18 Byway, and we evaluated that as part of our
19 Visual Impact Assessment. We looked at that
20 particular viewpoint as part of the overall
21 route in these three towns that the byways go
22 through and made a determination about what
23 effect it would have on the continuing use and
24 enjoyment of the people that use the byway and

1 looked at where it would be visible from, the
2 amount of time that people may be exposed to it
3 as they drive the continuous loop throughout the
4 towns.

5 Q So you did say, I believe you looked at it
6 through that Upper Lamprey Scenic Byway?

7 A Upper Lamprey River, yes. I believe it's one of
8 the newest Scenic Byways in New Hampshire.

9 Q What was the conclusion then? After the look?

10 A (DeWan) It's in our Visual Impact Assessment.
11 We made a determination of the overall visual
12 impact on the Upper Lamprey River Scenic Byway
13 would be the low to medium range.

14 Q That's the entire byway?

15 A (DeWan) That's the entire byway. That is the
16 scenic resource that we're dealing with right
17 here. Not this particular location. Within the
18 byway.

19 Q So it's the entire byway. Not, you don't look
20 at individual pieces.

21 A (DeWan) We look at individual pieces.

22 Q No, I mean similar, separate scores.

23 A (DeWan) We don't do ratings on individual
24 properties or viewpoints unless the viewpoint

1 itself is a scenic resource. Like the top of a
2 mountain, let's say.

3 Q Okay. Thank you.

4 A (DeWan) Yes.

5 Q Let's go to --

6 MR. NEEDLEMAN: Mr. Chair. I'm sorry.
7 We're going to object to this exhibit as well.

8 PRESIDING OFFICER HONIGBERG: Understood.

9 MR. BERGLUND: I didn't hear that.

10 PRESIDING OFFICER HONIGBERG: He's going to
11 ultimately object to that exhibit being a full
12 exhibit in this proceeding.

13 MR. BERGLUND: The one we just discussed?

14 PRESIDING OFFICER HONIGBERG: You don't
15 have to do it now. We'll probably deal with it
16 at the end of the entire proceeding, but if you
17 want to talk about it, you can. Or did I
18 misunderstand what you said?

19 MR. BERGLUND: Well, I guess I'm hearing an
20 objection.

21 PRESIDING OFFICER HONIGBERG: To the
22 exhibit that just got pulled from the ELMO. I
23 may have misheard what you said. Yes. His
24 objection was to the exhibit that just got

1 pulled from ELMO becoming a full exhibit in this
2 proceeding.

3 MR. ROTH: Mr. Chairman?

4 PRESIDING OFFICER HONIGBERG: Mr. Roth.

5 MR. ROTH: The objections by the Applicants
6 to a number of exhibit today suggests a new path
7 that we were not familiar with in that it has
8 not been the practice where one must object to
9 every exhibit as it comes up if it's
10 objectionable. And so I guess I'm looking for
11 some clarification. It's been my understanding
12 that exhibits are objected to at the end when
13 they're all submitted.

14 PRESIDING OFFICER HONIGBERG: That has been
15 my expectation, Mr. Roth.

16 MR. ROTH: And that you don't need to
17 reserve your rights by making an objection
18 during the hearing.

19 PRESIDING OFFICER HONIGBERG: That has been
20 my expectation, Mr. Roth.

21 MR. ROTH: I'm concerned that this is
22 causing more delay in the proceeding and it's
23 perhaps unfairly derailing some of the people
24 who are trying to admit these things and move

1 along in their cross.

2 PRESIDING OFFICER HONIGBERG: I don't know
3 about the last part. And as for whether this is
4 causing delay, I would consider this a drop in
5 the bucket. Mr. Needleman?

6 MR. NEEDLEMAN: And that's perfectly fine
7 with me. Just to be clear, the only reason I'm
8 objecting is because I was told early on to make
9 the objections at the time they were presented.

10 PRESIDING OFFICER HONIGBERG: I think there
11 may be instances where if when Mr. Needleman
12 makes an objection someone wanted to ask a
13 couple of questions about it to perhaps obviate
14 the objection, they might want to do that. I
15 don't get the sense though that Mr. Berglund is
16 using these exhibits as planning to lay them on
17 us at the end as proof of some major truth that
18 is going to be demonstrated by these exhibits.
19 They appear most to be demonstration exhibits,
20 chalks as lawyers and judges sometimes call
21 them, to help with the discussion with these
22 witnesses. Perhaps I'm wrong about that and you
23 believe that these exhibits prove something that
24 is ineluctable and obvious once we look at them,

1 but I don't know. What do you want to do with
2 this exhibit at the end of the day?

3 MR. BERGLUND: Well, it's already in the
4 testimony in two other places so --

5 PRESIDING OFFICER HONIGBERG: And so we may
6 have a, that it's cumulative because we're going
7 to have the same exhibit multiple places. But
8 if you want to say something else about it,
9 that's fine. If not, you can move on to your
10 next topic.

11 MR. BERGLUND: Well, I am not setting up
12 any strategy for the future with this
13 discussion.

14 PRESIDING OFFICER HONIGBERG: Okay.

15 MR. BERGLUND: Simply put it here for some
16 reasons and to show everybody.

17 PRESIDING OFFICER HONIGBERG: Fair enough.

18 MR. BERGLUND: Thank you.

19 PRESIDING OFFICER HONIGBERG: Ms. Pacik?

20 MS. PACIK: I'm sorry. And for those of us
21 that are new to the SEC process, I wasn't aware
22 that there would be a big objection at the end
23 with respect to exhibits that have been used.
24 So just so I can anticipate what's going to

1 happen and I think some of my other attorneys
2 that are sitting with me also are a little
3 confused, but could we at some point, maybe now,
4 get clarification as to whether there's going to
5 be some sort of omnibus objection to a lot of
6 the exhibits?

7 PRESIDING OFFICER HONIGBERG: I think at
8 the end of the process before the SEC,
9 historically, the parties have basically gotten
10 together and said what are the exhibits that no
11 one objects to and what exhibits have objections
12 associated with them. And then those that have
13 objections get presented to the decision maker,
14 and they decide what gets admitted. That's
15 essentially how that process works here. That's
16 how the process has worked at the PUC as well.

17 MS. PACIK: Thank you.

18 PRESIDING OFFICER HONIGBERG: Ms. Menard,
19 you have a question?

20 MS. MENARD: A statement that Deerfield
21 Abutters actually paid for an expert witness to
22 help provide materials for our use for this
23 exact express purpose.

24 PRESIDING OFFICER HONIGBERG: What exact

1 express purpose is that?

2 MS. MENARD: To demonstrate concerns as
3 such as aesthetic impacts of the Projects on
4 Deerfield.

5 PRESIDING OFFICER HONIGBERG: Is someone
6 going to testify about these exhibits that the
7 Deerfield Abutters are going to be presenting?

8 MS. MENARD: We will have an expert witness
9 that will be testifying.

10 PRESIDING OFFICER HONIGBERG: That wasn't
11 my question. Will your expert witness be
12 testifying about these exhibits?

13 MS. MENARD: Depends on his questions that
14 he is asked.

15 PRESIDING OFFICER HONIGBERG: No, no, no.
16 The question is is it in your Direct Testimony,
17 what you've prefiled? The Prefiled Testimony of
18 your witnesses. Or is this the only place that
19 they exist?

20 MS. MENARD: No. This was Direct Prefiled
21 Testimony of Mr. Newman, our historical expert.

22 PRESIDING OFFICER HONIGBERG: Then that's
23 how you are sponsoring those exhibits. You have
24 a witness that is testifying about what these

1 exhibits are and how significant they are.
2 That's how you get exhibits in front of us. You
3 can do that through your witnesses or you can do
4 that through somebody else's witnesses. You
5 could show this witness panel some pictures and
6 ask them questions about it, and that might make
7 them full exhibits. I'm going to recommend,
8 again, that you have, you confer with some of
9 the attorneys about how this process works.

10 Anything else on this topic now? Mr.
11 Berglund, you may proceed.

12 MR. BERGLUND: Thank you.

13 BY MR. BERGLUND:

14 Q This is a view to that hay field I mentioned up
15 front earlier on. A conserved publicly
16 accessible field which is under conservation
17 easement. It's about 200 feet down from the
18 previous view. And the current 75 foot
19 monopoles in the ROW are clearly visible in the
20 hay field.

21 I'll ask the question, but I think I know
22 the answer, Mr. DeWan. And it's to ask your
23 rating of the aesthetics here, and I think I
24 hear you saying you wouldn't do that.

1 A (DeWan) I'll repeat my former answer and
2 response.

3 Q Would you agree that it possesses scenic
4 quality?

5 A (DeWan) As I mentioned before, this is
6 Nottingham Road, correct?

7 Q Yes.

8 A This is part of the Scenic Byway. Yes, it does
9 possess scenic quality.

10 Q I'll refer to this view now as a normal view,
11 and to use Mr. DeWan's title from the other day,
12 photo simulation based on this normal view and
13 that's next.

14 MS. DORE: And that was Deerfield Abutter
15 139. And now it's Deerfield Abutter 43.

16 Q This shows three lattice towers presumed to be
17 Northern Pass Transmission on the hay field on
18 the hill. Two lattice towers to the right
19 should be monopoles based on the current
20 Northern Pass design as we understand it. The
21 Northern Pass line here in this picture is
22 clearly above the vegetative cover. Again, how
23 would you rate the aesthetics? And you don't
24 need to answer because I know the answer.

1 A (DeWan) I will not go there.

2 Q Possessing scenic quality, do you think it
3 possesses scenic quality?

4 A (DeWan) If I were to rate this, it would have to
5 be based upon current accurate information. And
6 I don't see anything here that says this is an
7 accurate depiction of what this scene may look
8 like in the future.

