

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

June 23, 1997 - 10:05 a.m.  
Concord, New Hampshire

Adversarial Hearing - Day I

\* \* \* \* \*  
Portland Natural Gas Transmission System and \*  
Maritimes & Northeast Pipeline, L.L.C. \*  
SEC Docket Nos. 96-01 & 96-03 \*  
\* \* \* \* \*

This meeting held before the New Hampshire Site  
Evaluation Committee at the Health & Welfare  
Building, Hazen Drive, Concord, New Hampshire,  
on Monday, June 23, 1997, commencing at 10:05 a.m.

PRESENT: SITE EVALUATION COMMITTEE

Robert W. Varney, Chairman {DES}  
Douglas Patch, {PUC}  
Susan Geiger, {PUC}  
Bruce Ellsworth, {PUC}  
Michael Cannata, {PUC}  
Richard McLeod, {DRED - Parks & Rec.}  
Jeffrey H. Taylor, {State Planning}  
Edward Schmidt, Ph.D, {DES- Water Div.}  
Robb Thomson {DRED}  
Kenneth Colburn, {DES - Air Resources}  
Deborah Schachter, {Gov. Energy Office}  
Philip Bryce, {DRED - Forests & Lands}

SAMUEL S. GRAY, C.S.R.  
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Derry, New Hampshire 03038

1 APPEARANCES:

2 COMMITTEE COUNSEL:

Vincent J. Iacopino, Esq.  
Jennifer Patterson, Esq.  
Assistant Attorney General

3

4 FOR THE PUBLIC:

Leslie J. Ludtke, Esq.  
Justin Richardson, Esq.  
Assistant Attorney Generals

5

6 FOR PORTLAND NATURAL GAS:

Gallagher, Callahan & Gartrell  
By: Donald Pfundstein, Esq.  
James Kruse, Esq.

7

8 FOR MARITIMES & NORTHEAST:

Sheehan, Phinney, Bass & Green  
By: Robert P. Cheney, Jr., Esq.

9

10 FOR THE TOWN OF SHELBURNE:

John Carpenter  
David Carlisle

11

12 ADMINISTRATOR:

Cedric H. Dustin, Jr.

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{List of PNGTS/Maritimes  
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1   CHAIRMAN VARNEY: I'd like to call  
2 the meeting of the Site Evaluation Committee to order.  
3 Good morning ladies and gentlemen. Today the Site  
4 Evaluation Committee will hold an adversarial hearing on  
5 the amended application of Portland Natural Gas  
6 Transmission System for an energy facility certificate to  
7 construct, operate and maintain a natural gas pipeline,  
8 approximately 73.5 miles of 24 inch outside diameter  
9 pipeline, extending from Pittsburg, New Hampshire across  
10 New Hampshire to Shelburne, New Hampshire, along with a  
11 lateral that extends 0.7 of a mile to Groveton, New  
12 Hampshire. This route will travel through the towns of  
13 Pittsburg, Stewartstown, Colebrook, Columbia, Stratford,  
14 Northumberland, Stark, Dummer, Milan, Gorham and Shelburne  
15 and the City of Berlin; and the amended petition of  
16 Portland Natural Gas Transmission System and Maritimes &  
17 Northeast Pipeline, L.L.C, to construct and operate 101.3  
18 miles of 30 inch outside diameter mainline between Dracut,  
19 Massachusetts and Westbrook, Maine, along with a lateral  
20 that extends 0.4 miles to Newington, New Hampshire. This  
21 route will travel through the towns of Plaistow, Newton,  
22 East Kingston, Exeter, Stratham, Greenland and Newington  
23 and the City of Portsmouth.

24   The hearing is held pursuant to RSA chapter

1 162-H and a notice of hearing was published in various  
2 newspapers circulated in Coos and Rockingham Counties.  
3 Various informational hearings were in held Coos County and  
4 Rockingham County in the towns of Gorham on September 12th,  
5 Groveton February 5th, Exeter September 9th, December 18th  
6 and March 5th. Copies of the application, written  
7 testimony and all transcripts and exhibits relating to this  
8 proceeding are available at the offices of the Site  
9 Evaluation Committee and at the Selectmen's offices in each  
10 town where the pipeline traverses.

11 It has been the practice of the Committee to  
12 accept statements from those making limited appearances and  
13 members of the public at the beginning or at the end of  
14 each day of the adversarial hearings. Members of the  
15 public may also file written statements with the Committee.  
16 The Committee intends to proceed today by first introducing  
17 the members of the Committee, the Committee staff, the  
18 Public Counsel, the applicant and persons who are granted  
19 general party status. Next the Committee will permit the  
20 applicant to support their application through the written  
21 and oral testimony of witnesses, the introduction of  
22 exhibits and other evidence.

23 After the presentation of a witness, the  
24 witness will be subject to cross examination by the counsel

1 for the parties, the members of the Committee, Committee  
2 Counsel, or counsel for the public. At the conclusion of  
3 the applicant's presentation, the Public Counsel will be  
4 permitted to present witnesses, testimony, exhibits.  
5 Witnesses will be subject to cross examination by the other  
6 parties.

7 At the conclusion of the Public Counsel's  
8 presentation, the other general parties shall present their  
9 testimony, exhibits and evidence and will be subject to  
10 cross examination by the other parties.

11 After the presentation of all the evidence  
12 the parties will be given an opportunity to make closing  
13 statements and to submit additional information as required  
14 by the Committee. After considering all the testimony,  
15 exhibits and evidence in the proceeding, the Committee will  
16 render a decision by issuing a written report as required  
17 by the statutes of the State of New Hampshire. And we just  
18 had a meeting a few minutes ago, an administrative meeting,  
19 and set July 14th as the date for our decision meeting.

20 Could we start by going around the room to  
21 introduce ourselves.

22 MR. MCLEOD: I'm Rich McLeod, the  
23 Director of Parks and Recreation for the Department of  
24 Resources and Economic Development.

1 MR. CANNATA: Good morning, my  
2 name is Mike Cannata. I'm Chief Engineer at the Public  
3 Utilities Commission.

4 MS. SCHACHTER: My name is Deborah  
5 Schachter, and I'm Director of the Governor's Office of  
6 Energy and Community Services.

7 MS. GEIGER: I'm Susan Geiger.  
8 I'm a Public Utilities Commissioner.

9 MR. ELLSWORTH: Bruce Ellsworth,  
10 I'm a Public Utilities Commissioner.

11 MR. TAYLOR: I'm Jeff Taylor, the  
12 Director of the Office of State Planning.

13 MR. PATCH: Doug Patch, the  
14 Chairman of the Public Utilities Commission.

15 CHAIRMAN VARNEY: Bob Varney, the  
16 Commissioner of the Department of Environmental Services.

17 MR. THOMSON: Robb Thomson,  
18 Commissioner of the Department of Resources and Economic  
19 Development.

20 MR. COLBURN: Ken Colburn,  
21 Director of the Air Resources Division of the Department of  
22 Environmental Services.

23 DR. SCHMIDT: I'm Edward Schmidt.  
24 I'm Director of the Water Division, Department of



1 Environmental Services.

2 MS. PATTERSON: I'm Jennifer  
3 Patterson. I'm an Assistant Attorney General representing  
4 the Committee.

5 MR. IACOPINO: Vince Iacopino,  
6 counsel to the Site Evaluation Committee.

7 MS. LUDTKE: I'm Leslie Ludtke.  
8 I'm the counsel for the public.

9 MR. RICHARDSON: Justin  
10 Richardson, assistant to counsel for the public.

11 MR. DUSTIN: I'm Cedric Dustin,  
12 administrator for the Site Evaluation Committee.

13 CHAIRMAN VARNEY: Do the  
14 applicants want to --

15 MR. CHENEY: I'm Bob Cheney. I'm  
16 local counsel for Maritimes and Northeast Pipeline L.L.C.

17 MR. KRUSE: I'm Jim Kruse, counsel  
18 to PNGTS.

19 MR. PFUNDSTEIN: I'm Don  
20 Pfundstein. I work for Mr. Kruse.

21 MRS. LAMM: I'm Claire Lamm from  
22 Stratford.

23 MR. CARPENTER: John Carpenter,  
24 Chairman of the Shelburne, New Hampshire Planning Board.

1 MR. CARLISLE: Dave Carlisle,  
2 Chair of the Conservation Committee, Town of Shelburne.

3 CHAIRMAN VARNEY: Are there any  
4 other parties?

5 MR. MARTIN: I'm Frederick Martin  
6 from Stratford, and also Dedham, Massachusetts, a landowner  
7 in Stratford seen 1830.

8 CHAIRMAN VARNEY: Any other  
9 parties? Thank you. Public notice--

10 MR. PFUNDSTEIN: Mr. Chairman, if  
11 I might, I have another partner here with me today, Don  
12 Gartrell, counsel to PNGTS.

13 MR. GARTRELL: I just wanted to  
14 indicate, Mr. Chairman, that I have a letter signed by  
15 myself and Mark Beliveau, counsel for Donald and Mary  
16 Robie, indicating that we have reached an agreement  
17 regarding a revised route of their property. They're  
18 available for questions should they be needed, but  
19 essentially they will not be participating today.

20 CHAIRMAN VARNEY: Thank you. For  
21 the record, public notices for the adversarial hearings  
22 were published in Foster's Daily Democrat May 26,  
23 Manchester Union Leader May 26, Coos County Democrat May  
24 28, Portsmouth Herald May 26, and the Berlin Reporter May

1 24. We're now ready for a presentation by the applicants.

2 MR. IACOPINO: Mr. Chairman,  
3 before you begin with the applicant, there are some members  
4 of the public who appeared this morning and indicated they  
5 may like to be heard as soon as they possibly could.

6 CHAIRMAN VARNEY: Great,  
7 absolutely. Raise your hands, please?

8 MR. BEZANSON: My name is Mark  
9 Bezanson, I live in Newton, New Hampshire, and the pipeline  
10 is coming through my family's home, I have a more personal  
11 account, real concern. I've had the opportunity to write  
12 to political figures and other people involved with the  
13 pipeline and my concerns remain the same. We're worried  
14 that the pipeline is going to jeopardize our well water  
15 system and possibly make it so my family will have to move.  
16 I haven't had real satisfying talk with the pipeline  
17 people. They were on our property doing tests for a year  
18 before we found out that they planned to take over more of  
19 our property and jeopardize the well water system. And so  
20 I'm very concerned that that might still happen. That's  
21 it. Thank you.

22 CHAIRMAN VARNEY: Thank you.

23 MR. PATCH: Could I just ask you a  
24 question? How close to your well water system, I mean is

1       it within a matter of feet of where your well is drilled or  
2       could you give us a little bit more in terms of specifics?

3                   MR. BEZANSON:  I didn't measure it  
4       out exactly, but one day I came home and found those little  
5       orange markers that they use while doing the survey and it  
6       was about, estimated at about the 75 feet that they had  
7       proposed to take on our property while they're doing the  
8       work.  And that was about, say about 35 to 40 feet away  
9       from the top of our well water or the top of our well.

10                  CHAIRMAN VARNEY:  What was the  
11       flag, your understanding of the flag location the edge of  
12       the right-of-way?

13                  MR. BEZANSON:  The edge of the  
14       proposed new easement where they would be taking more of  
15       our property than what's already been taken with the  
16       current easement.

17                  CHAIRMAN VARNEY:  So the pipe  
18       itself would be further than that?

19                  MR. BEZANSON:  The pipe itself,  
20       what I understand that's where the construction would be,  
21       which from what I'm understanding could damage the well,  
22       damage the stream underneath or damage the well itself.

23                  MR. PATCH:  How deep is the well?

24                  MR. BEZANSON:  I'm not sure.

1 MR. PATCH: Is it an artesian  
2 well?

3 MR. BEZANSON: I'm not sure.

4 MR. PATCH: And the concern is the  
5 construction phase?

6 MR. BEZANSON: Construction and  
7 plus I don't feel I can really trust the pipeline company.  
8 I'm not sure if other people are up on this, but they came  
9 on to our property and they were doing tests for a whole  
10 year before letting us know about what their plans were.  
11 We got a letter in writing, which apparently everyone got  
12 when they approached them about doing the project, which  
13 explained that they wanted to do some tests, but it didn't  
14 say anything about taking more land or anything that would  
15 jeopardize our home. And so that's, that's a big concern  
16 right there, jeopardize the well water, but also I don't  
17 know if there is anything else that might be jeopardizing  
18 our home and family that they haven't told us about.

19 MR. PATCH: I'm just trying to  
20 understand, jeopardizing the well water, if we knew how  
21 deep the well was and we knew how deep the construction was  
22 going to be we might have a better ability to assess  
23 whether in fact that was going to occur and I didn't know  
24 if your concern was during the construction phase because

1 after it's constructed I don't know if you have a concern  
2 about the pipeline being close to the well after it's  
3 constructed or just while it's being built, I'm trying to  
4 understand.

5 MR. BEZANSON: There are a number  
6 of questions like that I'd like to have answered, what  
7 other types of risks would there be to my family's health.  
8 If anyone has more answers, this whole process has been  
9 really confusing me and very difficult. Even getting  
10 notice about the meeting here today, I think I got it like  
11 2 weeks ago because it wasn't in any of our local papers.  
12 I filed to become an intervenor and immediately got a lot  
13 of different information, but there is still a lot that us  
14 as private citizens, we don't get and there is always the  
15 worry of what information isn't being included in the  
16 information we do get.

17 MR. PATCH: Do you have a specific  
18 recommendation with regard to your property and the route  
19 of the pipeline then?

20 MR. BEZANSON: What I've been  
21 hearing most often is the pipeline going along the highways  
22 would put the least amount of New Hampshire citizens at  
23 risk. Otherwise on a more individual note, the proposal  
24 from the Pipeline Company that they will reimburse people

1       like after the fact, for example, after the well water got  
2       contaminated and my family got sick, that just isn't  
3       acceptable. So if it's a circumstance where well water is  
4       going to be in danger, and I'm not sure if there is another  
5       place on my property for example where another well could  
6       be put, then we're looking at us having to move. And that  
7       hasn't been put in any proposal that I've seen so far from  
8       the pipeline companies, how they would reimburse a family  
9       that has to be displaced.