9 Q So if I asked you, and I will, do you agree that
10 this would produce an unreasonable effect on
11 aesthetics?

12 A (DeWan) I would respond the same way; that we
13 don't judge individual views, but this would be
14 part of the impact to the overall experience of
15 driving the Upper Lamprey River Scenic Byway.

16 Q Let's move on to the next visual.

17 MS. DORE: Deerfield Abutter 38?

18 Q Yes. This is a view to the hay field from
19 private property. Leaf on. It was taken from
20 the ground level. Right-of-way is barely
21 visible. You have to look real hard. And,
22 again, my same questions and I think I know the
23 answer so I won't -- rating the aesthetics and
24 the scenic quality, I'll accept the same answers

1 that you gave before.

2 Considering this line and its structures
3 will be fully visible, do you agree this would
4 result in an unreasonable adverse visual impact?

5 MR. NEEDLEMAN: Objection. Asked and
6 answered.

7 PRESIDING OFFICER HONIGBERG: Yes. That's
8 sustained. Move on to another question.

9 MR. BERGLUND: Okay.

10 BY MR. BERGLUND:

11 Q So the next visual is the same as similar view
12 but not exactly the same leaf off to demonstrate
13 what's hiding behind those trees. So I have no
14 questions on that, but I have one last question.

15 In your description of your process for
16 gathering information, investigating and doing
17 this work to assess the aesthetic qualities and
18 how this will work with Northern Pass
19 Transmission you use databases. You said that
20 was sort of an initial going out to all these
21 databases and pulling information in and then
22 that was, I understood it to be your universe
23 for further work.

24 A (DeWan) Not the total universe. It was the

1 starting point.

2 Q Okay.

3 A (DeWan) Yes.

4 Q My question is this. It has to do with the
5 quality of that data in the database and how
6 your process did quality assurance. In other
7 words, ensure that the data that you were
8 receiving from the database, all these databases
9 was in fact accurate and true to what actually
10 existed on the earth, okay? In other words,
11 let's say you made an assumption that all X
12 lands were open to the public and you didn't
13 have all X lands because there was some in this
14 population that were not in the database. So do
15 you understand what I'm asking?

16 A (DeWan) That's a very good question. I'll let
17 Ms. Kimball answer that. She's the one that
18 started and worked on a lot of the database
19 work.

20 A (Kimball) So we use a number of different data
21 sources. One of the database sets that we used
22 is managed by GRANIT. I believe it's through
23 the University of New Hampshire, and that lists
24 all, for example, conservation easements or

1 water bodies. It lists them out. In addition
2 to that database, we also use the National
3 Conservation Easement Database that's available
4 on line. There were some variations between the
5 two databases, but we're using multiple sources
6 in an attempt to cover the basis.

7 We also used master plans. In the case of
8 Deerfield, the community has done a really nice
9 job of identifying all of their conservation
10 areas in trail maps as part of their 2011
11 Deerfield trail inventory and plan so we used
12 that as well. So in an effort to account for
13 accuracy, we pulled from a variety of sources.

14 A (DeWan) If I could add to what Jessica just
15 said, the other thing which we've done, of
16 course, is once we had the data we then had to
17 go out and field verify it. Just to use the
18 Deerfield example, we looked at dozens of
19 conservation properties, some of which have had
20 public access and some of which has no public
21 access.

22 Just as an example, the Getty property.
23 Beautiful piece of property. I think it was
24 listed in the source as being publicly

1 accessible. We went there. There's a no
2 trespassing sign. These things change. And so
3 what things say on the written record has to be
4 verified. That's one of the reasons that we do
5 such extensive field work.

6 Q Well, there's different legal of verification.
7 Did you go out and sample in various towns or
8 did you look at everything from all the
9 databases?

10 A (DeWan) We did a very thorough drive-through
11 for, you know, throughout the entire study area
12 looking at the scenic resources that were
13 identified.

14 Q How do you know what your confidence level is in
15 terms of accuracy of the data and information
16 that you're using to make these reports on your
17 proposals?

18 A (DeWan) We're very confident in them.

19 Q So you just, you're confident based on, I think
20 I'm hearing you say your process, you think
21 that's --

22 A (DeWan) The process, the source of the data, the
23 fact that a lot of it comes from the state. The
24 Granite. Source. Then field verification.

1 Cross-checking with other data sources.

2 Q Okay. That's it. Thank you very much.

3 PRESIDING OFFICER HONIGBERG: All right.
4 Going to circle back now I think to Mr. Judge
5 and Ms. Lee.

6 Mr. Judge, you may proceed.

7 MR. JUDGE: Thank you.

8 CROSS-EXAMINATION

9 BY MR. JUDGE:

10 Q My name is Steve Judge, and I represent the
11 McKenna's Purchase in Concord. You have been
12 there, Mr. DeWan, is that correct?

13 A (DeWan) I have been there.

14 Q You met Ms. Kleindienst who is sitting at the
15 table over here when you went there back in
16 2015?

17 A (DeWan) I can't verify the date but yes. We
18 walked the site with several residents of the
19 community.

20 Q And you went there after a public meeting in
21 Concord that requested photo simulations be done
22 of McKenna's Purchase; is that correct?

23 A (DeWan) I don't recall the sequence of events.
24 We were asked to go there to take a look at it

1 firsthand.

2 Q Okay. And what I'm showing you is an Attachment
3 8. It's a photograph that you took. This is
4 8-70. Can you see that?

5 A (DeWan) Yes. You're looking at a page from our
6 Visual Impact Assessment.

7 Q There's three different photographs on that
8 page. Is that correct?

9 A (DeWan) That's correct.

10 Q One is Yvonne Court and one you describe as
11 north of Yvonne Court, and then the last one you
12 describe as the southeastern end of Yvonne
13 Court.

14 A (DeWan) That's correct.

15 Q And you have an aerial image here that you are
16 describing in photograph 1, 2 and 3?

17 A (DeWan) That provides the location of those
18 photographs.

19 Q That's right. So I blew up one section of it to
20 confirm that it's the same. So the photograph
21 was taken on April 29th, 2015, 10:50 a.m., is
22 that correct?

23 A (DeWan) That's what it appears to be, yes, from
24 the date stamp.

1 Q What you say here is number of transmission
2 structures visible in the photo simulation is
3 two.

4 PRESIDING OFFICER HONIGBERG: Steve, the
5 folks in the back cannot hear you.

6 Q I'll move over here. You see the number of
7 photo simulation structures, number of
8 transmission structures is two. Is that in
9 reference to the existing or the proposed?

10 A (DeWan) The photo simulation shows the proposal.

11 Q Okay. I have a few exhibits at the beginning of
12 this, and then I'll get off exhibits and it will
13 move a lot faster.

14 So this is the existing photograph. Can
15 you see that?

16 A (DeWan) Yes.

17 Q This is the proposed.

18 A (DeWan) That's correct.

19 Q How many structures do you see?

20 A (DeWan) I see two structures.

21 Q You don't see three structures?

22 A (DeWan) No. The two vertical elements on the
23 right are part of a H-Frame structure so
24 technically it's one structure.

1 Q Okay. So what you've put into this is a H-Frame
2 structure?

3 A That's what is being proposed in this location.

4 Q Okay. Going back to the technical information.
5 You identified the distance to the visibility
6 structure as 290 to 350 feet?

7 A (DeWan) That's what it says on the chart there.

8 Q Okay. Well, why does it say that? Did you
9 measure it?

10 A (DeWan) When we do our imagery, we use a GPS to
11 record where the photograph is taken from. Then
12 using the information supplied to us by the
13 engineers we are able to determine the distance
14 to those two structures.

15 Q Did you rely upon the measurements that
16 Mr. Chalmers did for McKenna's Purchase?

17 A (DeWan) I don't know what measurement you're
18 talking about so no.

19 Q So the width of the right-of-way you say here is
20 245 feet?

21 A (DeWan) That's what we say, yes.

22 Q And let me represent to you that the photos you
23 took were right on the edge of the right-of-way.
24 So could you explain to me how the distance to

1 the structures could be 350 feet if the width of
2 the right-of-way is 245 feet?

3 A (DeWan) I don't understand your statement when
4 you said that we were right on the edge of the
5 right-of-way when we took the photograph.

6 Q What I'm suggesting to you is that you were
7 within 10 to 20 feet of the edge of the
8 right-of-way. And the right-of-way is 245 feet.
9 So the structures are contained within the
10 right-of-way. So there can't be structures 350
11 feet away. I'm not good at math. But I'd just
12 like you to help me out on that.

13 A (Kimball) I'm just looking at an aerial
14 photograph from just the general location of
15 where I believe that photo was taken between
16 these two townhouses. It looks to me that the
17 edge of the right-of-way is approximately 120
18 feet from this location?

19 Q You see the document that I've got put up for
20 you now?

21 A (Kimball) Yes.

22 Q There is from JT Municipal Exhibit 274?

23 A (Kimball) Yes.

24 Q You see the edge of the right-of-way is a red

1 line?

2 A (Kimball) Yes.

3 Q And you see the box that's outlined in this
4 exhibit?

5 A (Kimball) Yes.

6 Q Is that where the photograph was taken?

7 A (Kimball) There's no representation on this map
8 that shows where the photograph was taken.

9 Q So, Mr. DeWan, do you know how far you were from
10 the edge of the right-of-way when you took this
11 photograph or when you created this exhibit?

12 A (DeWan) As I mentioned, I believe that when we
13 took the photograph, we recorded the location
14 with a GPS unit that was attached to the camera
15 which we were then able to use to locate
16 ourselves on the face of the earth.

17 Q So you located yourself on the face of the
18 earth. How did you locate where the structures
19 were going to be?

20 A (DeWan) We used the information provided to us
21 by the engineers that is designing the Project.

22 Q Let me show you another photograph of the same
23 site. This is your photograph on top. I'll
24 represent to you that my math is not very good.