10                   CHAIRMAN VARNEY: Michael?

11                   MR. CANNATA: Follow-up question  
12       if I may. Your well cap, is it a black iron pipe about 6  
13       or 8 inches in diameter or a large concrete tubular  
14       structure?

15                   MR. BEZANSON: No, it's a small--

16                   MR. CANNATA: Probably indicates  
17       an artesian well. Thank you.

18                   CHAIRMAN VARNEY: Thank you.

19                   MR. SIMPSON: Good morning Mr.  
20       Chairman and members of the Committee. Name is Jim  
21       Simpson. I am Senior Vice President and head of the  
22       Regulated Utility Business Segment for Bay State Gas  
23       Company and Northern Utilities.

24                   I am here this morning on behalf of Northern

1 Utilities. Northern serves approximately 25,000 gas  
2 customers in southern New Hampshire. We are keenly  
3 interested in playing an important role in the economy of  
4 the Seacoast region.

5 The timely approval and installation of the  
6 PNGTS project is critically essential to meeting the energy  
7 needs of Northern's customers beginning with the 1998-99  
8 winter heating season. We continually look carefully at  
9 all available alternatives and have concluded that PNGTS  
10 represents an important new source of interstate pipeline  
11 capacity to meet our long-term needs, and of equal  
12 importance, is really the only alternative that will meet  
13 our near term needs, which are unique and critical.

14 In fact, Northern will have to deal with a  
15 supply shortfall during the 1998-99 winter unless new  
16 pipeline facilities are in place at that time. My role  
17 here today is to reinforce the urgency of our situation.

18 On April 30, 1998, we will lose the ability  
19 to feed our system from the north, upon the termination of  
20 a lease agreement with Portland Pipeline Corporation. This  
21 means that we will lose approximately 40% of our peak day  
22 upstream pipeline capacity.

23 Without new pipeline capacity in place, we  
24 cannot overcome this shortfall without radical and



1 aggressive enhancements to existing facilities.

2 For the past ten years, or almost since the  
3 start of the lease agreement with the Portland pipeline, we  
4 have been planning for a replacement to the gas supplies  
5 that the Portland Pipeline brings to our region.  
6 Throughout this time, our company has demonstrated  
7 creativity, perseverance, innovation and commitment.  
8 During this same period, changes in the structure and  
9 operation of the natural gas industry have resulted in some  
10 dramatic adjustments in our plans.

11 For over a year now, we have been developing  
12 a Contingency Plan to deal with we hope will be only a  
13 small possibility that new facilities won't be approved and  
14 constructed in time. However, even though we continue to  
15 hope and believe that full implementation of this Plan can  
16 be avoided, it represents a serious, troubling possibility  
17 to us.

18 As the Company's leader of the regulated  
19 Utility Business Segment, I have ultimate responsibility  
20 for the reliability of our system.

21 To be blunt, having to even think about  
22 developing such emergency contingency measures is a  
23 nightmare, especially from an operations and customer  
24 relations perspective.

1                   This is because our Contingency Plan  
2 involves a combination of initiatives, including the  
3 addition of upstream compression, enhancements to our local  
4 peaking capabilities and the installation of a number of  
5 taps for portable LNG vaporizers. All these arrangements  
6 would be costly and would have only short-lived usefulness.

7                   If we had to fully implement the Contingency  
8 Plan, we would also probably have to curtail service to up  
9 to 50 of our largest customers, switching them to an  
10 alternate fuel for the duration of the crisis. We are  
11 currently communicating with the potentially-affected  
12 customers to initiate dialogue on this issue.

13                   In addition, uninterrupted service to our  
14 remaining customers would be dependent on a massive amount  
15 of continual LNG and propane deliveries trucked into our  
16 service territory under extreme weather conditions.

17                   Because many of the elements of the  
18 Contingency Plan have long lead times--up to 17 months--we  
19 have already taken preliminary steps to curtail growth so  
20 that we don't continue to exacerbate the potential problem.

21                   Whether or not we have to ramp up this  
22 program depends on our ongoing level of confidence that we  
23 will see new facilities in place for 1998.

24                   Therefore, we are very pleased to see that

1 the New Hampshire regulatory process is moving forward, and  
2 we hope that you will be able to issue a positive decision  
3 on this important project within the context of the  
4 existing procedural schedule.

5 Let me just finish by saying that, despite  
6 Northern's sense of particular urgency about this issue, we  
7 feel very strongly that both the PNGTS and Maritimes  
8 projects represents an excellent new investment in energy  
9 infrastructure for the State of New Hampshire. Your  
10 approval in this docket will create opportunities for sound  
11 economic development and a cleaner environment for years to  
12 come. Thank you for your time and attention this morning.  
13 I know you have a busy schedule these next few days and I  
14 am confident that any outstanding environmental concerns  
15 can be addressed while, hopefully, allowing the project to  
16 be approved in a timely fashion.

17 CHAIRMAN VARNEY: Thank you.

18 MS. GEIGER: Mr. Simpson, just for  
19 the record could you please describe the relationship with  
20 your companies to the applicant's?

21 MR. SIMPSON: The parent company,  
22 Bay State Gas Company, is an equity participant in the  
23 PNGTS project.

24 MS. GEIGER: Thank you.

1                   MR. ELLSWORTH: Mr. Simpson, if  
2 the application proceeds as has been suggested this  
3 morning, and if the application is ultimately approved,  
4 will any curtailment measures need to be taken by Northern  
5 Utilities to service customers?

6                   MR. SIMPSON: Certainly none of  
7 the actions that would happen according to the schedule  
8 that you have described would lead to curtailments. Of  
9 course, our need to curtail customers will ultimately  
10 depend not just on the regulatory process and the  
11 certification process, but also on the successful  
12 construction of the pipeline. And that will ultimately  
13 determine whether we have to curtail customers.

14                  MR. ELLSWORTH: And since our  
15 authority is limited to the state application, I limit my  
16 question to your reaction to our approval, and I meant to  
17 ask whether you would have to curtail service to existing  
18 customers, and I take it the answer is no?

19                  MR. SIMPSON: The answer is no,  
20 that's right, at this time we would not have to curtail  
21 customers. We would still have to continue with the plans  
22 which might lead to the construction and installation of  
23 alternate fuel equipment in some of our largest customers,  
24 largest 50 customers.

1 MR. ELLSWORTH: And if I ask the  
2 same question under the same conditions, if this  
3 application is approved will you be able to eliminate any  
4 plans that you now have to curtail future growth?

5 MR. SIMPSON: Again, we will have  
6 to wait further, further into the time schedule to know  
7 whether continued growth, continued aggressive growth could  
8 possibly exacerbate the situation that we might ultimately  
9 face next winter.

10 MR. ELLSWORTH: Under what  
11 circumstances can we be assured that there will be no  
12 curtailment of any growth?

13 MR. SIMPSON: Only when we have  
14 the construction of the pipeline completed will we will  
15 know that there will be no need for any curtailment or fuel  
16 switching.

17 MR. ELLSWORTH: Thanks.

18 MR. CANNATA: Yes, Mr. Simpson,  
19 could you maybe indicate what the portable LNG plants that  
20 you discussed earlier in your emergency plans, just the  
21 number that there would be and where they would be located?

22 MR. SIMPSON: Our contingency  
23 plans call for us to utilize, to lease and utilize a number  
24 of portable LNG vaporizers throughout our system. And

1       this, Mr. Cannata, is for reliability purposes. We are now  
2       counting on the capacity that we would get from the  
3       portable LNG vaporizers in allowing us to meet our  
4       designed-day demands. That is just sort of an insurance  
5       policy, if you will, some redundancy in the system so that  
6       we will have the, we will be able to deal with some parts  
7       of the our capacity and not operating to, to its full  
8       extent.

9                       MR. CANNATA: Would it be fair to  
10       assume that these would not be put in remote areas of your  
11       system?

12                      MR. SIMPSON: That's right, they  
13       would be located near load centers. Of course, that's  
14       balanced out with the availability, with the need to be  
15       able to get access to transport the liquid to the portable  
16       vaporizers.

17                      MR. CANNATA: Thank you.

18                      MR. COLBURN: The portable  
19       vaporizers, Mr. Simpson, how would they be fueled, what's  
20       their energy source, is it gas itself or are they electric?

21                      MR. SIMPSON: Liquid natural gas,  
22       liquid natural gas is trucked to the facilities.

23                      MR. COLBURN: Right and then the  
24       vaporizer vaporizes it into the pipeline?

1 MR. SIMPSON: That's correct.

2 MR. COLBURN: The vaporizer's  
3 energy?

4 MR. SIMPSON: I'm sorry, I don't  
5 have that technical knowledge.

6 MR. COLBURN: Perhaps you could  
7 find out and get back to the Committee. I'm interested in  
8 the emissions caused by vaporizing units.

9 MR. SIMPSON: A quick scan of the  
10 audience indicates that we might have to check on that.

11 MS. LUDTKE: Mr. Simpson, you  
12 referred to a termination of a lease with Portland Pipeline  
13 as the basis for the urgency of approval of this  
14 application. What were the contractual provisions you had  
15 in your Portland Pipeline lease relative to termination?

16 MR. SIMPSON: I don't have a  
17 complete command of all these details, but in general the  
18 point was that when we first, when we first obtained the  
19 lease with Portland Pipeline there was a termination date  
20 to that lease, and I believe it was approximately ten years  
21 from the beginning of the, from the beginning of the lease,  
22 but there was an opportunity for the Portland Pipeline to,  
23 upon notification, terminate the lease earlier than the,  
24 than the anticipated date. The way things have played out

1 over time, the Portland Pipeline Company did indicate, did  
2 give us the proper notice and two extensions to the lease  
3 have been negotiated with the Portland Pipeline Company  
4 since then. We're just at the point now where no  
5 additional lease extensions are possible.

6 MS. LUDTKE: When did Portland  
7 Pipeline first give you the notice relative to termination?

8 UNIDENTIFIED SPEAKER: October  
9 '94.

10 MR. SIMPSON: The response from  
11 the audience is October of '94.

12 MS. LUDTKE: That would be almost  
13 3 years ago then?

14 MR. SIMPSON: That's correct.

15 MS. LUDTKE: And you indicated you  
16 were an affiliate of Bay State, is that correct, Northern?

17 MR. SIMPSON: That's correct.

18 MS. LUDTKE: And Granite State is  
19 also an affiliate of Bay State, is it not?

20 MR. SIMPSON: That's correct.

21 MS. LUDTKE: Are you aware that  
22 Granite State has had feasibility studies relative to  
23 constructions of pipelines in the works since '91?

24 MR. SIMPSON: At least. I know



1 within Bay State, as I said in my statement, we have been  
2 planning almost from the beginning date of the lease for  
3 replacement.

4 MS. LUDTKE: Well, my question to  
5 you is, given the fact that there have been feasibility  
6 studies in the works for 6 years from Granite State and  
7 you've been notified for at least 3 years, why are you here  
8 at the 11th hour talking about your urgent approval, why  
9 weren't you here last year?

10 MR. SIMPSON: The clear reason for  
11 that is that Northern Utilities is only one of the entities  
12 having capacity contracts on the pipeline and we, by  
13 ourselves, do not have the economic mass to get a pipeline,  
14 a pipeline constructed that is sufficiently cost effective.  
15 As you know, we have tried other alternatives to provide  
16 the capacity in the time frame that we needed including an  
17 LNG facility that was sited at Wells, Maine and because of  
18 regulatory circumstances, the certificate for the Wells,  
19 Maine facility would not be available now in time to match  
20 up with what capacity is, is going to be needed.

21 MS. LUDTKE: Well, when you say  
22 we, you're actually referring to Granite State, aren't you,  
23 on that LNG facility, that was not Northern, was it?

24 MR. SIMPSON: That's correct.

1 Northern Utilities was the sole contractor for that  
2 capacity, but it was a Granite State facility. That's a  
3 correction.

4 MS. LUDTKE: Nothing further.

5 CHAIRMAN VARNEY: Any other  
6 questions? Thank you. Other members of the public?

7 MR. CRAVEN: Good morning. For  
8 the record my name is Tom Craven. I'm the Director of  
9 Operations at Wausau Papers in Groveton, New Hampshire.

10 Mr. Chairman and members of the Committee,  
11 Wausau has commented at previous Committee hearings and  
12 would like to offer this comment at the hearing today.

13 Wausau Papers of New Hampshire operates a  
14 paper manufacturing facility located in Groveton, New  
15 Hampshire, which will receive natural gas service from  
16 PNGTS mainline. As you know, Wausau and PNGTS have  
17 executed a binding Precedent Agreement covering that  
18 service.

19 Wausau's plant currently burns No. 6 fuel  
20 oil and wood chips. Like most similarly situated New  
21 England manufacturers, Wausau has been required to bring  
22 its plant into compliance with certain emission standards  
23 in accordance with the Clean Air Act of 1990. To do that,  
24 Wausau formulated a compliance plan which it filed with the

1 State of New Hampshire as part of a Title V Operating  
2 Permit Application submitted last June. That application  
3 has now been accepted by the State and is legally binding  
4 on the company.

5 Wausau's compliance plan relies on natural  
6 gas as its preferred fuel option and identifies the PNGTS  
7 project as the vehicle which will enable Wausau to receive  
8 deliveries of gas as a substitute for fuel oil. Wausau has  
9 indicated to the State that the conversion of its plant to  
10 gas will substantially reduce sulfur, particulate matter,  
11 and carbon monoxide emissions in its manufacturing  
12 operations. This compliance plan, however, is expressly  
13 predictated on a timetable which has the PNGTS project  
14 going into service no later than November 1998, based on  
15 certain dates for project approval and pipeline  
16 construction which are also set forth in the plan. Any  
17 change in the timing of the pipeline approval and  
18 construction must be reported by Wausau to the State, and  
19 any delay in the construction of the PNGTS project could  
20 result in Wausau's falling out of compliance with its  
21 accepted plan. Noncompliance with the plan could result in  
22 Wausau's having to pursue much less desirable and extremely  
23 expensive alternatives in the form of other modifications  
24 to its facilities and plant.