1 I don't know about theirs. This is Unit 144 on
2 the left and Unit 135 on the right. Would you
3 agree with me looking at the bottom photograph
4 that depending upon the season that you take a
5 photograph the view changes?

6 A (DeWan) Absolutely. Could you go back to the
7 top one, please? Okay.

8 Q Are you all set?

9 A (DeWan) Yes.

10 Q You submitted this photograph with your
11 testimony, but you took other photographs; isn't
12 that correct?

13 A (DeWan) I believe typically when we do this sort
14 of photographic assignment we'll take several
15 hundred photographs.

16 Q How many photographs did you take of McKenna's
17 Purchase?

18 A (DeWan) I have no idea. As I said, typically
19 several hundred.

20 Q Were your asked to produce all the photographs
21 that you took?

22 A I don't know if we have been asked to produce
23 those or not.

24 Q If you were asked to produce them, you have not

1 produced all of them, is that correct?

2 A (Kimball) I believe we provided all photographs
3 that we took as part of our work on this
4 Project.

5 Q So I've seen five photographs. Five photographs
6 from McKenna's Purchase, and your testimony is
7 that you only took five photographs?

8 A (DeWan) No. I just testified that we took
9 hundreds of photographs. Probably took hundreds
10 of photographs when we were out there.

11 Q I'm asking about McKenna's Purchase. Did you
12 take hundreds of photographs at McKenna's
13 Purchase?

14 A (DeWan) That's correct, yes, during the course
15 of our site work that day.

16 Q And my question is did you produce all of those
17 photographs to this body?

18 A (Kimball) I believe that all photographs that we
19 took as part of our work on this Project were
20 provided in one of the discovery requests.

21 Q That's not my question. I am asking whether you
22 provided it to the Site Evaluation Committee.

23 MR. NEEDLEMAN: Objection. There's no
24 obligation to provide it.

1 MR. JUDGE: I believe there was a request
2 from the Committee for the photographs to be
3 produced.

4 PRESIDING OFFICER HONIGBERG: Really?

5 MR. JUDGE: I'm one of those who's not here
6 very often so I'm relying on totem pole hearsay.
7 I'm ready to move on.

8 PRESIDING OFFICER HONIGBERG: I don't
9 recall such a request.

10 MR. JUDGE: Okay.

11 BY MR. JUDGE:

12 Q So your testimony is that in the discovery you
13 provided hundreds of photographs that were taken
14 at McKenna's Purchase.

15 A (DeWan) I can't verify the actual number. As I
16 said, I typically provide that order of
17 magnitude of photographs just to cover all the
18 bases, and we provided all the photographs that
19 we took during that day out on the site.

20 Q You provided them to the Applicant.

21 A (Kimball) No. As part of discovery.

22 Q Okay. This is another photograph that you took;
23 is that correct?

24 A (DeWan) That is correct. The same day.

1 Q There's no number on this. I can't identify it
2 as an exhibit. It's just something that you
3 took on the same day. Is that correct?

4 A (DeWan) That is correct.

5 Q It's not been marked as an exhibit as far as you
6 know?

7 A (Kimball) It may have been shown in previous
8 questioning.

9 Q Yes, I think it was shown without the technical
10 information on the bottom, and I will say for
11 the record that our method of producing it has
12 turned the houses green. They're not actually
13 green.

14 PRESIDING OFFICER HONIGBERG: It's very
15 attractive, but do you want to mark this for
16 some purpose?

17 MR. JUDGE: No. It's a chalk.

18 PRESIDING OFFICER HONIGBERG: Okay. It's a
19 green chalk.

20 MR. JUDGE: It's a green chalk.

21 Q Here is a nice pretty chalk. That was 70 and 71
22 of Brenda Court, and this is, again, the same
23 point, depending on when you take the photograph
24 it's different.

1 A (DeWan) Could you go back to the initial
2 green-tinted photograph?

3 Q Yes, I'd love to.

4 PRESIDING OFFICER HONIGBERG: Off the
5 record.

6 (Discussion off the record)

7 Q This was taken in 2015, I believe. The same day
8 that you took the other photographs.

9 A (DeWan) What was date of the next photograph
10 that you --

11 Q It's much more recent. It's a different season.

12 A (DeWan) The reason I ask is I'm looking at the
13 relative position of the transmission
14 instruction here with the pine trees, and the
15 next photograph, if you could put that on. All
16 of a sudden the trees have gotten a lot larger.
17 As we discussed in the past, trees grow and they
18 change, and they do provide additional
19 screening.

20 Q Right. 2015 was a couple of years ago. And I
21 will draw your attention to the pole. See where
22 I'm pointing?

23 A (DeWan) I see a stake in the ground. Yes.

24 Q That is the edge of the right-of-way. I'll make

1 a representation to you. Would you agree with
2 me that this house is not 150 feet from the edge
3 of the right-of-way?

4 A (DeWan) It looks like one corner of house may be
5 very close to the right-of-way. I don't know --
6 I only see one data point for the right-of-way.
7 I'd need to have several sequence of posts like
8 that to establish where the right-of-way
9 actually is.

10 Q So we go back to your photograph. You say
11 distance to visible structures is 325 feet.
12 Right-of-way is 245 feet. That house would have
13 to be at least -- I'm not doing math. A hundred
14 feet from the edge of the right-of-way?

15 A (DeWan) Well, remember, we're in the parking
16 area here quite a ways away from the two homes
17 right here.

18 Q It says distance -- okay. So the distance is
19 not from the structures? It's from where your
20 camera is set up?

21 A (Kimball) The distance that we provide in the
22 technical information is the distance from where
23 the photographer is standing to the nearest
24 visible structure. It doesn't have anything to

1 do with the edge of the right-of-way.

2 Q And it doesn't have anything to do with how
3 close the structures are to the buildings?

4 A (Kimball) Correct.

5 A (DeWan) One of the requirements in the SEC rules
6 is to provide a distance to the Project. We're
7 assuming by that they mean the distance from the
8 observation point. That's one of the reasons
9 why we use the GPS unit to record the location
10 of all of our photographs.

11 Q And this is the photograph that you took on the
12 same day showing the proposed structures?

13 A (DeWan) This is a photo simulation using that
14 photograph. Yes. This was in April, I believe,
15 and this, as I said, was just recently taken.

16 Q You have stated in your testimony that you use
17 an objective standard in determining whether
18 there's an impact or not; is that correct?

19 A (DeWan) We use a methodology that's outlined in
20 our Visual Impact Assessment, and the first
21 chapter under Methodology is a methodology that
22 we've used extensively over the last several
23 decades.

24 Q Do you remember my question?

1 A (DeWan) Do we use an objective methodology?

2 Q Right.

3 A (DeWan) We feel that it's an objective way of
4 looking at the landscape and doing the
5 evaluation.

6 Q So you would agree with me that you use an
7 objective standard?

8 A (DeWan) We feel it's an objective way of looking
9 at the landscape and making determination.

10 Q And the first part, you would agree with me also
11 that each step along the way is important in
12 your process; isn't that true?

13 A (DeWan) Absolutely.

14 Q And the first thing you want to do is to write a
15 succinct Project description so the viewers can
16 understand, and you specifically say the color,
17 height and design of the transmission
18 structures. Isn't that -- that's very
19 important, is it not?

20 A (DeWan) That's correct.

21 Q And each component has visual qualities that are
22 factored into the evaluation of visibility, and
23 their potential to affect the aesthetic
24 characteristics of the surrounding landscape.

1 That's also correct, right?

2 A (DeWan) That's correct.

3 Q And the Applicant gave you incorrect information
4 initially because the crossarms were actually 3
5 to 5 feet higher than you've used; isn't that
6 correct?

7 A (Kimball) The information that we received that
8 showed the location of each structure was
9 accurate, and the location of the crossarms in
10 that data was accurate. What was not accurate
11 at the time was the 3-D structure models that
12 were used to superimpose on that data in the
13 photo simulation which was corrected a year ago.

14 Q Right. So my question is, the Applicant gave
15 you incorrect information initially. The
16 crossarms were actually 3 to 5 feet higher than
17 what you used; is that correct?

18 A (Kimball) The data, the photo simulations that
19 were submitted most recently are correct.

20 Q You didn't answer my question. Did the
21 Applicant initially give you bad information,
22 the wrong area of where the crossarms were? Do
23 you understand the question?

24 A (Kimball) I do, and it was not wrong. It was

1 just updated at a later time. So they never
2 gave us wrong information. They gave us
3 information that was later redesigned to be
4 slightly different.

5 Q So if there's a letter from counsel in the file
6 saying that the plans were changed but you were
7 not informed that the plans were changed, and
8 you did your work and then subsequently they
9 informed you that the plans had been changed,
10 that's not your understanding?

11 A (Kimball) No. That's what I -- that's my
12 understanding.

13 Q So I think the record will be clear on that.
14 Hopefully.

15 So having talked about how important it is
16 to have succinct Project description and talk
17 about the color, height and design of the
18 transmission structures, let's look at the note
19 that you put on the photographs. Tell me if I'm
20 reading this correctly.

21 Right in the middle. Simulation is based
22 upon preliminary design plans. Structure,
23 design and location will be finalized during the
24 detail design and permitting process. Published

1 February 26th, 2016.

2 Did I read that correctly?

3 A (DeWan) You did.

4 Q So you don't know where the structures will be,
5 do you?

6 A (DeWan) That is not a correct statement. We
7 used the information provided us by the Project
8 engineer based upon their work that locates the
9 structure and the X, Y, Z axes, and we're using
10 that as the basis for developing our photo
11 simulation and doing our computer modeling and
12 doing our photo simulations. What this says is
13 that this is based upon the design plans as they
14 currently existed at the time that we did our
15 work in February of 2016.

16 As Jessica has pointed out, and I think
17 we've heard continuously, plans continue to
18 evolve as further work is done. This is typical
19 of any type of Project involving a very large
20 amount of infrastructure. That you develop
21 Projects to a certain point at which point then
22 you start doing the analysis for the Committee
23 to approve. As it comes time to do actual
24 construction, at that point you then do the

1 final design.