1                   The FERC Draft Environmental Impact  
2       Statements have now been issued. These documents outline a  
3       framework for the construction of PNGTS. We have  
4       participated in both the FERC and the New Hampshire  
5       proceedings. We understand that the FERC is the ultimate  
6       authority on most aspects including route selection. We  
7       also recognize that New Hampshire rightly plays a crucial  
8       role in this review process. However, we urge the NH  
9       Energy Facility Site Evaluation Committee to develop  
10      conditions of approval that are consistent with the FERC  
11      conditions. The least desirable event that can happen from  
12      our perspective is delay. Developing consistent conditions  
13      will help avoid delay.

14                   In summary, the purpose of this statement is  
15      to stress that Wausau itself has a vested and independent  
16      interest in seeing the PNGTS project go forward on a timely  
17      basis that will ensure that the project is in service no  
18      later than November, 1998. Accordingly, Wausau strongly  
19      supports committee approval in July.

20                   In closing, I would like to express  
21      appreciation to the committee for consideration of the  
22      above comment, as well as efforts to date. Thank you.

23                   CHAIRMAN VARNEY: Thank you.

24      Questions?

1 MS. LUDTKE: Mr. Craven, did you  
2 ever discuss with PNGTS who might be responsible for  
3 permitting the lateral, the 0.7 of a mile lateral you  
4 referred to?

5 MR. CRAVEN: I'm not sure I  
6 understand the question.

7 MS. LUDTKE: Well, do you  
8 understand that that lateral is being permitted as part of  
9 this process, or did you understand that Wausau would be  
10 filing an application to permit that lateral?

11 MR. CRAVEN: That they would be  
12 filing for that permit.

13 MS. LUDTKE: Wausau is going to  
14 be?

15 MR. CRAVEN: No.

16 MS. LUDTKE: You understand that  
17 the application is part of this application, is that your  
18 understanding?

19 MR. CRAVEN: Yes.

20 MS. LUDTKE: Have you ever  
21 reviewed any material relative to the lateral that you're  
22 referring to to determine whether it actually has been made  
23 part of this application?

24 MR. CRAVEN: I know that it is

1 part of this application through our precedent agreement,  
2 right, David?

3 MR. AUGER: That's correct, it is  
4 in the PNGTS precedent agreement with Wausau.

5 MS. LUDTKE: Are you aware of any  
6 permitting materials that have been filed with the New  
7 Hampshire Wetlands Board or any other state agency relative  
8 to permitting of the lateral?

9 MR. CRAVEN: I'm not.

10 MS. LUDTKE: Have you participated  
11 in the preparation of any materials relative to permitting  
12 applications that would normally be submitted for this type  
13 of construction?

14 MR. CRAVEN: No, we have not.

15 MS. LUDTKE: To the best of your  
16 knowledge you don't know at this time whether those  
17 materials have been submitted that would be required for  
18 permitting the lateral, do you?

19 MR. CRAVEN: To the best of my  
20 knowledge, no, I don't.

21 MS. LUDTKE: Are you aware that  
22 the FERC has determined that the lateral that you're  
23 referring to is a non-jurisdictional lateral not to be  
24 permitted by the FERC application?

1 MR. AUGER: No.

2 MR. CRAVEN: No.

3 MS. LUDTKE: You're not aware of  
4 that?

5 MR. CRAVEN: No.

6 MS. LUDTKE: Did you review the  
7 DEIS that came out relative to the phase 2 on the Northern  
8 project?

9 MR. CRAVEN: I have not read the  
10 document. I know we're in receipt of it.

11 MS. LUDTKE: So, despite Wausau's  
12 desire to have this permitted within a timely framework,  
13 there has been no one that has checked to determine whether  
14 an actual permit or application has been filed with the  
15 State of New Hampshire for that lateral?

16 MR. AUGER: No.

17 MS. LUDTKE: Thank you, nothing  
18 further.

19 CHAIRMAN VARNEY: Bruce.

20 MR. ELLSWORTH: Mr. Craven, who do  
21 you understand will be your supplier of natural gas if the  
22 pipeline is built?

23 MR. CRAVEN: As I understand it,  
24 there are two things at play here and the project itself is

1 for the transportation of natural gas. And we have signed  
2 a binding agreement, long-term with the Portland project  
3 folks. The supply of natural gas is a separate negotiation  
4 and that is on going.

5 MR. ELLSWORTH: Thank you.

6 CHAIRMAN VARNEY: Michael.

7 MR. CANNATA: Mr. Craven, could  
8 you perhaps maybe elaborate on your two alternatives that  
9 are facing you, one the more restrictive emission standard  
10 plan if the pipeline does not go through versus what may  
11 take place from a business perspective in terms of  
12 opportunities, increased employment if the pipeline does go  
13 through?

14 MR. CRAVEN: Well, I think as any  
15 company we would like to look for opportunities of  
16 continued growth at our facility. We are at a point now  
17 with our boiler facilities and they are aged to a point  
18 where we have a number of alternatives that we are  
19 considering. The one common factor in all of those  
20 considerations for capital investment, however, is natural  
21 gas, and natural gas is the fuel of choice in order for us  
22 to meet our environmental requirements. And I don't know  
23 if I answered your question.

24 MR. CANNATA: Would your business



1 opportunities be restricted if the pipeline were not  
2 constructed?

3 MR. CRAVEN: They might be. We  
4 will, without natural gas, be able to pursue and meet  
5 compliance, but not without substantial capital investment.  
6 And I don't believe that the end result will be as good as  
7 what the compliance would look like with natural gas.

8 MR. CANNATA: Thank you.

9 CHAIRMAN VARNEY: Bruce.

10 MR. ELLSWORTH: I'd like to ask  
11 you to make a distinction between a supplier of natural gas  
12 and a provider of natural gas and ask you to accept that  
13 the provider of natural gas will be one that brings the gas  
14 from the pipeline, the proposed pipeline, to your facility,  
15 do you know who would do that?

16 A David Auger can help me with this, but I believe the  
17 provider as you defined it would be Portland, the  
18 transportation of that gas. The contracts that we  
19 signed also for the supply of natural gas are done  
20 with folks that are not in the room today.

21 MR. ELLSWORTH: And I'm only  
22 interested in the providing, who will construct, operate  
23 and maintain the pipeline an the distribution system that  
24 serves your facility, who would meter it, and provide you

1 the administrative support for that natural gas?

2 MR. CRAVEN: That would be PNGTS.

3 MR. ELLSWORTH: I see, thank you.

4 CHAIRMAN VARNEY: Ken.

5 MR. COLBURN: Relative to Mr.  
6 Cannata's question, you indicated Mr. Craven, that you  
7 could meet compliance requirements with air emissions at  
8 this point through substantial capital investment. Could  
9 you comment on to what extent your future growth  
10 opportunities may be limited without the pipeline and could  
11 you also indicate how many employees are at the Wausau  
12 facility?

13 MR. CRAVEN: I'll answer the  
14 latter question first, we have 420 employees, and that has  
15 grown by some 85 in the last year and a half. We are at  
16 full employment now. And there are a number of  
17 opportunities, which I won't go into here, but there are  
18 opportunities for growth at this site. Part and parcel up  
19 to that is an efficient and modern utilities plant. Paper  
20 manufacturing facilities use a lot of steam and you need  
21 good boilers to do that and boilers take fuel to fire, and  
22 the boiler plant as it exists now at Groveton is at  
23 capacity. So we know that one way or the other we have to  
24 expand that utility plant, and if we're going to expand

1 that we would like to do that with new boilers as opposed  
2 to upgrading the existing boilers and in that upgrade to  
3 bring new technology along with that so the opportunity,  
4 the best opportunity for compliance and the best compliance  
5 in the environmental hurdles that are facing us is this new  
6 technology and we would size a new utility plant  
7 accordingly and it would allow us to growth at the same  
8 time.

9 CHAIRMAN VARNEY: Any other  
10 questions? Thank you, Tom. Other members of the public?

11 MR. MARTIN: My name is Frederick  
12 Martin and I'm a landowner in Stratford, New Hampshire. My  
13 family has owned land there since 1830, and I'm the current  
14 representative of, of holding the family farm as a wood lot  
15 and basically a vacation residence. And I would like to  
16 say that basically I hope that no pipeline will be built at  
17 all and that the needs of Groveton will be met by not  
18 necessarily a transportation company but a source which is  
19 perhaps in Texas or one that comes from Canada through  
20 central Maine, and this would, this is my reaction to the  
21 situation which I'm faced with personally, which includes  
22 the usual array of spring and water problems, access to my  
23 lumber lot, which is blocked by the pipeline, and access to  
24 fields.

1                   However, if there is to be a pipeline  
2 brought through northern New England, I would like to  
3 direct the attention of the Committee to the Connecticut  
4 River Valley, which includes of course, Groveton and West  
5 Stewartstown, North Stratford, Stratford and Colebrook.  
6 The valley has its own particular character, and I would  
7 like to see it preserved rather than drastically altered.

8                   One of the issues that I brought up is the  
9 farms, the farms need access to their own land. The  
10 pipeline is a long string of difficulty. Part of it is  
11 pollution of groundwater. According to the FERC manual,  
12 over the 225 miles of pipeline including that in Maine,  
13 there will be, there is anticipated in the order of, as I  
14 remember, it's in the order of ten ruptures or leaks in the  
15 50-year life of the pipeline, and at the end of the 50  
16 years the rate of leaks goes up and everybody in the valley  
17 has their own private water supply.

18                   Another aspect is the one of cultural  
19 resources. The valley has historic buildings within a  
20 quarter of a mile of the pipeline. It's been asked that  
21 the Committee interface with the FERC testimony and the  
22 cultural resource survey should be done.

23                   Basically, the character of the valley is  
24 what brings the tourists and the tourists don't come to see

1 NYNEX cables and Sprint cables. They can already see them  
2 at home. The Metters (sic) of the Coos drew the artists in  
3 the 1850's, which was the foundation of the grand hotels  
4 which is the foundation of what the region has today.

5           So I would like to ask the Committee to  
6 consider two questions as it makes its deliberations. If  
7 gas can't come from Maine and Massachusetts, can the pipe  
8 at least take an alternative route around the Connecticut  
9 Valley? I filed with FERC for the route that I knew of in  
10 New Hampshire, and that's this one, which goes from  
11 Groveton through the Nash Stream Valley and through the  
12 same towns and comes in at West Stewartstown avoiding the  
13 River Valley itself. There is another one on page 3-8 of  
14 the FERC manual which goes up the transmission line in  
15 Vermont. There is a nearby transmission line with a 200  
16 foot right-of-way roughly all cleared, which does not  
17 interfere with the Connecticut Valley at all and both of  
18 those are listed in the FERC manual and it's stated that  
19 there is no significant reason to avoid the Connecticut  
20 Valley.

21           The other request that I would have is the  
22 Committee make sure there is a thorough cultural survey  
23 similar to the one done in Maine. Maine has identified  
24 structures and landscapes 50 years or older within a

1 quarter of a mile of the pipeline, which might be visually  
2 or physically affected. And near the Connecticut River  
3 there are working structures and remnants of structures  
4 that go back to the 1700's and archeological finding to the  
5 ice age, and a survey and the resulting federally enforced  
6 mitigation measures all take time and cause delay perhaps  
7 and in that case gas and alternate sources may be more  
8 attractive and would suit the, the inhabitants of the  
9 valley very well I believe. So that's the end of my  
10 testimony and I'd be glad to answer any questions that  
11 people want.

12 CHAIRMAN VARNEY: Questions?  
13 Bruce.

14 MR. ELLSWORTH: Mr. Martin, are  
15 there gas pipelines on your property at this time?

16 MR. MARTIN: There are none.

17 MR. ELLSWORTH: And if this  
18 proposed application were approved, have you been given  
19 information as to whether or not a crossing would deny you  
20 access to any of your property?

21 MR. MARTIN: I have not. The  
22 survey, I have about three quarters of a mile of line of  
23 pipe in my property, and also have a situation where  
24 they're getting down very deep into the ten foot stratum

1       which feeds my stream, which the house was built right at  
2       the stream, and --

3                               CHAIRMAN VARNEY:   But he asked  
4       about the crossing.

5                               MR. ELLSWORTH:   You expressed a  
6       concern about having access to your wood lot and to the  
7       fields, have you been given information that confirms that  
8       you would be denied such access?

9                               MR. MARTIN:   It's my impression  
10      from the meeting that I attended in Stratford that the  
11      pipeline company does not provide sleeves across the pipe  
12      for heavy equipment such as a whole tree removal equipment  
13      or log skidders.  And I believe that that has to be  
14      arranged by special arrangement and nobody has ever  
15      suggested any such thing to me.

16                              MR. ELLSWORTH:   And if that  
17      corrective action were offered to you, would that make a  
18      difference in your receptivity of the pipeline?

19                              MR. MARTIN:   Personally, it would,  
20      but I think this, the issue here is one of public policy,  
21      what is best for the residents of the larger area, not only  
22      me.

23                              MR. ELLSWORTH:   You made a  
24      reference to a potential leak experience along the

1 pipeline--

2 MR. MARTIN: Yes.

3 MR. ELLSWORTH: I think you said  
4 the potential of 50 leaks in ten years or something.

5 MR. MARTIN: No, about ten leaks  
6 in 50 years.

7 MR. ELLSWORTH: Ten leaks in 50  
8 years.

9 MR. MARTIN: That's according to  
10 the FERC manual where they have the experience data for  
11 incidents in terms of incidents per thousand miles of pipe  
12 per year, and a new pipeline has that rate of incident and  
13 you take 225 miles and you get one incident every 4 years.  
14 An incident this year, a break or a rupture, 4 percent of  
15 the incidents involve accidents and a smaller percentage of  
16 that involve fatality.

17 MR. ELLSWORTH: And what is,  
18 without asking you the obvious, what are your concerns if  
19 there is an incident, what is your specific concern about  
20 the possibility of a gas leak on your property?

21 MR. MARTIN: I believe that a gas  
22 leak or the pipeline can also be filled with petroleum  
23 under the contract and over 50 years one does not know what  
24 is going to be in that pipe. And I do have a feeling that



1 in my three quarters of a mile there is a possibility, very  
2 slim, that the groundwater could, in 100 years, be much  
3 different than it is now.

4 MR. ELLSWORTH: To the extent that  
5 we're only talking about natural gas in that pipeline, do  
6 you have any information that would suggest that a leaking  
7 gas line would cause contamination to your water supply?

8 MR. MARTIN: No, I do not have  
9 information.

10 MR. ELLSWORTH: And if the company  
11 could provide you with assurance that there would be no  
12 such contamination, would that ease your concerns about the  
13 pipeline?

14 MR. MARTIN: No, because I don't  
15 believe that the company will continue to put gas through  
16 the pipes through the life of the pipeline.

17 MR. ELLSWORTH: So you're  
18 concerned that the company may convert it to an oil  
19 pipeline?

20 MR. MARTIN: Yes. I think that's  
21 relevant throughout the whole valley, not only to me.

22 MR. ELLSWORTH: And finally, you  
23 made a reference to a cultural survey done by the state of  
24 Maine, is that a survey that has been done and has been

1 made public and do you have a copy of it?

2 MR. MARTIN: That comes from the  
3 FERC manual. They made a visual inventory of the  
4 structures and site and I believe views within a quarter of  
5 a mile of the pipeline and the cultural resource survey has  
6 to be rendered to FERC. There is no such survey as far as  
7 I know that has been done in the State of New Hampshire.  
8 The state historic preservation officer is in charge of it  
9 and there has been, according to the FERC book, an  
10 archeological survey. The archaeologists have been on my  
11 property and I have given them permission to make a survey,  
12 but no such survey for houses on businesses.

13 MR. ELLSWORTH: Thank you.

14 CHAIRMAN VARNEY: Any other  
15 questions? Thank you. Any other members of the public?

16 MRS. LAMM: May I speak from here?  
17 I have leg problem, a knee problem.

18 CHAIRMAN VARNEY: Sure.

19 MRS. LAMM: I am Claire Lamm,  
20 residing in Stratford, New Hampshire and addressing this  
21 hearing have deep and serious concerns in reference to the  
22 PNGTS proposed pipeline.

23 If this pipeline is allowed to be installed  
24 in the northern tier of New Hampshire, there will be a

1       devastating and destructive impact upon our ecology,  
2       oxbows, wetlands, wildlife, the Connecticut River and the  
3       Connecticut River Valley Watershed and private property,  
4       that the entire northern tier of New Hampshire will be  
5       placed at risk for the sake of one pipeline which has no  
6       benefit to the general public and is not needed.

7                   On four separate occasions we wrote to FERC,  
8       DES and the Attorney General's office expressing our  
9       concerns. I also had exhibits attached to those.

10                   We are private property owners in Stratford,  
11       New Hampshire, whose private property extends from the  
12       terraced land down a steep embankment which then continues  
13       across an abandoned railroad bed, continuing westerly  
14       crossing a railroad, extending to the Connecticut river,  
15       including two islands where Canadian geese and other wild  
16       fowl and wildlife migrate, rest, nest, feed and habitat.

17                   This pipeline proposal by PNGTS, by its  
18       installation, operation and maintenance, would have a  
19       devastating environmental impact upon the ground water,  
20       aquifers, oxbows, swamps and wetlands of this most  
21       sensitive area in the Connecticut river Valley Watershed  
22       along the Connecticut River and its tributaries in northern  
23       New Hampshire regions adjacent to New Hampshire and  
24       Vermont. This proposed pipeline would be buried in the

1 middle of, and become part and parcel of, the aquifers.  
2 This entire region is interlaced with aquifers like a  
3 string of pearls and is a flood plain region.

4 This cannot be overlooked because any  
5 outside invasion disturbing these waters and land masses  
6 will impact the delicate balance of ecology, all wildlife  
7 and their habitats, and the natural resources, creating a  
8 chain reaction upsetting the entire region, each dependent  
9 upon the other for survival.

10 All efforts taken by the federal and state  
11 governments to protect this region, which is still  
12 on-going, would be defeated if any disturbance to this area  
13 were allowed.

14 The U.S. Geological Survey, Water Resources  
15 Investigations report, 95-4100, in cooperation with the  
16 Department of Environmental Services, Water Resources  
17 Division, has prepared a report on Ground Water Resources  
18 in New Hampshire's Stratified Drift Aquifers. Exhibits A-1  
19 and A-2.

20 Commissioner Robert W. Varney of DES, in  
21 this report states in 1983, the New Hampshire Legislature  
22 enacted Chapters 361 and 402 of the state statutes which  
23 authorized development of the New Hampshire Resources  
24 Management Plan and an intensive assessment of the state's

1 ground water resources.

2                   On page 17 of this same report is stated,  
3 "the Upper Connecticut and Androscoggin River Basins in  
4 northern New Hampshire have a combined drainage area of  
5 1,629 miles squared of which 137 miles squared, or about 8  
6 percent of the basin are underlain by stratified drift  
7 aquifers. Parts of stratified drift aquifers in the towns  
8 of Colebrook, Shelburne, Stark, Stratford and West Milan  
9 have saturated thicknesses greater than 200 feet and  
10 transmissivities greater than 4,000 feet. Stratified  
11 drift aquifers in the town of Berlin, Colebrook and Gorham  
12 supplied a total of 4.5 million gallons per day of water  
13 for municipal public-supply wells in 1990." The proposed  
14 pipeline would go through all of these sensitive areas with  
15 stratified drift aquifers. Exhibits A-1 and A-2.

16                   The U.S. Department of the Interior,  
17 Geologic Survey prepared data collected in a study of  
18 stratified drift aquifers on the Lamm property in Stratford  
19 within this region. Its diagram shows an elevation of land  
20 surface, depth to the water table, and depth of sand and  
21 gravel aquifers. The well drilled at seismic site SR-4  
22 during well establishment had almost instant recovery. The  
23 diagram will show the depth to the water table is 49 feet.  
24 The height of the terraced land is 45 feet to 50 feet. The

1 drilling was performed on our terraced land which indicates  
2 that the proposed pipeline would be buried in the water  
3 table and sand and gravel aquifer. Exhibits B-1 and B-2,  
4 and would be along the surface water of the Connecticut  
5 river.

6 The New Hampshire Legislature passed House  
7 Bill 1432 FN enacted and effective January 1, 1991,  
8 creating the New Hampshire River's Management and  
9 Protection Program defining the river corridor as a river  
10 and land area within a distance of 1,320 feet of the normal  
11 high water mark or landward extent of the 10 year flood  
12 plain. The proposed pipeline would be within this  
13 corridor.

14 On January 1, 1992, the New Hampshire  
15 Legislature enacted Senate Bill 428 FN, designating the  
16 Connecticut River as a protected river, declaring as  
17 natural classification the section of the river from  
18 Wheeler Stream to Maidstone-Stratford Bridge as it met all  
19 of the stringent criteria of its high quality of natural  
20 and scenic resources, natural vegetation, high quality of  
21 water, and the river corridor is undeveloped. Development,  
22 if any, is restricted and limited to forest management and  
23 scattered housing, and that is in the act.

24 Management of the natural river and segments

1       thereof shall perpetuate their natural condition as defined  
2       herein, and shall consider, protect, and ensure the rights  
3       of owners to use the river for forest management, public  
4       water supply, and management and protection of the  
5       resources for which the river and segment is designated.

6                   The designated natural river or segment  
7       shall constitute an outstanding natural resource water  
8       pursuant to standards adopted under RSA 485 A-8.

9                   Significant adverse impacts on water quality  
10       shall not be permitted. This natural section of river is  
11       in Stratford, the only natural section of the 400 miles of  
12       the Connecticut River.

13                   The Connecticut River's main stem from  
14       Murphy Dam down stream to Northumberland has high  
15       biological value with special values with high priority.  
16       (Exhibit C-1, C-2, the Federal Silvio-Conti Act.

17                   The National Environment Policy Act requires  
18       the Commission to take into account environmental impacts,  
19       page 3, FERC, 11/29/96, notice of amended facilities.

20                   The federal government has spent hundreds of  
21       millions of dollars to clean up, restore and protect the  
22       Connecticut River.

23                   The New Hampshire Fish and Game Department,  
24       together with other federal and state agencies have

1       acquired property along the Connecticut River. The N.H.  
2       Fish and Game acquired property in the Natural Section  
3       which was formerly McMann's property.

4                 All of the above-mentioned have been created  
5       for the establishment and protection of the river,  
6       tributaries, their habitats, nature trails, scenic beauty,  
7       all of which the Natural Section claims and must be guarded  
8       from outside disturbances and invasions. Can we ignore all  
9       of the above? We think not--and for a pipeline with no  
10      benefits to the public? Must we bear all of this  
11      destruction for one lateral connection in this region?

12                Attached herewith is diagram R11-24 which  
13      depicts our "Lamm" and adjacent properties, by the  
14      right-of-way agents for PNGTS, together with an aerial  
15      photograph of the same area. (Ex D-1 and D-2).

16                We call your attention to the fact that the  
17      aerial photo yellow highlight depicts the actual terrain of  
18      the area -- when this was distributed to the committee, the  
19      yellow highlights did not come out so we brought with us  
20      today a copy of the exhibit. I also have in that large  
21      aerial photo the wetland. Now we call your attention to  
22      the fact that the aerial photo yellow highlight depicts the  
23      actual terrain of the area while the R11-24 drawn version  
24      of the area deviously disguises the aerial photo. You will



1 notice the yellow highlight on the drawn diagram "PSCO  
2 easement". PNGTS proposed pipeline is shown within the  
3 "so-called" easement, when in fact they are extending  
4 easterly and parallel to the "so-called" Public Service Co.  
5 easement which actually is the abandoned railroad bed. At  
6 M.P. 25.12 on the drawn diagram, they suddenly veer off  
7 into a more easterly direction cutting substantially into  
8 the Lamm private property extending the entire length of  
9 the Lamm property. This is not shown on the aerial photo  
10 leading one to believe on the aerial photo that they are  
11 proceeding in a straight line pass the Lamm property within  
12 the PSNH easement.

13 The PNGTS is quite presumptuous and taking  
14 liberties by submitting plans and diagrams cutting into our  
15 private land without our knowledge which permission is not  
16 granted.

17 The drawn diagram, by PNGTS' own admission,  
18 "pull off power line to avoid side hill cut" on Lamm  
19 property reveals the steep terrain from the terraced land  
20 above and below it which, if disturbed, would cause  
21 landslides and erosion and completely destroy the terraced  
22 land leaving us without our terraced land and its ownership  
23 completely and forever.

24 The PNGTS has violated its right to exist in

1 this northern tier of New Hampshire by plowing through  
2 private property without the knowledge, permission nor  
3 consent of the private property owner. They have cut  
4 through a private fence at stake marker P7555,  
5 approximately 20' west of the old abandoned railroad bed,  
6 placed stakes from the ground level of our private property  
7 up a 350' embankment onto the terrace, proceeding 90' east  
8 on our terraced land, staking out what it intends to take  
9 and use on our private land for its own profit and gain,  
10 without the knowledge, permission nor authorization of  
11 FERC, the State of New Hampshire, nor the private property  
12 owner. They have deceived the federal, state governments  
13 and the private property owners by producing their own  
14 hand-drawn diagrams and statements in their portfolio the  
15 layout of their proposed pipeline along the abandoned  
16 railroad, but did not disclose that they were proceeding up  
17 a 350' inclined embankment and 90' east of private terraced  
18 land, staking it with flagged 4' stakes for a distance of  
19 930' north and south, where there are no power lines nor  
20 easements, thence connecting up to the Boydston's markers  
21 southerly of us.

22 PNGTS states they are utilizing and  
23 paralleling already existing easements, but they do not  
24 state at what elevation they are reaching, nor do they

1 state that they are penetrating 90' of terraced land where  
2 there is no easement nor power lines. An entire 930' of  
3 natural embankment of 45' in height will disappear and our  
4 terraced land destroyed if PNGTS is allowed to proceed with  
5 their proposed pipeline. Our beautiful land will never be  
6 replaced and our terraced land will immediately be  
7 devalued. PNGTS takes what it want to take, but does not  
8 disclose it to FERC, DES nor the private property owner,  
9 and attempts to force a right-of-way deed on the private  
10 property owner.

11 The stakes numbered 387, 388, 389, 390 and  
12 391, all marked "no control", which PNGTS placed on this  
13 terraced land encompasses huge trees; the proposed pipeline  
14 would destroy all the trees and land west of the stakes.  
15 Mature white pines measuring up to 20", 30" and 40" in  
16 diameter, a circumference of 11' and all the trees and  
17 terraced land would be completely destroyed. According to  
18 their computations of \$450 per acre, or 4/5ths of a penny  
19 per square foot, our 30" diameter trees are worth 10 cents.

20 After discovering these stakes, on May 16,  
21 1997, I spoke with Mr. Paul McKee of FERC in Washington,  
22 D.C. and told him of the trespassing, cut fence and stakes  
23 planted on our property by a representative of PNGTS  
24 without our knowledge or permission. Mr. McKee said that

1 no one had given permission nor authorization to anyone to  
2 go onto anyone's property and for me to call the local  
3 police. I called the N.H. State Police and spoke with  
4 Trooper McCulloch and reported the trespassing and  
5 transgressions.

6 We also wish to call your attention to two  
7 topographical maps of PNGTS; Figure B-1, Sheet 09 of 47 in  
8 the June Draft Impact Statement does not conform and varies  
9 with copy of topographical map sent to the private property  
10 owners depicting PNGTS proposed pipeline as the M/P has a  
11 variance of approximately 2500'. (Ex. E-1 and E-2). Please  
12 bear with me for one minute, I was making notes coming up  
13 here in the 2 and 1/2 hour drive and I lost--I'm sorry to  
14 take the time, okay.