2 Q So let's see if we can unpack that a little bit.
3 You took photographs in McKenna's Purchase in
4 2015. We've established that, correct?

5 A That's correct.

6 Q Have you updated those photographs at all?

7 A (Kimball) The photographs themselves that are
8 used in the photo simulations?

9 Q Yes.

10 A (Kimball) I don't believe that we have -- we
11 certainly haven't updated the photo simulations
12 since 2015.

13 Q So all of these changes that you're talking
14 about, they have not been produced in this
15 proceeding; is that correct?

16 A (Kimball) All of the photo simulations that we
17 produced have been provided in the proceeding.

18 Q That's not what I asked. I just got a long
19 answer about how Projects change, and you have
20 to adjust things. I'm trying to establish that
21 as far as McKenna's Purchase is concerned,
22 they're my client, they're a condo association,
23 that's who I'm interested in, you provided
24 photographs in 2015 that showed the proposed

1 land. That plan has changed, isn't that
2 correct?

3 A (Kimball) It has not changed. The change, the
4 three-foot change in the crossarm location, I
5 believe, only impacted the DC portion of the
6 line which ends quite a bit further north than
7 the McKenna's Purchase location.

8 Q So have you looked at the plans that the company
9 has submitted here and do you know that they say
10 on the plans that they're preliminary design and
11 they're not final?

12 A (Kimball) That's why we have that note in our
13 photo simulation.

14 Q Well, you have that note in your photo
15 simulation because the company hasn't told you
16 where the final, because the company doesn't
17 know where the final structures will be. Isn't
18 that correct?

19 A (Kimball) No. I believe that the location is
20 correct.

21 Q So if the Construction Panel testified that they
22 didn't know, they couldn't say exactly where the
23 structures were going to be, you think they were
24 incorrect about that?

1 MR. NEEDLEMAN: Objection. I think that
2 misrepresents the Construction Panel testimony.

3 MR. JUDGE: Pretty good memory about that.
4 That's a point that I drove home.

5 PRESIDING OFFICER HONIGBERG: You can
6 answer the question.

7 A (Kimball) We're working with the most up-to-date
8 information that we have, provided to us by the
9 engineers.

10 Q But you haven't changed the document that you
11 provided for McKenna's Purchase, right?

12 A (Kimball) There have been no updates that we've
13 received from the engineers since these photo
14 simulations that were done that would change the
15 photo simulation.

16 Q Wouldn't it be important for you to know if
17 there had been updates?

18 A (Kimball) I'm sure that if the engineers changed
19 the height and location of one of the structures
20 in the photo simulation we have received it.

21 Q That's not my question. Wouldn't it be
22 important for you to know if there had been
23 changes?

24 A (DeWan) If there had been a significant change.

1 Let's say they added different structure type or
2 they substantially increased the height of a
3 structure, we're in constant communication with
4 the Engineering Department that we have been
5 working with, and I think based upon our track
6 record of working with them, they would have
7 informed us of those changes.

8 Yes, there may be some slight changes with
9 the horizontal position of a structure moving
10 down the line slightly, but I think what we're
11 representing here is a good view of what the
12 Project will look like in the future and how it
13 may affect people who now live in McKenna's
14 Purchase.

15 Q Can we agree that what you're showing here is
16 what you thought the Project looked like in
17 2015, and the information you were given at that
18 point was incorrect?

19 A (Kimball) That data is still the most up-to-date
20 data that we have.

21 Q Okay. That's good. So you haven't learned
22 anything since 2015. That's the most up-to-date
23 data that you have.

24 A (Kimball) In this section of the Project, yes.

1 Q Can you tell me whether there will be
2 latticework or monopoles in the transmission
3 corridor by McKenna's Purchase?

4 A (Kimball) It will be a combination of monopoles
5 and H-Frame structures, I believe.

6 Q Can you tell me which one will be in each
7 location?

8 A (Kimball) Not off the top of my head.

9 Q I don't care where you get it from. Can you
10 tell me which one will be in which location? Do
11 you know whether each of these poles will be a
12 latticework or a monopole? Do you have that
13 information?

14 A (Kimball) Yes.

15 Q Where is that information on the document that
16 we're looking at?

17 A (Kimball) The photo simulation document?

18 A (DeWan) It's not on the document we're looking
19 at. We're looking at notes right now.

20 Q The document that you produced from McKenna's
21 Purchase in 2015.

22 A (Kimball) If you zoom out a little bit here,
23 just so we're not looking at this note, but the
24 technical panel?

1 Q The technical panel. I'm sorry. That one.

2 A (Kimball) So under the proposed column.

3 Q Yes.

4 A (Kimball) What's visible in this photograph
5 you'll see there's a 115 kV structure type which
6 is going to be a weathering steel monopole at
7 87.5 feet. The 345 kV structure will be a
8 weathering steel H-Frame structure at 70 feet.

9 Q And you're reading from a column to the right
10 side of this technical information?

11 A (Kimball) That's correct.

12 Q What does it say at the top of the column?

13 A (Kimball) That's what's proposed.

14 Q It says proposed, right?

15 A (Kimball) Yes.

16 Q So you don't know what the final structure is
17 going to look like, do you?

18 MR. NEEDLEMAN: Objection. Asked and
19 answered.

20 PRESIDING OFFICER HONIGBERG: I'll sustain
21 that.

22 MR. JUDGE: Well, she's danced around it a
23 lot.

24 PRESIDING OFFICER HONIGBERG: Try it a

1 different way.

2 BY MR. JUDGE:

3 Q The document that you, that we're looking at
4 here in 2015 does not contain any final
5 information from this Project; isn't that
6 correct?

7 A (Kimball) The term proposed here is --

8 Q Do you understand the question?

9 PRESIDING OFFICER HONIGBERG: Mr. Judge,
10 try not to be rude to the witness.

11 MR. JUDGE: I will try.

12 PRESIDING OFFICER HONIGBERG: Thank you.

13 A (Kimball) Repeat your question, please?

14 Q The document that we're looking at that was
15 produced in 2015 which contains proposed
16 information regarding the transmission corridor
17 at McKenna's Purchase does not contain any final
18 information about the location of the structures
19 or the type of structures. Nothing in this
20 document that shows that. Isn't that correct?

21 A (Kimball) This document is based on the latest
22 plans that we had at that time and still have to
23 this day for the Project.

24 Q Okay. So we're back to confirming that you got

1 information in 2015 and you have nothing since
2 then.

3 A (Kimball) For this location.

4 Q Yes.

5 A (Kimball) Correct.

6 Q So another step in the process is the legal
7 framework; is that correct?

8 A (DeWan) Which process are you referring to?

9 Q Your process by which you develop your
10 testimony, you developed your opinion in this
11 case. You listed it out. You said the first
12 thing is to do a Project report, and then you
13 said another important step in the process is to
14 understand the legal framework.

15 A (DeWan) By legal framework here, we mean an
16 answer to the question what are the rules that
17 we have to play by.

18 Q And to quote exactly from your testimony, you
19 said legal framework as explained to us by
20 counsel; is that correct?

21 A (DeWan) That's correct.

22 Q And your conclusion is that based on your
23 extensive analysis that Northern Pass will not
24 have an unreasonable adverse effect on

1 aesthetics; isn't that correct?

2 A (DeWan) That is our overall conclusion. That is
3 correct.

4 Q You concede that Northern Pass will be a highly
5 visible component of the landscape in some
6 sections; is that correct?

7 A (DeWan) That is written in our final VIA.

8 Q But it will not create an unreasonable adverse
9 effect on aesthetics.

10 A (DeWan) That is correct.

11 Q So am I correct to assume that there will be
12 reasonable adverse effects on aesthetics?

13 A (DeWan) There will be expected adverse effects
14 in some places. It will be visible in some
15 places and maybe highly visible in some places.

16 Q I asked you earlier about this standard, and you
17 told me that you were using an objective
18 standard; is that correct?

19 A (DeWan) We used a professional standard that we
20 have used for many years to develop our Visual
21 Impact Assessment and to evaluate the existing
22 quality of the existing landscape.

23 Q And your testimony that making a distinction
24 between what's reasonable and what's

1 unreasonable is objective?

2 A (DeWan) To determine whether or not a Project is
3 unreasonable, we're using the standards created
4 in the SEC rules that outline very specifically
5 what considerations have to be taken to make a
6 determination as to whether or not there is an
7 unreasonable adverse effect on aesthetics.

8 MR. JUDGE: Mr. Chairman, could you
9 instruct the witnesses to answer the questions?

10 PRESIDING OFFICER HONIGBERG: They know
11 they need to answer the questions. Is it your
12 view that that was not responsive to your
13 question?

14 MR. JUDGE: It is my view.

15 PRESIDING OFFICER HONIGBERG: Why don't you
16 repeat the question and we'll see. Maybe we'll
17 get a slight variant to the answer this time.

18 MR. JUDGE: I'll move to strike the answer
19 to that question then.

20 MR. NEEDLEMAN: Objection.

21 PRESIDING OFFICER HONIGBERG: That's
22 denied. Do you want to ask the question again,
23 and we'll see if we get a different answer?

24 MR. JUDGE: Indeed I do.

1 BY MR. JUDGE:

2 Q Would you agree with me that making a
3 distinction between an unreasonable adverse
4 effect and a reasonable adverse effect is a
5 subjective decision?

6 A (DeWan) No. I would not agree with that
7 statement.

8 Q How is it objective?

9 A (DeWan) Well, again, if we could go to the
10 rules, they have several criteria that one has
11 to use going down the line, and I don't have
12 those right in front of me, but if you'd like we
13 could look at those. And those are the, as we
14 understand it, the directions to us as the
15 Applicant and the Committee as a reviewing
16 agency that you have to follow in making that
17 determination.