15 If you compare M.P. 25 and 26 on both  
16 topographical maps (Ex. E-1 and E-2), and M.P. 25.12 on the  
17 hand-drawn diagram, (Ex. D-1) the variances will be  
18 evident.

19 Where then are the true M.P.'s and markers?  
20 And who or what are we to believe? The entire upper region  
21 of New Hampshire must then be incorrectly mapped and  
22 therefore any computations or statements by PNGTS cannot be  
23 considered valid and cannot be trusted. This could mean  
24 that the entire region is thousands upon thousands of feet

1 off the mark.

2 How then can these people be trusted to  
3 perform in the installation, maintenance and control of  
4 such an extensive pipeline when they cannot even map their  
5 course? Can we rely on their integrity in fail-safe  
6 factoring?

7 I was inundated with phone calls and letters  
8 from resident of Stratford who were irate with the brutal  
9 tactics employed by PNGTS' agents. They were badgered and  
10 coerced to sign deeds with threats of eminent domain with a  
11 projected date of August 31. We are incensed and outraged  
12 over their rude pressure tactics and stringent demands made  
13 upon us against our will, without our knowledge or  
14 permission which forever restricts the property owner from  
15 having any right, title or interest to his own property  
16 silencing him forever.

17 The easement deed allows PNGTS to divide,  
18 sell to whomever it pleases, with profit to it at the  
19 property owner's expense, which can be used for any other  
20 purpose than just a pipeline, without regard to the lack of  
21 benefit to the public or destruction to the land and its  
22 ecology or community. These people just buy up  
23 right-of-way easements to be later utilized at their will.  
24 This is tantamount to stealing from the private property

1 owners. Our Constitutional rights to ownership of our own  
2 private property are being violated. People over the  
3 years, have obtained their land by toil, sweat of their  
4 brow and life savings, and to have it taken from them by  
5 force is a criminal offense. These actions merit an  
6 investigation by the federal and state governments.

7 Mounting and costly damages have been  
8 incurred and are still mounting against us by the actions  
9 of PNGTS in addition to the anxiety and stress both mental  
10 and physical.

11 If the proposed pipeline is allowed on our  
12 terraced land, we will not be able to cultivate it, to  
13 build on it nor sell it as the depreciation of land value  
14 will make it a total loss.

15 The safety, health and welfare of the  
16 general public and the ecology of the region must not be  
17 put at risk. The route of the proposed PNGTS pipeline in  
18 the northern tier of New Hampshire must be denied. There  
19 is no benefit to the general public in that not one  
20 taxpaying household will be serviced by this proposed  
21 pipeline while they are being asked to have their land  
22 taken from them. This pipeline is not needed in the  
23 northern tier of New Hampshire and would be an automatic  
24 detriment for the public access to the Connecticut River.

1 Thank you.

2 CHAIRMAN VARNEY: Thank you, Mrs.  
3 Lamm. Questions?

4 DR. SCHMIDT: I wonder if I could  
5 ask you a question about the issue of groundwater impacts.  
6 I think you had identified a concern about impact on  
7 stratified drift aquifers, and I intend to ask the company  
8 to respond to that issue a little bit later on, but like to  
9 be certain I understand exactly the impact that we're  
10 talking about.

11 The previous speaker had asked about impact  
12 if the pipeline were filled with oil, and I'd like to  
13 determine if that's the same concern you have or are there  
14 other concerns about impact on groundwater?

15 MRS. LAMM: My concern is that  
16 throughout the whole northern region and the Connecticut  
17 Valley watershed there are all stratified drift aquifers.  
18 We have, I have placed exhibits to show exactly what I was  
19 described. It defines why we're concerned. The pipeline  
20 would be right in the middle of our aquifer, not only ours,  
21 but all of the aquifers and I think disturbing that by the  
22 drilling, by the operation, whatever they do to, I don't  
23 know how they do it, but however they do it, is a  
24 disturbance to the waters, to our drinking water, to the

1 wildlife, to everything concerned in the ecology and I have  
2 dimensions of how deep the pipeline is going and that it  
3 gets below the water line in the Connecticut River and  
4 right in the middle of the aquifers.

5 DR. SCHMIDT: So it's the  
6 construction impact of building--

7 MRS. LAMM: It's the whole thing  
8 once there has been explosion or a leak or anything. This  
9 is our drinking water. We depend on this in the northern  
10 region, and when this northern region, God help us because  
11 water is polluted all over the world and we have clean  
12 drinking water now, but we won't have it after this  
13 pipeline comes in, if it comes in.

14 CHAIRMAN VARNEY: Any other  
15 questions? Bruce.

16 MR. ELLSWORTH: Ms. Lamm, your  
17 maps have been very helpful, but I ask if you could just  
18 give me a couple more dimensions. As you point out on D-1,  
19 could you tell us the length of your property over which  
20 the company proposes to construct this pipeline?

21 MRS. LAMM: On the terraced land  
22 it's 930 feet -- I think my husband is better able to  
23 answer this.

24 MR. LAMM: That's the southern



1 point of our property, the southern portion is 930 feet.

2 MR. ELLSWORTH: And is that --

3 MR. LAMM: The northern section is  
4 where they drilled for the well up on the terraced land and  
5 that's approximately 12 to 1,400 feet north to south.

6 MR. ELLSWORTH: Well, I'm looking  
7 at map D-1 and as the, as the yellow line comes down and  
8 appears to cross on your property at M.P. 25.12, is that  
9 where it crosses on to your land and proceeds--

10 MR. LAMM: That is the beginning,  
11 the northerly point, yes.

12 MR. ELLSWORTH: And it proceeds  
13 southeasterly toward the bottom of the page, what is that  
14 distance, please?

15 MR. LAMM: 930 feet.

16 MR. ELLSWORTH: And at M.P. 25.12  
17 there are dimensions given along your property which  
18 suggest that your property extends right to the edge of the  
19 river, is that accurate?

20 MR. LAMM: The edge of the river  
21 and we also have two islands in the river.

22 MR. ELLSWORTH: And so you then  
23 own the property over which the railroad land or through  
24 which the railroad passed?

1 MR. LAMM: Yes.

2 MR. ELLSWORTH: And down at the  
3 bottom of the page there is a number 600 feet, which again  
4 takes us up to an edge of the railroad right-of-way?

5 MR. LAMM: Right.

6 MR. ELLSWORTH: Is that where your  
7 land also extends to the river?

8 MR. LAMM: Yes, sir.

9 MR. ELLSWORTH: Thank you very  
10 much.

11 CHAIRMAN VARNEY: Doug.

12 MR. PATCH: Is there, in looking  
13 at that same map, is your residence on that land, do you  
14 have a residence on that land?

15 MRS. LAMM: We have a residence,  
16 you mean where the pipeline is?

17 MR. PATCH: Yes.

18 MRS. LAMM: Yes, we have a  
19 residence on there.

20 MR. PATCH: On D-1?

21 MR. LAMM: No.

22 MRS. LAMM: Not on D-1, no.

23 MR. PATCH: Okay, not on D-1. And  
24 in terms of your concern about the impact on the water that

1       you drink, I guess I was trying to establish where your  
2       well was in relationship to where the--

3                               MRS. LAMM: Well, that feeds the  
4       whole town.

5                               MR. LAMM: If you would look,  
6       let's see--

7                               MRS. LAMM: I'm also concerned not  
8       only with the water, I'm concerned with the wildlife and if  
9       there is a leak, everything I had mentioned is what I'm  
10      concerned with, not just the water.

11                              MR. PATCH: No, I understand.

12                              MR. LAMM: If you look at exhibits  
13      E-1 and E-2, which was the map that was sent to FERC, I did  
14      some drawing on that, I guess I shouldn't have. I kind of  
15      defaced it a bit, but you will see that I have designated  
16      the SR-4, the well site.

17                              MR. PATCH: SR-4 you said?

18                              MR. LAMM: SR-4, yes.

19                              MR. PATCH: Okay.

20                              MR. LAMM: And I put a littler  
21      arrow there.

22                              MR. PATCH: Okay.

23                              MR. LAMM: That's the, that's the  
24      well site.

1 MR. PATCH: Good, thank you.

2 CHAIRMAN VARNEY: Any other  
3 questions? Thank you very much.

4 MR. KRUSE: Mr. Chairman, this is  
5 a housekeeping measure. Do we have copies of the exhibits  
6 that Mrs. Lamm submitted today?

7 MRS. LAMM: I brought 25 copies.

8 MR. LAMM: We only gave those to  
9 the people here.

10 MRS. LAMM: We sent it to  
11 Commissioner Varney's office and they were distributed from  
12 there with the exhibits attached. The only thing is the  
13 exhibits that were attached, the yellow highlight did not  
14 come out so we brought 25 copies with us.

15 MR. KRUSE: Some were distributed  
16 to us through Public Counsel and --

17 MR. RICHARDSON: They're in  
18 section 3 of counsel for the public pre-filed testimony I  
19 believe.

20 CHAIRMAN VARNEY: Right.

21 MR. KRUSE: Thank you, Mr.  
22 Chairman.

23 CHAIRMAN VARNEY: Thank you. Any  
24 other members of the public?

1 MR. BEZANSON: I had a comment  
2 relative to another issue that was brought up. I'm not  
3 sure if this is the right format.

4 CHAIRMAN VARNEY: Quickly.

5 MR. BEZANSON: The issue about the  
6 pipeline companies using coercion to try to get people to  
7 sign over their land and property, this is something I  
8 heard rumors of. Is that something that the Committee here  
9 considers, that pipeline companies use coercion, withhold  
10 information, information that they want to give?

11 CHAIRMAN VARNEY: We'll base our  
12 decision on the information that's presented to us,  
13 including all of the people commenting. Any others members  
14 of the public here today? Okay. In terms of logistics,  
15 it's now, what, 11:20 or so, if I could, I'd like to  
16 continue on until about 12:15 and then take a 45 minute  
17 break for lunch and resume again at 1:00. (Court Reporter  
18 requesting a 5 minute break.) A 3 minute break, yes.

19 (Brief recess.)

20 (Resumed.)

21 CHAIRMAN VARNEY: We're now ready  
22 for the presentation by the applicant. Mr. Kruse?

23 MR. PFUNDSTEIN: Thank you, Mr.  
24 Chairman. For the record, my name is Don Pfundstein, a

1 member of the Gallagher, Callahan & Gartrell law firm in  
2 Concord. We're New Hampshire counsel to PNGTS. I  
3 appreciate the opportunity to very briefly respond to item  
4 IV on the agenda today to provide a very brief statement or  
5 reasons for the application.

6 In light of the fact that we'd like to use  
7 as much of the time today and tomorrow, we will do what we  
8 can from our side to see that we proceed in that fashion,  
9 to save us as much time as possible for substantive  
10 discussion. I'll just very briefly highlight a couple of  
11 issues that I had prepared some written remarks for.

12 First of all, this is a very large project,  
13 which as you've heard before, has been in the works for  
14 almost 5 years. Frankly, I'm proud to be associated with  
15 this project team. I think it's consisted of a very fine  
16 group of dedicated and talented individuals.

17 You heard earlier this morning from Wausau  
18 and Northern Utilities. I think it's also important for  
19 you to be aware that both the Maine and New Hampshire  
20 Public Utilities Commissions, as I understand it, have  
21 approved the precedent agreements between PNGTS and  
22 Northern Utilities.

23 We have a very critical interest in  
24 maintaining our existing schedule. We have customer

1 commitments to be in service, as you've heard earlier  
2 today, by November 1998. In order to do that we need both  
3 our FERC and applicable state permits and approvals as  
4 quickly as possible.

5 We would like very much for the Committee to  
6 carefully balance the interests that you are being asked  
7 today to make decisions about. We are interested in  
8 working collaboratively with the Committee and all  
9 component state agencies, public counsel and the public in  
10 achieving consistent conditions with those which we will be  
11 faced with from the FERC.

12 The draft IES's are out as you know with  
13 respect to both the southern route and the northern route.  
14 We are required to comply with the conditions imposed upon  
15 us in those draft conditions as they are revised and  
16 ultimately issued in our final certificate.

17 We urge this Committee to balance the  
18 interests and work to achieve consistency and uniformity so  
19 we will be in a position to build the project on schedule.

20 As you can see, I brought all of my lawyers  
21 with me today too. On my right, your left, is my senior  
22 partner Don Gartrell; my left is a little bit less senior  
23 than Don, but more senior than me, is Jim Kruse. To his  
24 immediate left and your right is Bob Cheney, as you know

1 well is local counsel for Maritimes, our partner in the  
2 southern route. And just so that I will have 4 lawyers  
3 with me not just 3, I've got Greg Williams who flew in from  
4 Washington, D.C. who is in fact a partner really of Casten,  
5 (sic) FERC counsel to PNGTS and with that, I'll fulfill my  
6 promise and try and move on to the substance and shut up  
7 and ask Jim if he would address the original issues as we  
8 move forward here. Thank you very much, Mr. Chairman.

9 CHAIRMAN VARNEY: Thank you.

10 MR. KRUSE: Mr. Chairman, I have  
11 one housekeeping measure to address. I have prepared, as  
12 you can see from these arrays of exhibits, pre-marked  
13 exhibits which are intended to run the gamut of  
14 incorporating the application materials that have been  
15 filed to updating tables and materials that have been filed  
16 with EFSEC and some of the materials that have actually  
17 been filed in FERC proceeding on the same subject matter,  
18 and I also incorporated some of the information in the  
19 narratives and materials and tables and data that we have  
20 supplied to Public Counsel and to staff in response to data  
21 requests. And I tried to lay it out as simply as I could  
22 and also incorporate reference to these exhibits as best I  
23 could in the pre-filed direct testimony.

24 They are pre-marked, however, as yet Public



1 Counsel and I do not have any agreement in advance that  
2 they all may be entered as full exhibits and I guess I want  
3 to raise that issue now. If, to the extent that we can  
4 achieve agreement on the full marking of all of these it  
5 will obviously save us some time, but there may be some  
6 things that they object to as well. So, I'd ask how the  
7 Chairman would like us to proceed on that before I start.  
8 To the extent we can't agree, then what I would propose to  
9 do with the various witnesses on direct examination, is  
10 simply take them to the table and address the contents of  
11 the exhibit folder and describe how it bears on this case  
12 and then move formally for their admission.

13 MS. LUDTKE: Thank you, Mr.  
14 Chairman. With respect to the exhibits, we received the  
15 exhibits I believe last Thursday afternoon and there is an  
16 extensive array of exhibits. This is part of an 11th hour  
17 deluge of material that we've been asking for for about 6  
18 months from the applicant and I have briefly perused the  
19 exhibits. I don't even know what is in all the exhibits.  
20 I will, if you want, take some time during the lunch break  
21 and go over them, but I can represent to the Committee that  
22 a number of the exhibits are exhibits that we requested in  
23 data requests, and we requested previously and they were  
24 not provided to us until Thursday afternoon.

1                   Specifically, I can refer to an Army Corps  
2 application, we requested that in our last set of data  
3 requests. The application is dated May 1997, we received  
4 the February application, and a May 1996 application in  
5 response to our data requests. Apparently there is a cover  
6 letter that forwards the application to the Army Corps on  
7 June 6, 1997, and even though the application was forwarded  
8 to the Corps at that time, and we had outstanding data  
9 requests requesting that material, again that material was  
10 not provided until Thursday afternoon.

11                   We have been extremely busy preparing for  
12 the hearings and we have just not had an opportunity to go  
13 through all of the material with the kind of care that's  
14 required to make a determination as to whether we can agree  
15 to the admissibility.

16                   MR. KRUSE: Mr. Chairman, if I may  
17 respond briefly. First of all, I would say that 95 percent  
18 of the material that's on these tables should be of no  
19 surprise to Public Counsel, and I understand the difficulty  
20 in getting through all of that to make sure that's the  
21 case, because as I say, much of it comes from prior answers  
22 to data requests and my efforts to sort of format it in a  
23 way that makes sense. I also need to inform the Chairman  
24 that it was a week ago Friday that I indicated to Justin

1 Richardson that I had laid out a table of exhibits, that  
2 they were free to come and examine and as of Monday, that's  
3 a week ago today, they were available in my office any time  
4 they wished to come. And I believe it was that Tuesday  
5 that Justin was able to pick up a box of duplicates, a  
6 duplicate set that I had prepared, of most all of the  
7 materials except those which were very bulky and which  
8 obviously had been distributed.

9                   So, while I appreciate how hard we've all  
10 been working and so on, I have to take issue with the  
11 timing that's been suggested and my correspondence, our  
12 correspondence back and forth will demonstrate quite  
13 readily that there should be no surprise. It's been at  
14 least a week to examine what we had in our office.

15                   Nevertheless, I can understand if there are  
16 remaining objections, if we could have some indication as  
17 to what exhibits there's been agreement to, we could still  
18 save some time.

19                   MS. LUDTKE: With respect to the  
20 correspondence, I think the correspondence does speak for  
21 itself. There are a number of exhibits that are referenced  
22 as reserved exhibits on the correspondence and you recall  
23 that there were several revised lists of exhibits that were  
24 provided. Some of the material referred to in the exhibit

1 list was fairly non-controversial and referred to materials  
2 that had been previously filed. Other material was not  
3 available to review at the time the exhibit list was  
4 produced because, for example, it referred to an exhibit as  
5 rebuttal testimony.

6 So the exhibits that we were primarily  
7 interested in reviewing were not available at the time the  
8 exhibit list was provided to us, and I think that's obvious  
9 when you review the exhibit list.

10 And just for the record, I would like to  
11 correct, we didn't receive the exhibits after the meeting  
12 that we had on Wednesday afternoon and it was after the  
13 close of business Wednesday that we were provided with a  
14 large box of exhibits of that size to deal with, but  
15 nonetheless I'm happy to go through the material at noon  
16 and we can agree on certain, at least some of the exhibits,  
17 and there may be some issues with respect to the remaining  
18 exhibits which we can take up after the noontime break.

19 MR. PATCH: Mr. Chairman, could I  
20 suggest as a matter of procedure, at the Public Utilities  
21 Commission the way we handle it is to mark essentially  
22 anything that's requested for identification, and then at  
23 the end of the proceeding we make a determination as to  
24 whether to allow its introduction. And at that point in

1 time if anyone has an objection to some particular item  
2 being introduced, we address it then.

3 It seems to me that might work here in terms  
4 of facilitating a lot of time trying to address objections  
5 up front. If we marked it for identification and then  
6 later in the proceeding, to the extent that Public Counsel  
7 or anybody else objected to any of the items that we marked  
8 for identification, they would have an opportunity to  
9 object to them being introduced and considered by the  
10 Committee as evidence.

11 MR. IACOPINO: Along those lines,  
12 Mr. Chairman, it was I who suggested that they present each  
13 exhibit in a separate folder and have them available on the  
14 table so that each item is marked at this point.

15 CHAIRMAN VARNEY: Is that approach  
16 as Chairman Patch outlined acceptable? Okay, why don't we  
17 proceed.

18 MR. KRUSE: Would you like me to  
19 swear the witnesses?

20 CHAIRMAN VARNEY: Yes.

21 (Whereupon Michael A. Minkos was  
22 duly sworn and cautioned by Mr.  
23 Kruse.)

24 MICHAEL A. MINKOS, SWORN

## 1 DIRECT EXAMINATION

2 BY MR. KRUSE:

3 Q Would you give the Committee your full name, sir?

4 A Yes, my name is Michael A. Minkos.

5 Q And what is your business address, sir?

6 A My business address is 30 Monument Square, Concord,  
7 Massachusetts.8 Q Mr. Minkos, would you give us your position, please,  
9 with the applicant?10 A Yes, I am President of Portland Natural Gas  
11 Transmission System.

12 Q And how long have you been president of the company?

13 A Since October of 1996.

14 Q Have you been involved in the application that's now  
15 before us in preparing it?

16 A Yes, I have.

17 Q And how long has your involvement been?

18 A Since prior to the initial filing, which I believe was  
19 made on May 2, 1996. Prior to October, I served as a  
20 member of the Management Committee and prior to  
21 reorganization of the Portland Natural Gas operating  
22 company, which I became president, I was involved in  
23 the preparation of this document.

24 Q Now, have you participated in the preparation of some

1 pre-filed direct testimony for filing this in case?

2 A Yes, I have.

3 Q What I'm showing you is what we pre-marked as exhibit  
4 10, applicant's exhibit 10 in the green binders that  
5 were submitted to the Committee in advance, and ask  
6 you to turn to the pre-filed direct testimony of  
7 Michael Minkos. Is that your testimony in this case,  
8 sir?

9 A Yes, it is.

10 Q Is it true and accurate to the best of your ability?

11 A Yes, it is.

12 Q Do you have any additions or corrections or  
13 modifications that need to be made?

14 A No, I do not.

15 Q Now, in connection with your role in --

16 MR. PATCH: Can I just interrupt  
17 for one second? Is this the testimony? We had two  
18 pre-filed direct testimonies. I have an updated one on  
19 June 19th and to be perfectly honest, I didn't have time to  
20 go through to see how that compared to the February 14th.  
21 So I would hope in some way you would highlight for us the  
22 differences between the February 14th and the June 19th.

23 MR. KRUSE: I can do that  
24 specifically with red line versions at some point. I can

1 explain to you, if you'd like from me, I can explain to you  
2 how the second or the updated version was put together and  
3 thereby identify the areas of change.

4 MR. PATCH: I just think, I know  
5 there was an objection filed by the Town of Shelburne to  
6 the late filing of that, and I went back and looked at the  
7 procedural order in January and it didn't call for any  
8 updated or subsequently filed testimony.

9 MR. KRUSE: It did not.

10 MR. PATCH: I just think it was  
11 very inconvenient to the Committee members and the parties  
12 to do it in that fashion without some form of highlighting  
13 what the differences are. So I guess, I think it would be  
14 of benefit to do that in some fashion.

15 MR. KRUSE: What was done  
16 principally was to try to integrate the pre-filed written  
17 testimony with the exhibits as they were organized so  
18 that's the first major change you'll find is incorporating  
19 reference to certain exhibits.

20 The second thing that was done was to  
21 incorporate some partial responses to issues raised in the  
22 data requests by state agencies and by Public Counsel. And  
23 thirdly it was intended to, you will find some inclusion  
24 there of responses to issues raised by Public Counsel in



1 their pre-filed testimony as well as responding in part to  
2 some draft conditions prepared by the DES before this  
3 hearing commenced a few days ago, perhaps 2 weeks ago.

4 MR. PATCH: The document you're  
5 referring to now is the June 19th, the green one?

6 MR. KRUSE: Yes, sir.

7 MR. ELLSWORTH: Should we discard  
8 the February 14th filing?

9 MR. KRUSE: In our view the green  
10 supersedes the blue, but you're obviously welcome to keep  
11 the blue and I suspect it may be the subject of inquiry by  
12 Public Counsel anyway.

13 MS. GEIGER: Well the question is,  
14 is the blue part of the record in this proceeding or is the  
15 green part of the record?

16 MR. KRUSE: The green is what  
17 we're offering as part of the record.

18 MS. GEIGER: Thank you.

19 MR. CANNATA: Mr. Chairman, I  
20 would like to see the red line version that was offered to  
21 the Committee filed.

22 MR. KRUSE: Just to make clear, we  
23 have not previously offered a red lined version. I don't  
24 mean to say that that's been done, but we can try to

1 prepare one.

2 MR. CANNATA: The red lined  
3 version referred to earlier.

4 MR. KRUSE: We can, I'm saying,  
5 yeah, there were two drafts of it, both red lined, and we  
6 will try to reconstruct those red lines, yes, sir.

7 MR. CANNATA: Thank you.

8 MR. IACOPINO: Mr. Chairman, just  
9 to expedite things, as far as Mr. Minkos' testimony, the  
10 new testimony seems to just incorporate the exhibit  
11 numbers. As far as the other testimony, there may be some  
12 substantive changes.

13 MR. KRUSE: There are clearly  
14 substantive changes, especially in the panel testimony from  
15 Trettel, Morgan, Auriemma, and Wilber.

16 BY MR. KRUSE:

17 Q Mr. Minkos, are you familiar with some of the  
18 corporate agreements that are, that are related to the  
19 PNGTS application?

20 A Yes, I am.

21 Q I'll refer you to the partnership agreement, exhibit  
22 14, does this, does exhibit 14 as prepared here,  
23 contain the operative documents associated with the  
24 partnership of PNGTS?

1 A Yes, it does.

2 Q Are you familiar with an arrangement with Granite  
3 State for interconnection?

4 A Yes, I am.

5 Q And what essentially is that agreement designed to do?

6 A The agreement between PNGTS and Granite State is  
7 essentially an interconnect agreement which will  
8 facilitate the deliveries of required natural gas  
9 volumes to Northern Utilities. There is  
10 interconnecting infrastructure between PNGTS, which is  
11 the Granite State Interstate pipeline, and to  
12 effectuate deliveries or redeliveries to Northern  
13 Utilities, interconnection must be made into the  
14 Granite State facilities.

15 Q And does the current status of that documentation  
16 pertaining to the agreement set forth in exhibit 15 as  
17 far as you know?

18 A Yes, it is.

19 Q Now, there has been previous comment about precedent  
20 agreements, what do they involve?

21 A Currently, PNGTS has either consummated firm 20 year  
22 transportation agreements or precedent agreements with  
23 the shippers that have subscribed for service on  
24 PNGTS.

1 Q What we previously marked as exhibit 16, do these  
2 represent, to your understanding, the current set of  
3 precedent agreements?

4 A The documents that you show here are the original  
5 precedent agreements. Subsequent to the filing of  
6 these, the documents, which are labeled precedent  
7 agreements with both Northern Utilities and Bay State  
8 have been turned into firm 20 year transportation  
9 contracts. And I believe Androscoggin Energy also has  
10 been changed from a precedent agreement to a firm  
11 transportation agreement. The remaining are still  
12 precedent agreements.

13 Q Referring you to what we previously marked as exhibit  
14 4, correspondence from the FERC regarding  
15 recommendations for a joint project as opposed to two  
16 projects, one of PNGTS and one of Maritimes, are you  
17 familiar with that set of correspondence?

18 A Yes, I am.

19 Q And essentially what was the FERC telling you?

20 A If possible they would prefer one pipeline instead of  
21 two from the point which was south of Westbrook to  
22 essentially Dracut, Massachusetts.

23 Q And in response to that admonition from the FERC, I  
24 understand an agreement was reached with Maritimes, is

1           that correct?

2       A     That's correct.  I believe on December 23rd of 1996 we  
3           filed a joint agreement with the FERC to build and  
4           construct a single pipeline from Portland south to  
5           Dracut, Massachusetts.

6       Q     What we previously marked as exhibit 13, agreement for  
7           joint pipeline, does that represent the agreement?

8       A     Yes, it does.

9       Q     Mr. Minkos, would you please advise the Committee of  
10          your current expectations with respect to the  
11          conclusion of the FERC proceeding?

12      A     Currently, the FERC has issued two draft environmental  
13          impact statements.  The first one was issued, I  
14          believe, in April, which covers the facilities from  
15          Dracut, Massachusetts to Wells, Maine.  The second  
16          one, I believe, was issued either May 30 or June 1st  
17          which covers the remaining facilities for both PNGTS  
18          and Maritimes Phase 2 from Wells, Maine to an  
19          interconnect at the Canadian border in Pittsburg, New  
20          Hampshire along with the laterals to Rumford and Jay  
21          as well as a lateral to Wausau Paper in Groveton.

22      Q     And what's your understanding with respect to the  
23          permitting schedule from FERC?

24      A     Given the issuance and timing of the DEIS it is our

1           expectation that we will receive certificates by late  
2           summer, which is approximately on the schedule that  
3           we've been anticipating to accomplish an in-service  
4           date of November 1998.