18 Q So let's talk about one of those rules. You
19 cite in your testimony, 301.05(a). That's the
20 SEC rule, and it talks about aesthetics and it
21 talks about your obligation to describe the
22 effects of and plans for avoiding, minimizing or
23 mitigating potential adverse effects of the
24 proposed facility on aesthetics.

1 Do you have that rule in mind?

2 A (DeWan) Yes.

3 Q So that rule, the question of whether it's
4 unreasonable, that's the standard for the Site
5 Evaluation Committee. That's not your standard,
6 is it?

7 A (DeWan) They ultimately have to make that
8 determination. That's my understanding.

9 Q Yes. What you're supposed to be determining,
10 according to the rule, is whether there is a
11 potential adverse effect. Isn't that correct?

12 A (DeWan) That is correct.

13 Q And you created the photo simulations because
14 transmission lines have a potential adverse
15 effect on the aesthetics of private property,
16 isn't that true?

17 A (DeWan) We're not dealing with the effects on
18 private property here, as you know. We're
19 dealing with the effects on scenic resources.

20 Q So I think this goes back to the legal standards
21 that you were informed of by counsel. RSA
22 162-H:1, Declaration of Purpose, for the SEC is
23 to determine whether entities have significant
24 impacts on a bunch of things including

1 aesthetics, and the rule that we just looked at
2 talked about potential adverse effects on
3 aesthetics. It doesn't say anything about
4 scenic resources. Do you agree with me that the
5 question of aesthetics is also applied to
6 private property?

7 MR. NEEDLEMAN: Objection. Asked and
8 answered, and it calls for legal conclusion.

9 MR. JUDGE: He stated it in his testimony
10 that he needed to have a legal framework and
11 that his legal framework was provided by
12 counsel.

13 PRESIDING OFFICER HONIGBERG: Yes.

14 MR. JUDGE: And I don't believe that what
15 he's talking about is consistent with the law.

16 PRESIDING OFFICER HONIGBERG: You can ask
17 him what he did and why he did it. If you want
18 to argue with him about what the law requires,
19 that's not really going to be a productive
20 thing. But ask him what he did and why he did
21 it.

22 BY MR. JUDGE:

23 Q Did you consider the potential adverse effects
24 on private property in reaching your opinion?

1 A No. We did not.

2 Q Did you consider the potential adverse effects
3 on McKenna's Purchase in reaching your opinion?

4 A (DeWan) We provided the information on McKenna's
5 Purchase because that was asked of us as we
6 understand it to produce some information for
7 meetings with the City Council in Concord. And
8 also to show people, the residents, what it
9 would look like. I know there was a lot of
10 concerns about what may happen, what may not
11 happen, the earth berm that was out there, how
12 far away it was going to be and so forth. So in
13 order to provide accurate information and to
14 show people what the effects would be, we
15 decided to go visit the site as we've just
16 discussed and to walk the site with them and
17 then to select a couple of photographs that were
18 representative of the overall visual effect that
19 it would have on the closest condominiums to the
20 power line.

21 PRESIDING OFFICER HONIGBERG: Mr. DeWan,
22 the question was did you consider the effects on
23 McKenna's Purchase in developing your opinions.
24 I think you just said no.

1 A (DeWan) I think that's an accurate statement.

2 Q Thank you, Mr. Chairman. You're a landscape
3 architect. Is that correct?

4 A (DeWan) Registered in the State of New
5 Hampshire.

6 Q You're not licensed in New Hampshire?

7 A I'm not licensed in New Hampshire.

8 Q And you are also?

9 A (Kimball) Licensed in the state of Maine.

10 Q Okay. Hold on for that. Let's talk about
11 illumination. What illumination will there be
12 on the structures that are in the corridor
13 behind McKenna's Purchase. Do you know?

14 A (DeWan) I believe it has been told to us by the
15 engineers there will be no illuminations of
16 those structures.

17 Q Are those structures by the Concord Airport?

18 A (Kimball) They are north of the Concord Airport.

19 Q Does the FAA require illumination on structures
20 in the area of airports?

21 A (Kimball) There is a specific area that required
22 illumination. I don't believe the structures
23 behind McKenna's Purchase are included in that
24 section of the transmission line.

1 Q The statement that you just made that the
2 engineers had told you that there will be no
3 illumination on those, do you have that in
4 writing?

5 A (Kimball) They provided us with data points of
6 all of the structures that would have lights,
7 and those are located primarily to the east of
8 the airport. McKenna's Purchase is quite a bit
9 to the north.

10 Q And this document that you're referring to, has
11 that been produced in discovery?

12 A (Kimball) It wouldn't be something that we
13 produced so we wouldn't have produced it during
14 discovery, but I'm assuming it has been included
15 as part of the work done by the engineers.

16 MR. JUDGE: Mr. Needleman, is her
17 assumption correct?

18 MR. NEEDLEMAN: I don't have any idea. We
19 can look.

20 PRESIDING OFFICER HONIGBERG: Let's find
21 out if that's been produced in discovery.

22 MR. NEEDLEMAN: That particular document?

23 PRESIDING OFFICER HONIGBERG: What Ms.
24 Kimball just described. I think a map with data

1 point or maybe it's data points. Maybe it's not
2 a map. I'm not sure. Ms. Kimball, what exactly
3 were you describing there?

4 A (Kimball) Data from the engineers that showed
5 the location of the illuminated structures.

6 PRESIDING OFFICER HONIGBERG: Mr.
7 Needleman, you'll check into that?

8 MR. NEEDLEMAN: Yes.

9 MR. JUDGE: I missed that last exchange.
10 No objection to that.

11 PRESIDING OFFICER HONIGBERG: He's going to
12 look.

13 MR. JUDGE: Okay. Thank you.

14 BY MR. JUDGE:

15 Q Are you familiar with the concept of light
16 pollution?

17 A (Kimball) Yes, I am.

18 Q And light pollution is particles in the sky that
19 reflect urban light emissions and it blocks your
20 ability to see the stars. Isn't that correct?

21 A (DeWan) That is one of the definitions of it.
22 Yes.

23 Q It's also called sky glow.

24 A (DeWan) That is what some people determine it to

1 be, yes.

2 Q And it affects people, particularly astronomers,
3 right?

4 A (DeWan) It can.

5 Q And you were questioned by Attorney Pacik
6 yesterday about Concord Country Club and lights
7 in the distance, and your comment was you'd have
8 to use a binocular in order to pick it out. Do
9 you remember that testimony?

10 A (DeWan) From that location, I believe we were
11 talking about a distance of about three miles
12 away.

13 Q And three miles away, would you agree with me
14 that lighting such as what you were describing
15 yesterday would result in light pollution?

16 A (DeWan) Would not result in light pollution?

17 Q It would result in light pollution. It would
18 affect the ability of the people in the Concord
19 Country Club to be able to see the night sky.
20 Would you agree with that?

21 A (DeWan) I can't imagine it would affect the
22 ability of the people in the Concord Country
23 Club at a distance of three miles any more than
24 the existing lights that surround the runways at

1 Concord Airport and any of the other lights or
2 lights generally in the City of Concord.

3 Q Do you know what lights are visible from the
4 Concord Country Club?

5 A (DeWan) I do not.

6 Q Okay. Hang on a second, please.

7 So Mr. DeWan, you have been to McKenna's
8 Purchase, right?

9 A I have been.

10 Q It's an attractive safe quiet neighborhood?

11 A (DeWan) It's certainly appeared to be a very
12 attractive, well-kept neighborhood when I
13 visited it.

14 Q Are you familiar with something, a concept
15 called The Great American Neighborhood?

16 A (DeWan) Yes. As you know, I wrote a book on the
17 subject for the Maine State Planning Office.

18 Q And you are a fellow in the ASLA; is that
19 correct?

20 A (DeWan) That's right. I was the first one
21 designated in the state of Maine.

22 Q Very good. I applaud you for that. And one of
23 the reasons that you were made a fellow was your
24 commitment to the highest ideals of livable

1 communities; is that correct?

2 A (DeWan) I don't know where you're read that
3 from, but I. --

4 Q I read it from the ASLA site.

5 A American Society of Landscape Architects.

6 Q Yes. There was a little biography of you in
7 2011 when you were made a fellow.

8 A I'll agree that's probably there.

9 Q Okay. So you were asked a question yesterday by
10 one of the people about whether or not you would
11 want this Project to be in your backyard, and
12 your answer was that's personal question. So I
13 want to ask you a different question. I want
14 your professional opinion as a fellow of ASLA
15 and as the author of The Great American
16 Neighborhood, would this Project have a
17 potential adverse effect in a Great American
18 Neighborhood?

19 A (DeWan) Well, if you were to use this site as an
20 example.

21 Q Yes.

22 A (DeWan) You have, might even consider a
23 prototypical Great American Neighborhood. By
24 that we mean a compact, walkable community, you

1 would have to ask the question, well, what's the
2 interface between surrounding land uses and the
3 residential units and how will that change with
4 the introduction of this Project. We know that
5 one of the things that they did when they built
6 the Project initially and surrounding land use
7 has changed was to install an earth berm between
8 the big box development on the other side and
9 McKenna's Purchase. There was also landscaping
10 installed. And as you know one of the things
11 that's being considered right now and proposed
12 is to relocate the earth berm to add additional
13 plantings and as you saw in the photographs that
14 you supplied, the vegetation that's out there
15 has done remarkably well since the time that we
16 took the photographs.

17 And so there's going to be some effect on
18 the edges of the development area, and I think
19 that's true in virtually any development we've
20 ever seen. There's going to be some areas that
21 may have views, that may have situations that
22 people may choose not to buy because they don't
23 like that. But as we know now, there are people
24 that, a few people at McKenna's Purchase that do

1 have an existing view of the facility. Those
2 are the people I think that we're most concerned
3 about, and we took that walk and we stood on
4 their back decks. We looked out. We
5 anticipated what would change. We supplied the
6 photo simulations. We went back to the middle
7 of the parking lot to actually get a more
8 universal view.

9 And so getting back to your initial
10 question, can it coexist, I would certainly
11 think so because that's one of the things we
12 like to talk about in the Great American
13 Neighbor is we look at some of these
14 opportunities for walkable neighborhoods and
15 areas that provide a great deal of vitality to
16 the community and the surrounding neighborhoods.

17 Q My questions seem to go through some sort of
18 time warp between me and you. I didn't ask you
19 that question. I asked you the question would
20 having this transmission corridor behind
21 McKenna's Purchase have potential adverse effect
22 on the people who live there and the property.
23 Yes or no question.

24 A I thought you were talking about the Great

1 American Neighborhood dialogue.

2 Q That's a fair comment. That was my initial
3 comment. Would it have an effect on the Great
4 American Neighborhood, but let's move on because
5 you kind of changed it to McKenna's Purchase.

6 A I asked you if we could use that as a test case.

7 Q Yes. So my question is, would having a
8 transmission corridor like this behind McKenna's
9 Purchase where the poles are going to be higher,
10 the lines are going to be higher, the arms are
11 going to be higher, would that have a potential
12 adverse effect on the aesthetics of McKenna's
13 Purchase?

14 A (DeWan) It will have some effect in a very
15 limited area. One of the things that we found
16 in driving around is that this is a really
17 well-planted, well-vegetated area. And we kept
18 looking to see where is it going to be visible
19 from. And I think our conclusion was primarily
20 in that first row of units where the end units
21 face out usually at a 45-degree angle to the
22 transmission corridor. In virtually every one
23 of those situations there's plantings right now
24 that provide a reasonable visual screen between

1 the corridor and those units.

2 Q And you're assuming in your answer that the
3 structure is built exactly as you portrayed it
4 in the photo simulation back in 2015. Is that
5 correct?

6 A (DeWan) As we've said before, we used best
7 information to provide McKenna's Purchase with
8 an illustration of what we felt it was going to
9 look like in that time period.

10 Q And I've asked you several times now whether or
11 not it will be a potential adverse effect, and
12 you have agreed with us that that will be an
13 effect. Let me ask you straight out. Will the
14 effect be adverse?

15 A (DeWan) Well, as you know, in our evaluation we
16 don't do an evaluation of adverse or
17 unreasonable adverse on specific properties or
18 specific viewpoints. We do an evaluation
19 generally of high, medium or low and I don't
20 believe we did that in this situation because it
21 is not a scenic resource.

22 Q I'm asking you, sir, as a professional landscape
23 architect, a fellow of that organization, and
24 you, ma'am, as a professional landscape

1 architect, your opinion about whether or not a
2 transmission corridor would have potential
3 adverse effect on aesthetics of a condominium
4 association like McKenna's Purchase.

5 A (DeWan) I guess I would repeat my generalized
6 statement, but as well also to add if we were to
7 do that, we would have to go there, revisit it
8 and do an entire analysis like we've done for
9 all of the other scenic resources that we've
10 done. We haven't done a Visual Impact
11 Assessment on McKenna's Purchase.

12 Q So you're willing to testify that there will be
13 an effect, but you're not willing to -- do you
14 think it's going to be a beneficial effect?

15 A (DeWan) Well, if you think about McKenna's
16 Purchase, again, let's just assume for the
17 moment that McKenna's Purchase was a scenic
18 resource. It's an area. Remember, we've talked
19 about points, lines and areas. So it's a square
20 area, several acres in size. And so if we were
21 to do an assessment like that, we would take
22 into account the fact that yes, there's going to
23 be some edge conditions where it's going to be
24 highly visible, some that's going to be

1 moderately visible. The majority of it is
2 probably going to be have virtually no
3 visibility.

4 So if we were to do this, we would analyze
5 where it was going to be visible from and the
6 effect that it may have, but then do an
7 assessment of the overall McKenna's Purchase.
8 We have not done that so we cannot give you an
9 answer as to whether or not it's going to have
10 what you call an adverse effect.

11 Q Do you understand that a condominium association
12 all the owners own an undivided interest in it,
13 that they all are affected by what happens on
14 the border?

15 A (DeWan) From a legal standpoint, yes, that's my
16 understanding.

17 Q And you're sticking with -- in answering my
18 question you assumed that McKenna's Purchase was
19 a scenic resource. I'd like you not to assume
20 that.

21 A (DeWan) Okay. I'd like you to assume for the
22 purpose of my question that my understanding of
23 the law is correct and that aesthetics have an
24 application to private property. So based on

1 your background, both of you, and your
2 experience, and your having gone to McKenna's
3 Purchase, would you agree with me that a
4 transmission corridor that runs along the side
5 of a condominium association has a potential
6 adverse effect on the aesthetics of that
7 property?

8 MR. NEEDLEMAN: Objection. Asked and
9 answered.

10 PRESIDING OFFICER HONIGBERG: You can
11 answer again.

12 A (DeWan) I will grant you there's going to be an
13 effect. But, A, we have not done a evaluation.
14 We've done one site visit. It would not be
15 professional for us to render an opinion without
16 doing a complete Visual Impact Assessment using
17 the methodology that we've outlined in our
18 report.

19 Q Do you have any answer to that question?

20 A (Kimball) I agree with Mr. DeWan.

21 Q No further questions.

22 PRESIDING OFFICER HONIGBERG: All right. I
23 believe Ms. Lee is going to be next. Why don't
24 we take five minutes and allow her time to get

1 set up and others to take whatever break they
2 might need.

3 And Mr. Needleman, you're looking for an
4 answer to the question that Mr. Judge asked?

5 MR. NEEDLEMAN: I believe I have an answer.
6 Someone will correct me if I'm wrong. The
7 precise document that Ms. Kimball referred to I
8 don't believe was produced, but there is
9 information that was produced and information
10 that is in the record about exactly which of the
11 structures are required to be lit by the FAA,
12 and I can provide that. It was all produced.

13 PRESIDING OFFICER HONIGBERG: Okay.

14 MR. NEEDLEMAN: Applicant's Exhibit 93,
15 page 49, and then the FAA memo that contains the
16 information about lighting structures was
17 provided on March 24th, 2017, as part of the
18 supplementing of the record on ShareFile.

19 PRESIDING OFFICER HONIGBERG: Thank you.

20 (Recess taken 2:43 - 2:50 p.m.)

21 PRESIDING OFFICER HONIGBERG: Ms. Lee, you
22 may proceed.

23 CROSS-EXAMINATION

24 BY MS. LEE:

1 Q Okay. Thank you. Hi, Panel for Aesthetics. My
2 name is Mary Lee. I live in Northfield. And I
3 did have a look at your Visual Assessment for a
4 property that's very close to where I live in
5 Northfield. And I have before you the map that
6 shows my street, Fiddlers Choice Road, that's
7 connected to the property that you actually used
8 in your Visual Assessment simulation on Oak Hill
9 Road.

10 I'll show you on the map relative to Oak
11 Hill where I am. This little trapezoid here is
12 my property. It's number 7405. And to approach
13 this very unique property, this light yellow
14 circle is my house. You have to go through the
15 trees, the tree line, and this sandy area is
16 actually my, as I learned from a fellow from
17 Montana it's called a -- I call it a dirt path,
18 but he said it was a two -- what was it?
19 Two-laner or something like that? Which means
20 it's hardly passable by one car. So this is a
21 foot path that's all dirt and sand.

22 And if you follow this out, this sandy area
23 is part of my driveway, you're approaching it
24 through the trees here. And then this purple

1 spot where there's a remaining existing
2 structure is right about where my mailbox is.
3 Now, if I stand here to collect my mail, and I
4 walk down Fiddlers Choice Road here, you'll come
5 to the end of my street. And do you see Oak
6 Hill Road? You had one property on your
7 simulation revised version, Oak Hill Road, and
8 you showed a particular viewpoint of a couple of
9 monopole, weathered steel monopoles in your
10 simulation. So if you go from Oak Hill Road
11 where you did visit my neighborhood, did you
12 actually visit Fiddlers Choice Road at any time
13 at all?

14 A (DeWan) I do not believe we did.

15 Q Okay. I'm on the Canterbury line so if you took
16 a right on Oak Hill Road you would approach the
17 Oak Hill property that you actually took photos
18 of for your simulation revised version.

19 But since you're in the neighborhood you
20 might as well come back down my street here on
21 Fiddlers Choice, and you'll see I'm surrounded,
22 it's referred to in your simulation as a
23 residential rural neighborhood, and it's mostly
24 farmland. I'm close to the Merrimack River. I

1 could walk to it in half an hour.

2 PRESIDING OFFICER HONIGBERG: Ms. Lee, what
3 is your question?

4 Q Well, my first question was you didn't visit my
5 neighborhood?

6 PRESIDING OFFICER HONIGBERG: We got that
7 part. They didn't visit your neighborhood.
8 What's the next question?

9 Q Did you survey part of the Merrimack going
10 through Canterbury or how did you reach the
11 Merrimack in this neighborhood?

12 I'll show you on the map where the
13 Merrimack is. Is the Merrimack on your left
14 that light yellow stream?

15 A (DeWan) Yes. We see it there.

16 Q How did you approach the Merrimack River to do
17 your photo?

18 A (Kimball) Which photo are you referring to?

19 Q The one, the segment where you had several views
20 of the Merrimack River.

21 A (Kimball) In our report?

22 Q Yes.

23 A (Kimball) I believe that the -- just going to it
24 now in our report. I believe that the location

1 that we focused our analysis on was the crossing
2 of the Merrimack River.