5       Q     Do you have any further comment to offer the Committee  
6           with respect to this proceeding?

7       A     The only comment that I would like to make is PNGTS  
8           and Maritimes have undertaken a procedural schedule or  
9           a policy to work very closely with EFSEC here New  
10          Hampshire. We would encourage the EFSEC Committee to  
11          do whatever is within their powers to keep to the  
12          schedule that we have currently that was announced  
13          this morning Chairman Varney. It is important that  
14          the schedule be adhered to as closely as possible.  
15          You heard today from Northern Utilities who has a  
16          unique set of circumstances who is counting on this  
17          capacity being in-service for 1998. You also heard  
18          from some of our larger industrial customers who are  
19          planning on the natural gas pipeline to put into play  
20          a compliance filing to meet both their economic  
21          development as well as their environmental development  
22          for the future. It behooves us to work expeditiously  
23          and I can assure you that we at PNGTS will continue to  
24          work very closely with the Energy Facilities Siting

1 Counsel here to deliver a project which we hope will  
2 be as environmentally sound as possible.

3 MR. KRUSE: Thank you very much,  
4 sir. I have no further questions.

5 CHAIRMAN VARNEY: Questions from  
6 the committee? Counsel for the public?

7 MS. LUDTKE: How do you want to  
8 proceed in the order of cross examination?

9 CHAIRMAN VARNEY: The Committee  
10 would like you to go first and then we will ask so that we  
11 don't repeat.

12 MS. LUDTKE: Sure, that's fine.  
13 Good morning, Mr. Minkos.

14 THE WITNESS: Good morning.

15 CROSS EXAMINATION

16 BY MS. LUDTKE:

17 Q You're president of the PNGTS operating company, is  
18 that correct?

19 A Right, as well as PNGTS.

20 Q And I went through your testimony and resume and the  
21 material did not really clearly delineate what your  
22 responsibilities were as president. Perhaps we could  
23 flush out that area a little bit. Are you responsible  
24 for the permitting applications? You testified before

1           on direct that you were involved in putting the  
2           permitting application together?

3       A     My responsibilities as president of the PNGTS include  
4           permitting, yes.

5       Q     So it would be fair to say that you review the  
6           permitting material and make sure that the permitting  
7           material is complete and addresses the areas that are  
8           important for the application?

9       A     I do not read it word for word. I read, I scan all  
10          the documents, and for any questions that I have I  
11          refer to the preparers for more detail.

12      Q     But you review all the applications before they're  
13          made, don't you?

14      A     Yes.

15      Q     And you're responsible for ensuring that the primary  
16          work in preparation of the application is performed in  
17          delineating what work has to be done to prepare an  
18          application?

19      A     I rely on the experts that we have from an  
20          environmental standpoint to properly prepare the  
21          required information, which they deem is necessary for  
22          filing before the various agencies that we file  
23          before.

24      Q     But as president of the company you would want to



1           assure yourself that the material that was being filed  
2           was good quality material, would you not?

3       A     Yes.

4       Q     Now, PNGTS has somewhat different responsibilities for  
5           the northern route than it does for the southern  
6           route, is that correct?

7       A     You'd have to expound on that, please, what you mean  
8           by that.

9       Q     What I'm referring to specifically is that on the  
10          joint route I understood that Maritimes would be  
11          responsible for the operation?

12      A     Post construction within certain guidelines Maritimes,  
13          by agreement, will be the operator of the pipeline  
14          from Dracut to Portland.

15      Q     And PNGTS would be the operator of the northern route,  
16          would it not?

17      A     That's correct.

18      Q     So the responsibilities that PNGTS has with respect to  
19          the northern and southern routing are somewhat  
20          difference?

21      A     With regard to operation, yes.

22      Q     Is there any difference in terms of the  
23          responsibilities for design that PNGTS has had with  
24          respect to northern route and the southern route?

1       A     Per our joint agreement, after a certain time frame,  
2             Maritimes Northeast moves its in-service date from  
3             1997 to 1998. As part of the joint agreement, PNGTS  
4             had the option of electing to take on the  
5             responsibility for the engineering, design and  
6             construction of the total facilities, the joint  
7             facilities from Portland south and obviously from  
8             Portland north and we did elect that.

9       Q     So that would be engineering, design construction,  
10            permitting, the whole range of activities would be the  
11            responsibility of PNGTS?

12      A     Overall, yes. Per our joint agreement we had  
13            delineated some of the permitting responsibilities  
14            and, for instance, in Massachusetts where PNGTS was  
15            not originally involved, we are using utilizing some  
16            of Maritimes information to prepare permits.

17      Q     And there have been a number of filings made since the  
18            time that joint operating agreement was entered into  
19            and you've been, again, you reviewed those drawings to  
20            make sure that they meet your quality standards?

21      A     I have reviewed the documents or have, through various  
22            staff meetings and represented to me by staff that  
23            these documents are sufficient to meet the filing  
24            requirements.

1 Q So that would be part of your on going duties as the  
2 president, to have this sort of overall review and  
3 oversight of what your staff is doing and ask  
4 questions if you were concerned about any area?

5 A Yes.

6 Q Now, you filed the amended application on November 15,  
7 1996 for the northern route, is that correct?

8 A That's correct.

9 Q And would it be fair to say that you filed that  
10 application for the northern route prior to performing  
11 field studies on that routing?

12 A Can you, can you give me a little more information,  
13 what level of field studies you consider to be field  
14 studies?

15 Q Sure, why don't we just go through a checklist and you  
16 can tell me what PNGTS did before it filed the  
17 application on November 15, 1996 for the northern  
18 route, okay? Did you do your wetlands delineation and  
19 calculation of impact for wetlands before you filed on  
20 November 15, 1996?

21 A If it's possible, I would prefer to have those  
22 questions passed on to the people who were responsible  
23 for doing that. I can not say here as president that  
24 I have intimate details of all the details that were

1           addressed, but we do have people here that will be  
2           able to testify to that.

3       Q     Well, what I would suggest, Mr. Minkos, if you don't  
4           know just say I don't know whether that was done,  
5           okay?

6       A     Fine.

7       Q     And let me ask you again, before you filed the  
8           application on November 15, 1996, do you know whether  
9           wetland delineation and calculations of the impacts  
10          for wetlands were performed?

11      A     No, I do not specifically.

12      Q     Do you know whether any field surveys of the location  
13          of the pipeline centerline were conducted prior to  
14          filing November 15, 1996?

15      A     I believe to the extent that we had access we  
16          performed some field work.

17      Q     I'm not talking about some field, I'm talking or I'm  
18          asking specifically about field surveys to determine  
19          the location of any pipeline centerline, for example,  
20          in the Portland pipeline corridor, if you did the  
21          field surveys to determine actually where the pipes  
22          were located so you could set the centerline of your  
23          own pipeline, did you do that?

24      A     Subject to correction, I believe that the routing, the

1           initial selection of the line, probably did not have  
2           detailed survey information. That was done  
3           subsequent.

4       Q     So you don't think you did that?

5       A     Subject to correction.

6       Q     Did you do your cultural resource surveys?

7       A     Again, I don't know.

8       Q     Rare and endangered species surveys?

9       A     The information that I think was performed there was  
10           done on the basis under which, I don't have specific  
11           knowledge, but I believe there was some prime work  
12           done there.

13      Q     What type of prime work was done on the rare and  
14           endangered species?

15      A     I don't know specifically.

16      Q     Well, you said that you thought some preliminary work  
17           was done, what type of work are you thinking about?

18      A     What information would generally be publicly available  
19           from public records.

20      Q     On rare and endangered species?

21      A     Yes, from the various government publications.

22      Q     So perhaps a search of the agency records might have  
23           been done but you don't know?

24      A     No, I do not.

1 Q Do you know whether any field work was done to  
2 determine whether there were rare and endangered  
3 species on the routing that was filed on November 15,  
4 1996?

5 A No.

6 Q You know that no field work was done?

7 A I do not know specifics.

8 Q Do you know whether any work was done to determine  
9 whether the routing that was proposed on November 15,  
10 1996 would affect any deer wintering areas?

11 A I do not have specific knowledge of that.

12 Q And do you know whether any work was done prior to  
13 filing the route on November 15, 1996 regarding what  
14 historical resources would be impacted by that route?

15 A No, I do not.

16 Q Do you know if any consultations were done with  
17 regional land use agencies regarding the proposed  
18 routing that was filed in November?

19 A No, I do not.

20 Q Do you know whether any analyses of environmental  
21 conditions or impact of river crossings might have  
22 been done before you proposed the route?

23 A No, I do not.

24 Q Do you know whether there were any analysis conducted

1 of water well impacts before you proposed the route?

2 A No, I do not.

3 Q Do you know whether there was any analysis done to the  
4 impact on springs or stratified drift aquifers or  
5 other water sources before you proposed the route?

6 A No, I do not.

7 Q Do you know whether there was any analysis conducted  
8 of conservation land or recreation land that might be  
9 impacted by the proposed routing before it was  
10 proposed to this committee?

11 A No, I do not.

12 Q Do you know whether you conducted any analysis of  
13 impact to residences or residences within 50 feet of  
14 the proposed right-of-way before you filed the routing  
15 with this committee?

16 A No, I do not.

17 Q Now, I recall in your testimony I believe you  
18 concluded the testimony with the phrase that the  
19 design, engineering and construction is an iterative  
20 process, do you recall that?

21 A That's correct.

22 Q And does your iterative process start after you make a  
23 filing without conducting any of this preliminary  
24 research?

1                                   MR. KRUSE: I object. It was  
2 indicated that he doesn't know whether the research was  
3 done. Your questions assumes evidence that isn't there.

4 BY MS. LUDTKE:

5 Q     Mr. Minkos, what did you mean by referring to this  
6 process as an iterative process, what changes do you  
7 contemplate would occur during the permitting phase of  
8 this process in terms of the use of the word  
9 iterative?

10 A     Well, the process is one under which an undertaking is  
11 taken by the company or the proposing entity to  
12 identify a line for building a proposed route, and  
13 yes, there is some preliminary, in looking at a  
14 proposed route when the field engineers go out, there  
15 is, there is initial considerations on a very basic  
16 level given to highways, wetland crossings, streams,  
17 potentially environmental impact. Once that, from the  
18 people that have the experience in picking a line,  
19 ones that would probably be red flags, as you file and  
20 go through the federal process under which you make  
21 the initial filing and you have your preliminary  
22 hearings for the line that you have picked, a number  
23 of on going processes have to take place. You run  
24 into the various concerns of land owners, various



1 agencies that you file with, as we identify various  
2 aspects of the project that have been dealt with on an  
3 on going basis and once these are identified and they  
4 become problematic in some fashion to some agency,  
5 then we try to mitigate those as much as possible.  
6 Therefore, until we get a final line set and final  
7 approval by all the agencies that are involved, there  
8 are changes that take place within the route.

9 Q Now, do you, when you were in the planning stage of  
10 this, did you ever consult the studies that had been  
11 done by Stone and Webster called the Portland Gas  
12 Pipeline Feasibility Study, one done in 1991 and  
13 another done in 1992 by Stone & Webster and the 1992  
14 one, the Portland Right-of-Way study, did you ever  
15 look at those?

16 A I have to answer that as I don't know.

17 Q Did anyone ever talk to you about those studies and  
18 what Stone and Webster recommended that be done as  
19 part of filing a permit application? Did you ever  
20 look at that to determine what Stone & Webster  
21 recommended?

22 A I believe the answer to that first question would  
23 probably be the same to the second question.

24 Q Let me read to you what Stone and Webster told you and

1 recommended in 1991, and this is on page 29 of that  
2 study. It says, "it is anticipated that project  
3 approval will be facilitated by implementation of  
4 mitigation programs most state agencies use today.  
5 These programs include the requirement to provide  
6 within the construction documentation wetland and  
7 water crossing plans, soil erosion and sediment  
8 control plans, residential area restoration plans,  
9 agricultural area plans and others." So they  
10 recommended this be filed as part of the application.  
11 Are you aware of that?

12 A I believe my answer to the first question with regard  
13 to Stone & Webster was I don't know. So again it's a  
14 follow-up question.

15 Q Well Mr. Flumerfelt represented at the Gorham hearing  
16 that PNGTS had spent \$10 million in the development of  
17 this project. Did you do any work other than the  
18 Stone & Webster studies that you consulted in terms of  
19 trying to get some direction in preparing the  
20 permitting applications?

21 A Could you be a little more specific with what you're  
22 driving at?

23 Q Well, I'm asking what you did in terms of trying to  
24 get guidance and trying to get some kind of format for

1 filing of the permit application with the Committee  
2 that would have the information in it that was  
3 required for the permitting, and apparently there's  
4 \$10 million worth of work done before you filed the  
5 application in November, and I'm trying to determine  
6 what was done in terms of giving you this guidance.  
7 Perhaps you could tell us.

8 MR. KRUSE: Mr. Chairman, I'm not  
9 sure I understand what we're talking about in terms of  
10 guidance or format of the application. Are we talking  
11 about substantive review or are we talking actual forms to  
12 be filed?

13 MS. LUDTKE: Well, maybe I can  
14 make it clearer.

15 BY MS. LUDTKE:

16 Q Mr. Minkos, are you familiar with the U.S. Army Corps  
17 highway methodology for siting linear projects, it's  
18 referred to many times in your application materials?

19 A From an engineering and technical standards, no, I'm  
20 not.

21 Q So you wouldn't know what the U.S. Army Corps would  
22 recommend in terms its highway methodology for siting  
23 linear projects, you wouldn't have any idea as to what  
24 type of time frame that they would be recommending be

1 followed as part of the permitting process?

2 A No, I do not personally.

3 Q Who, in your organization, would be responsible for  
4 that?

5 A We have Northeast Ecological Associates as our  
6 environmental coordinator as well as we have the  
7 engineering, construction, design entity which is El  
8 Paso and they have served as our coordinating entity  
9 for both the engineering, design, environmental and  
10 construction aspects of this project.

11 Q What specific person would I be able to ask about the  
12 highway methodology siting procedure to determine what  
13 work had been done and whether the work had been done  
14 in accordance with the recommendations the U.S. Army  
15 Corps made in terms of the methodology for permitting?

16 A Well, I'll put myself out on a limb here and give you  
17 3 people who may be able to answer that question later  
18 in testimony. We have Mike Morgan, John Auriemma, or  
19 Roger Trettel.