3 Q The crossing by which route?

4 A (Kimball) Let me get to it here. Is it 104?
5 Route 3.

6 Q Route 3, right. Over here. If you, you're
7 looking here, going north from my house, you're
8 traversing here Route 3. And I've traversed
9 from Concord to Route 3, and you can see it as
10 you head toward West Franklin. So you didn't
11 really visit my real neighborhood as far as
12 walking up any of the banks along the power line
13 cut; is that correct?

14 A (DeWan) We concentrated on looking at recognized
15 scenic resources.

16 Q All right.

17 A (DeWan) So yours was a residential neighborhood.

18 Q Right.

19 A (DeWan) And did not meet the criteria for a
20 scenic resource under the terms of the rules.

21 Q Okay. And do you visit if it's purely
22 designated by, say, the town as a conservation
23 zone or if it's designated as part of the care
24 of the Upper Merrimack River Local Advisory

1 Committee? We have a couple of rivers that are
2 protected. Do you visit the rivers that are
3 protected only?

4 A (Kimball) We visited the Merrimack River in that
5 area. Is there a specific river that you're
6 referencing?

7 Q No. Just the Merrimack.

8 A (Kimball) Okay.

9 Q And I'm showing you this because it's not only
10 in the conservation zone designated by my town,
11 and I testified at, I believe it was a
12 Construction Panel about construction in a
13 conservation zone, and not only is it a
14 conservation zone, but in the property tax map
15 for Northfield, it's also designated as a
16 Groundwater Protection District. So if you're
17 looking at the aerial view, you'll see it's
18 mostly trees. And it's been described in one of
19 the maps I looked at, and I don't know if it was
20 your map, it was rated as isolated. In another
21 description I know you called it a residential
22 rural area when you rated the place that's up on
23 Oak Hill Road, and it's a similar residential
24 rural area.

1 Now, I want to show you a very bad
2 photograph next. I took it myself. I took this
3 picture, and I kind of zoomed it up. I took it
4 with a very small flip phone camera. Do you
5 know what that is?

6 A (DeWan) I remember those. Years ago.

7 Q Anyway. This is from my kitchen window. This
8 is what I would call my buffer screen. It's
9 about 100 feet from the north, it's 100 feet on
10 the northeast corner of my house to my well
11 area. If this was a better picture, I'm
12 standing here in front of the kitchen sink.
13 This is my buffer zone. And it screens out the
14 power lines, and if I look at it at a certain
15 time of day, early morning, sometimes at dusk,
16 sometimes on a very bright day I can actually
17 see the wooden pole H-Frames that are out in the
18 corridor.

19 So behind this set of buffer trees,
20 vegetation, this is going to be the approach to
21 my yard and my kitchen window. The proposed 115
22 kV line is going to be relocated closer to my
23 yard, closer to my well area. I had the
24 engineers from Burns McDonnell visit me, and we

1 staked, again, the area that would most likely
2 be cut and trimmed and cleared. I was explained
3 to, I was explained --

4 PRESIDING OFFICER HONIGBERG: Ms. Lee.
5 What is the question associated with the
6 picture?

7 Q Okay. This is a screen that I have today out my
8 kitchen window.

9 A (DeWan) Is all this on your property right now?

10 Q Excuse me?

11 A (DeWan) Is all of these on your trees on your
12 property or part of them within the
13 right-of-way?

14 Q It's within the right-of-way, but I have a very
15 unique sharing with, the easement is within the
16 former PSNH clearing of the right-of-way
17 corridor. It's also, this property is unique in
18 that it's shared with an abutting landowner who
19 lives in Charlestown, Massachusetts. My
20 driveway --

21 PRESIDING OFFICER HONIGBERG: Wait, wait,
22 wait. What's the question?

23 Q It's shared property so --

24 PRESIDING OFFICER HONIGBERG: What is the

1 question you have for them?

2 Q The question is if and when this Project is
3 approved, there's a proposal to cut my buffer,
4 and it's going to come, it's going to make it
5 less private, and because of the unique nature
6 of my driveway, it's also a buffer against wind
7 and snow to the point that, I've been here 36
8 winters now. And if it snows a certain kind of
9 snow, and it blows right back after the plow
10 leaves, I don't have any buffer. So as far as
11 your work, the buffer that is in place right
12 now, you understand and you're aware that
13 private properties will have their buffers cut
14 and cleared and trimmed.

15 PRESIDING OFFICER HONIGBERG: And the
16 question is?

17 Q Are you aware of this?

18 A (DeWan) I am aware there will be some removal of
19 vegetation within the corridor in certain
20 locations.

21 Q I believe that --

22 A (DeWan) I don't know the specifics of your
23 individual situation.

24 Q Right. I understand from the previous questions

1 that you're not dealing with individual
2 properties, individual private properties unless
3 they're considered or rated as a --

4 A (DeWan) Scenic resource.

5 Q A unique scenic resource.

6 A (DeWan) Yes.

7 Q But we share a lot of the same issues as far as
8 use of screening and buffer and vegetation. So
9 my question to you, I have a list of questions
10 now I've shown you the pictures.

11 A (DeWan) Are all the trees going to be removed?

12 Q As I understand it, they're going to clear 20 to
13 25 feet from the edge of the right-of-way toward
14 my yard and my well, and that means that I have
15 30 feet of trees and vegetation between the
16 house, I mean, excuse me, between the edge of
17 the clearing and the well. So it's pretty darn
18 close.

19 A (DeWan) So 30 feet of trees would remain then.

20 Q Yes. I will have a slight buffer. And I'm
21 going to go to my questions, Dawn. Should I
22 just -- can I look at my questions?

23 MS. GAGNON: Yes.

24 Q Excuse me, Dawn. Can you make my screen small

1 again? I found it. Thank you. Okay. Are you
2 ready?

3 A (DeWan) Ready. Yes.

4 Q I have some questions. All right. You've seen
5 the overview of the map, and you've seen the
6 kitchen window screening. My first question is
7 if the trees and vegetation are cut for clearing
8 that's proposed to accommodate the 115 kV poles,
9 what kind of native trees or plants or what you
10 call noncapable, and I believe noncapable refers
11 to not capable of reaching a certain height?

12 A (DeWan) That is correct. Yes.

13 Q According to the peripheral zone of the power
14 line edge. Is that what that means?

15 A Generally, it means that the trees are, small
16 trees or shrubs doesn't achieve a height greater
17 than 15 feet or so.

18 Q Okay. That's different information than I got.

19 A (DeWan) Excuse me. That's the standard we use
20 when we worked with another power project in the
21 state of Maine.

22 Q Okay. So it's 15 feet you would say noncapable
23 because it won't exceed the 15 feet.

24 A (DeWan) When we're planting underneath a power

1 line, yes. You don't want to go too far close
2 to the power line.

3 Q All right. And you're talking about underneath
4 the power line directly under the wires.

5 A (DeWan) That's correct.

6 Q Okay. But not in what I understand to be the
7 peripheral zone?

8 A (DeWan) That may be different. Again, we have
9 not done any research or any investigations or
10 any plans dealing with your type of situation.

11 Q Okay. So you're not dealing with buffer and
12 screening?

13 A (DeWan) Not for private properties. I know it
14 has been addressed by Mr. Bowes when he appeared
15 before this Committee, and he said that, and I'm
16 reading from this testimony, this Project will
17 during construction phase look to replace
18 vegetative screening and working with
19 landowners. So there is a commitment on the
20 part of the Applicant to work with people like
21 yourselves who have situations that you feel may
22 require some additional reinforcement in the
23 vegetation that's left out there to achieve
24 screening or privacy or whatever the concern may

1 be.

2 Q Okay. My concerns are not only for aesthetics.
3 I look at that scene every day, and I back out
4 to my mailbox, quarter of a mile, and both sides
5 are, I'm embraced by trees on both sides along
6 the driveway. As you can see, as you saw from
7 the overhead map, there's trees everywhere.
8 Some of those on the west side to accommodate
9 the relocated will be cut and trimmed.

10 PRESIDING OFFICER HONIGBERG: I'm sorry,
11 Ms. Lee. I've lost the question again. What is
12 it you want to know from these witnesses?

13 Q My question is if this Project is permitted, and
14 the trees or vegetation are cut for clearing
15 that it's proposed for the relocated poles, what
16 kind of native trees or plants that are called
17 not capable do you recommend to create a good
18 buffer between private property and my not
19 having to look at the weathering steel monopoles
20 outside my window?

21 A (DeWan) Well, obviously, I can't address that
22 because we have not been asked to do that level
23 of work. I would only relate to our experience
24 in another Project and in other Projects. If we

1 got involved in this, and we have not been asked
2 to do that, we would go to the property, assess
3 what the problem is, hear the concerns of your
4 landowner. In your case you want to see a
5 variety of different things, native species and
6 so forth. Then to develop a planting plan that
7 would meet the specific requirements for
8 buffering, privacy and so forth.

9 So, again, that's the Project we would take
10 in the past. I don't know how the Applicant
11 will approach this in the future, but I know
12 that in our testimony we've heard from Mr. Bowes
13 that they intend to be very sensitive people in
14 your situation.

15 Q So you're saying by being sensitive they mean to
16 replace my screening and to accommodate the wind
17 buffering and to please my eyes aesthetically?

18 A (DeWan) Again, I'm reading from his testimony.
19 It's not going to be replacement in kind, but we
20 will provide vegetative screening.

21 Q And your part as the consultant for aesthetics
22 had no requirement or no direction to provide
23 for private property screening or advice on
24 that?

1 A (DeWan) Not at this time in the process.
2 Usually, again, my experience in other
3 situations is that you deal with the macro
4 issues first. And then once Projects are under
5 construction, then you start looking at
6 individual issues and deal with those on a case
7 by case basis.

8 Q But you have no experience in New Hampshire. Or
9 with Eversource.

10 A (DeWan) I've had experience in New Hampshire in
11 the past. Most of my experience has been in
12 similar situations in the state of Maine.

13 Q All right. So it's all Maine experience. But
14 we're part of a New England sisterhood.

15 A (DeWan) I think we share the same environmental
16 concerns.

17 Q All right.

18 A (DeWan) And issues.

19 Q Thank you. And do you recognize particular
20 trees or plantings that are hearty or
21 fast-growing or particularly useful for wind
22 breaks and buffering for weather?

23 A (DeWan) I know that as part of the work that we
24 did for the MPRP project, the Maine Power

1 Reliability Project, we prepared a detailed list
2 of plant material that may be used to address
3 just those situations. And then once it comes
4 time to looking at specific applications, then
5 we'll select from those lists. We know that
6 some plants do well in wetland, some plants will
7 do well in urban situations. Some do well in
8 windy situations. But without seeing your
9 situation, we certainly couldn't make any
10 recommendations right now.

11 Q Right now. Will you be required to recommend in
12 the future for this Project if it goes through?

13 A (DeWan) Again, we have not been given any
14 assignment to do any work like this in the
15 future. I know that, again, from Mr. Bowes's
16 testimony, it's the intent of the Applicant to
17 do, to work with people like yourself.

18 Q Um-hum. Okay. Thank you. Is there, from your
19 30 years experience or more, what must the
20 buffer of plantings be to ensure a very thick
21 and screening effect, aesthetically pleasing as
22 well?

23 A There's a very site specific question. I would
24 hesitate to give an answer because that demands

1 that you need to know what is it you're
2 screening on the other side, why are you
3 screening. Are you screening it for visual
4 purposes or noise purposes or glare from
5 headlights purposes. So it really depends. And
6 some, I know some Planning Boards require double
7 rows of pine trees. That's enough. And some
8 places it may require more than that. Some
9 places may require less than that.

10 Q So there's no set standard unless you actually
11 have somebody, say, who is a landscape architect
12 or perhaps an arborist?

13 A (DeWan) Perhaps an arborist, yes. I think that
14 that's the reference that was made in Mr.
15 Bowes's testimony.

16 Q Do you interpret that as we would only have the
17 services of an arborist to make those
18 determinations as to the type of buffer
19 screening, what kind of vegetation, looking at
20 the sandy soil, what would be best suited for
21 riverine, very sandy soil?

22 A (DeWan) My understanding is that at this point
23 Mr. Bowes's statement were based on a concept of
24 how to deal with situations like yourself. The

1 fact that he's made reference to a trained
2 professional, in this case an arborist, says
3 that there's a commitment to bring somebody out
4 there that knows what they're doing that would
5 be able to look at things like what type of soil
6 you have, what sort of weather conditions might
7 you expect, what sort of plants are growing in
8 the vicinity, and then to select plant materials
9 that are going to be suitable for your specific
10 application.

11 Q All right. In your role as a consultant
12 witness, do you actually work with arborists for
13 Eversource? Do you have some kind of --

14 A (DeWan) We have not worked with arborists at
15 Eversource at this point. We have in other
16 situations with other utility companies.

17 Q Okay. Thank you. Do you consider weathering
18 steel monopoles ideal or suitable aesthetically
19 for residential use in landscape design of
20 communities in rural residential or that type
21 of neighborhood as mine would be?

22 A (DeWan) I would say weathering steel monopoles
23 are very suitable in many locations. Again, I
24 can't give you a universal yes or no answer,

1 and, again, we're not dealing with residential
2 neighborhoods at this point.

3 Q You mean even though you've been all over the
4 state doing view assessments for the SEC
5 statutes, you wouldn't consider that along the
6 way you look at a lot of private property, and
7 they would be scarred by a whole row of
8 monopoles. I mean, I would be looking, last
9 time I gave testimony, I was at my mailbox, and
10 if I just turn my back, I would count ten poles
11 I could see without my glasses. And if I were
12 to go to the corner of my property and look down
13 toward the Merrimack River, I can see ten poles
14 again.

15 PRESIDING OFFICER HONIGBERG: Let me stop
16 you, Ms. Lee. What's the question for the
17 witnesses?

18 Q The question is along your planning all over New
19 Hampshire, doing the view assessments and doing
20 the simulations, have you considered that it's
21 not a good idea to put those monopoles for the
22 length of miles that the NPT proposes is a good
23 idea, do you think?

24 A (DeWan) Is that the question? Is it a good

1 idea?

2 Q Well, I'll rephrase my question. Do you
3 consider weathering steel monopoles ideal or
4 suitable aesthetically for residential use in
5 landscape design of communities that are rural
6 in nature?

7 A (DeWan) I think as we've testified before this
8 group, we took a look at the overall Project, we
9 identified where scenic areas were and publicly
10 accessible places, and we made the decision
11 working with the Applicant and the engineering
12 teams about where to locate weathering steel
13 monopoles relative to sensitive scenic
14 resources. We're talking about publicly
15 accessible. We did not specifically talk about
16 private residential neighborhoods like yourself.

17 Q Right.

18 A (DeWan) So we have not done a analysis to the
19 effect that you're asking, I believe.

20 Q Right, but I think, I can bring the statute out
21 about how they consider what is able to be rated
22 by you. According to your system. I think a
23 reasonable woman would look at a whole row of
24 those monopoles, and I've seen a couple of

1 examples. At the Steeplegate Mall one of the
2 approaches has steel monopoles, and the first
3 time I saw it was there, I believe. It's
4 stunning. It's shocking in scale.

5 PRESIDING OFFICER HONIGBERG: Ms. Lee.
6 Stop. Stop. Stop. Ms. Lee. Stop. Stop.
7 This is not a time for you to continue to tell
8 stories and testify. Do you have any other
9 requests for this Panel?

10 MS. LEE: Yes, I do.

11 PRESIDING OFFICER HONIGBERG: Please ask
12 your questions.

13 BY MS. LEE:

14 Q Thank you. So do you consider that monopoles
15 would be suitable for rural residences even
16 though you weren't rating them as part of your
17 work? Do you consider along the way to all of
18 these scenes that you assessed and you reviewed
19 that they're suitable for residences and private
20 property?

21 A (DeWan) I believe I've answered that question
22 already.

23 PRESIDING OFFICER HONIGBERG: And the
24 general answer in a couple of words would be?

1 A (DeWan) Our review has looked at publicly
2 accessible scenic resources. We did not look at
3 rural residential neighborhoods or areas.

4 Q All right. Thank you. Is it possible to
5 minimize or mitigate the view of weathering
6 steel monopoles with enough buffer to consider
7 it aesthetically designed landscaping? Is that
8 possible?

9 A (DeWan) Again, we'll have to go back to some
10 personal experience that we've had in other
11 situations where people did not like the views
12 of a particular structure near to their homes.
13 And again, working with, on private property,
14 people have allowed us to do plantings on their
15 yards so that from particular prime views of
16 inside their house, we're able to plant groups
17 of vegetation in such a way that would be close
18 enough to their homes so that the new trees
19 would block the views of structures.

20 Q Did you do this for a utility?

21 A (Carbonneau) Central Maine Power Company is part
22 of the MPRP Project. We've also worked in
23 similar capacities for Bangor Hydroelectric
24 Company in northern Maine.

1 Q Okay. Thank you. Do you agree that a property
2 owner who has lived with wooden monopoles and
3 wooden H-Frames and wooden 3 hole structures
4 might consider that weathering steel monopoles
5 and H-Frames would be unenjoyable and unexpected
6 aesthetically?

7 A (DeWan) I would certainly agree that's a
8 possibility.

9 Q Thank you. Do you agree that a property owner
10 may consider the use of industrial designed
11 weathering steel monopoles and H-Frames
12 unacceptable for residential property?

13 A (DeWan) Sounds very similar to the last
14 question, but I would say that's, again, a
15 possibility.

16 Q It's a possibility that it might not be suitable
17 for --

18 A (DeWan) No. That people may not, they may not
19 appreciate the view of those two types of
20 structures.

21 Q All right. Especially if you've lived for a
22 while with the wooden ones. And do you agree
23 that avoidance might be the only way to get an
24 aesthetically pleasing design?

1 A (DeWan) No. I do not.

2 Q Okay. Thank you.

3 PRESIDING OFFICER HONIGBERG: Is that it,
4 Ms. Lee?

5 MS. LEE: Yes. Thank you.

6 PRESIDING OFFICER HONIGBERG: That's going
7 to end the questioning for today, and we'll
8 break, but before we do, Mr. Roth, this is your
9 last day with us, correct?

10 MR. ROTH: Sadly, yes.

11 PRESIDING OFFICER HONIGBERG: Well, for
12 those who don't know Mr. Roth's history with the
13 SEC, he has regularly appeared as Counsel for
14 the Public before the SEC. One of my
15 predecessors has been around, I don't see him
16 right now, but many of us have had the
17 opportunity to have Mr. Roth appear in front of
18 us. He is a zealous advocate for the State's
19 citizens in that role. It is not an accident
20 that the Attorneys General, dating back to early
21 in his tenure at the Attorney General's office
22 have asked him to perform this role which is not
23 an easy one. He is put in between some very
24 powerful interests on all sides and is often

1 viewed by everyone in the room as hostile to
2 their interests when, in fact, it's probably not
3 true, and he is doing a very important job that
4 New Hampshire law requires him to do, and he
5 does it quite well, with a lot of vigor and a
6 lot of energy and a lot of honor, frankly.

7 So on behalf of the Site Evaluation
8 Committee, myself personally and my predecessors
9 who have occupied the chairs, we want to thank
10 you for your years of service as Counsel for the
11 Public and wish you luck as you move on to
12 another position within the State.

13 MR. ROTH: Thank you.

14 PRESIDING OFFICER HONIGBERG: And the
15 record will reflect that there was a large
16 ovation for Mr. Roth.

17 Thank you all. We'll adjourn for the day
18 and see you all on Friday.

19 (Hearing recessed at 3:24 p.m.)
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C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 17th day of September, 2017.

Cynthia Foster, LCR