20 Q And then this would never come across your desk, you  
21 would never ask them the question of whether they  
22 complied with these methodologies in terms of  
23 preparing material for permitting?

24 A I wouldn't say it would never come across my desk, but

1           the magnitude of data for this project, we rely, for  
2           my position, on the expert expertise that was in this  
3           group to provide the appropriate data for filing.

4       Q     Are you aware of any matrix that PNGTS has developed  
5           with respect to trying to make routing decisions?

6       A     Can you define what you mean by matrix?

7       Q     Well, I'll refer you specifically, I have one here  
8           that relates to the Town of Shelburne and it has a  
9           number of criteria listed on it. It's broken down  
10          into 3 categories of constraints, it's the  
11          environmental constraints, and the land use  
12          constraints and the engineering constraints, does that  
13          sound familiar?

14      A     Yes, it does.

15      Q     And there are a number of different evaluation  
16          criteria listed, environmental parameters, wetland  
17          crossings, stream crossings, etc, are you familiar  
18          with that one?

19      A     Generally, yes.

20      Q     I can list all of them if that would be helpful to  
21          you. Would that be helpful?

22      A     You can if you want if there's a purpose.

23   MR. KRUSE: Excuse me, if I may  
24      object, Mr. Chairman. If there are to be questions about

1       this matrix, first of all, we have a number of witnesses  
2       here who are intimately involved in that process. Number  
3       two, if there are to be questions posed to Mr. Minkos he  
4       should have in front of him that which Ms. Ludtke is  
5       referring to.

6                               MS. LUDTKE:  Sure, I'm happy to  
7       give him a copy here.

8                               MR. KRUSE:  I will tell you, we  
9       have other people who are more directly involved and who  
10      probably can answer more completely to these questions.

11     BY MS. LUDTKE:

12     Q     Now, Mr. Minkos, I just gave you a copy of the matrix  
13            that we were talking about?

14     A     Yes.

15     Q     And it would be fair to say that that matrix is the,  
16            is really the method that PNGTS has used in this  
17            project to make route selections, is that correct?

18     A     I would say it's a good portion or it's a portion of  
19            what we used to determine the proper routing for the  
20            pipeline.

21     Q     Now, it would be very difficult to use that matrix to  
22            make a routing decision if you didn't have the  
23            underlying data pertaining to those particular items  
24            on the matrix, for example, if you hadn't done the

1 work on rare and endangered species it would be very  
2 difficult to put a value in on that, wouldn't it?

3 A Putting a value on something is a very subjective  
4 question. I don't know that the assumption that you  
5 just put forward is entirely valid.

6 Q Well, if you want, for example, let's say cultural  
7 resources, if you haven't done a cultural resource  
8 study and you're trying to compare one route against  
9 another route, and you don't have any information,  
10 then it's pretty hard to put a number in on cultural  
11 resources so you can make that, that weighting or that  
12 comparison of the two routes, isn't it?

13 A There is a hierarchy most likely of, and again,  
14 ascertaining value and in selecting the routes there  
15 are a number of criteria, you mentioned one  
16 specifically, cultural resources. There are water  
17 bodies or endangered species and in picking an initial  
18 route you look for one that you believe from the  
19 preliminary data that you have will be most  
20 advantageous, and as the process becomes more  
21 iterative you then have the time to more specifically  
22 look at all factors that go into the final  
23 determination. Those are usually used to determine  
24 whether or not you mitigate the initial route or keep

1           it.

2           Q     Were you involved in the route selection and in  
3                 choosing that route that was filed as part of the  
4                 amendment in November of 1996?

5           A     Would you define, was I involved in the selection?

6           Q     Were you a part of the selection process, did someone  
7                 say Mr. Minkos, what do you think, do you think we  
8                 should use this route or do you think we should use  
9                 the route we filed in the first application, were you  
10                involved in that process, you were on the Management  
11                Committee, weren't you?

12          A     When we selected the -- the Management Committee, yes,  
13                 at the time as a member of Management Committee was  
14                 looking and depended on the report that was given by  
15                 the environmental staff that we currently have on the  
16                 project to make a determination for filing on a  
17                 specific route. Subsequent to that, as the process  
18                 has become more iterative, we have engaged with the  
19                 town of Shelburne in discussions to come to an  
20                 agreement or try to come to an agreement as close as  
21                 possible to optimizing the route which will be  
22                 acceptable environmentally to both parties.

23          Q     Well, I guess I didn't quite understand the answer to  
24                 the question. Were you or were you not involved in



1 making that route selection?

2 A From the managerial perspective, yes, I was.

3 Q And what did you look at in terms of making that  
4 selection? Did you look at any of the items, for  
5 example, pertaining to rare and endangered species or  
6 any archeological issues or any cultural resource  
7 issues or land use constraints or land owner concerns  
8 or visual impacts or engineering constraints or any  
9 other items that are listed on that matrix, did you  
10 look at any of that before you made your route  
11 selection?

12 MR. KRUSE: Are you referring to  
13 the company or to Mr. Minkos personally?

14 MS. LUDTKE: I'm asking what he  
15 did.

16 THE WITNESS:

17 A I reviewed in a general manner the recommendations  
18 that had been put forth by our expert staff.

19 BY MS. LUDTKE:

20 Q And what material did you review?

21 A The material that was, that was proposed to be filed.  
22 I didn't verify the detail, get into the nuts and  
23 bolts of all of the texts and specifications that were  
24 applied, but from, from general staff meetings the

1 route that was selected is a function of the reports  
2 that I get from the various people that are involved  
3 in specific areas of expertise as to selecting a  
4 route, why we chose the route that we did based on  
5 this information.

6 Q So when I asked you the list of questions that I asked  
7 you before about whether you knew whether work had  
8 been performed I can assume that none of the material  
9 you reviewed pertained to any of the items that I  
10 asked you about before such as wetland delineation,  
11 the field surveys, the cultural resources, the rare  
12 and endangered species, etc?

13 MR. KRUSE: Object to the form of  
14 the question.

15 BY MS. LUDTKE:

16 Q We went through a long list of material and you said  
17 you didn't know whether the work had been done prior  
18 to filing the permit application in November of 1996  
19 and now you're telling us that you did review some  
20 material in terms of making the route selection, and  
21 my question is, I can assume from your answers to  
22 those two questions that the material that you  
23 reviewed was not material that involved any of the  
24 items that I asked you about before when you said you

1           didn't know that work had been done?

2                           MR. KRUSE:  You're asking him to  
3           agree with your assumption?

4                           MS. LUDTKE:  I'm asking what he  
5           reviewed because I'm very confused with his answers.  He  
6           testified that he didn't review any work that had been done  
7           and he didn't know whether the work had been done on those  
8           areas and then we went through the matrix and now he is  
9           saying he did review some material that supported the  
10          matrix determination as to the review as to the selection  
11          of the route and I am trying to find out what he looked at.

12          THE WITNESS:

13          A       What we looked at was the -- I look at the matrix here  
14                  from an overall management perspective, that the  
15                  process that we are using in selecting the route is  
16                  one under which we try to accommodate, as much as  
17                  possible, all the information that needs to be filed  
18                  and all the testimony that needs to be prepared by our  
19                  expert witnesses in various areas that have to be  
20                  covered in the route selection.  I do not specifically  
21                  read, I am not an expert in wetlands delineation or  
22                  archeological.  My role as president of this company  
23                  is to approve the process, and to assure that when we  
24                  make a filing that the information required to get the

1 permit is filed in a sufficient manner.

2 BY MS. LUDTKE:

3 Q So it would be fair to say that you did not look at  
4 the underlying information related to any of the  
5 values that had been sort of put in on your matrix to  
6 make this route selection in November?

7 A That's correct.

8 Q Now, do you know whether PNGTS has any constraints or  
9 limitations with respect to locating the pipeline  
10 centerline a certain distance from residential uses?

11 A I know there is a minimum and I'm not, I don't know  
12 the exact number. I know from the FERC filings that  
13 they're concerned with pipeline location within 50  
14 feet. I know that in locations in other areas of the  
15 country as well as Massachusetts there are pipelines  
16 that are closer than 50 feet. The exact number, I'm  
17 not an expert on.

18 Q Let me refer you back again to this Stone & Webster  
19 study that was done in June of '92. It's called the  
20 Portland Pipeline Right-of-way Study and it does refer  
21 to locations near residences in that, and let me read  
22 you what it says and see if you, if this refreshes  
23 your recollection as to what the policy of PNGTS might  
24 be.

1 MR. KRUSE: Could we have a page  
2 number, please?

3 MS. LUDTKE: It's page 3.

4 MR. KRUSE: Do you have an extra  
5 copy of that study with you?

6 MS. LUDTKE: It was the first set  
7 of data requests that this was provided on and I'll give  
8 you, I have another copy with me that you can use.

9 BY MS. LUDTKE:

10 Q Let me read you what it says. It says, "Although it  
11 is technically feasible to lay a pipeline in a  
12 residential yard only 20 or 30 feet from the house  
13 itself, this was not considered as a viable location  
14 on two counts. Firstly, any landowner faced with  
15 having his garden torn up but with the other side of  
16 the right-of-way devoid of structures is going to be  
17 highly displeased. Secondly, he is not going to  
18 welcome a high pressure gas line only feet away from  
19 his abode, especially if it can be located 100 feet on  
20 the other side of the right-of-way." Is that your  
21 policy, not to locate the pipeline closer than 30 feet  
22 away from a residential use?

23 MR. KRUSE: Before answering that  
24 could he review the entire page? I don't know what else is

1 on there.

2 MS. LUDTKE: Sure.

3 CHAIRMAN VARNEY: While we're  
4 waiting, Leslie, will you be marking this?

5 MS. LUDTKE: Well, if it would be  
6 of help to the Committee we could just put the entire data  
7 request in because all this material was produced as a  
8 result of the data requests. I think the Committee does  
9 have the data requests and what I'll try to do is reference  
10 specific data request numbers for the record and then you  
11 can find it to avoid producing even more paper at this  
12 point if that's acceptable to the Committee.

13 CHAIRMAN VARNEY: Fine.

14 MR. CANNATA: Mr. Chairman?

15 MS. LUDTKE: It's data request 10  
16 in the first set, these first two documents were produced  
17 from.

18 THE WITNESS: Would you repeat  
19 your question?

20 BY MS. LUDTKE:

21 Q I asked you whether there was any policy that PNGTS  
22 had regarding the location of the centerline of the  
23 pipeline within a certain distance from a residential  
24 use, or I assume that would be a human use of some

1 kind, church, school, residence, and you said that you  
2 were not specifically aware, that you felt there was a  
3 minimum distance and this is the Stone & Webster  
4 recommendation. Does PNGTS, to the best of your  
5 knowledge, not consider it a viable option to locate  
6 the centerline of the pipeline within 30 feet away  
7 from some residential or other human use?

8 A PNGTS as a policy is looking to locate its pipeline on  
9 the most acceptable environmental route possible. In  
10 installing a large diameter pipe such as 30 inches  
11 along the route that any route that you choose, there  
12 are, there are going to be a number of circumstances  
13 under which there will be entities or individuals who  
14 are not pleased with the location of the pipeline. In  
15 choosing a location we would choose the one that from  
16 an overall standpoint will be able to be permitted by  
17 all the applicable permitting agencies, and we will  
18 try as much as possible to mitigate any concerns of  
19 any entity along the way. We will do that in  
20 conformity with any applicable transportation code.  
21 We do not have a specific applicable policy for  
22 minimum distance between households.

23 Q To the best of your knowledge is the centerline of the  
24 pipeline located within 30 feet of any residence on

1           the existing routing that you have or the routing that  
2           you propose today, do you know?

3       A     I do not know specifically, but there are people here  
4           that do.

5       Q     Would it surprise you if you found that the pipeline  
6           was located within 30 feet of some residences?

7       A     No, it would not.

8       Q     Now, what specific steps has PNGTS taken in those kind  
9           of circumstances to mitigate any safety issues?

10                   MR. KRUSE:  Are we referring to  
11           circumstances where the pipe is near a residence?

12                   MS. LUDTKE:  Within 30 feet of a  
13           residence, which Stone and Webster said was not a viable  
14           location, which apparently is a viable location now.

15                   MR. KRUSE:  Can we be specific as  
16           to a particular part of the proposed line where that  
17           exists?

18                   MS. LUDTKE:  Well, if you want me  
19           to go through the residential list within 30 feet, I can do  
20           it now, but I thought maybe I'd wait for a witness that  
21           might be more knowledgeable in terms of the actual  
22           location.  I just asked Mr. Minkos about the policy.  If  
23           you want me to do it I can go through the list.

24                   MR. KRUSE:  It's going to be my



1 suggestion that you wait for a witness who has some direct  
2 involvement in this issue.

3 BY MS. LUDTKE:

4 Q Well, Mr. Minkos would anyone consult with you and  
5 when you have a recommendation from a consultant that  
6 says it's not a viable location to say, well, do we  
7 have a corporate policy, do we have a policy as a  
8 company about location near residences that would  
9 limit it to 30 or 40 feet or whatever? I mean  
10 wouldn't that be an appropriate role for you as  
11 president of the company to make that kind of judgment  
12 about where you're going to locate and how close  
13 you're going to locate to houses?

14 A I believe I answered that question just previously  
15 that we are building and siting this pipeline in  
16 accordance with applicable approved transportation  
17 codes as well as accommodating or building according  
18 to specs anything that is included within the  
19 particular mitigating actions that will be included in  
20 our permits.

21 Q Is it a viable option for PNGTS now to locate the  
22 centerline of the pipeline within 20 to 30 feet from a  
23 residential use, is that considered a viable option  
24 now as a corporate policy for PNGTS?

1 A I would say it's a viable option.

2 Q So the answer would be yes?

3 A The answer is yes.

4 Q And you can't tell me specifically what safety steps  
5 you would take to address the concerns of the  
6 residences within that area?

7 A I will answer it again on the policy basis. There are  
8 applicable transportation codes which, when a pipeline  
9 is located within certain distances, that you have to,  
10 as part of compliance, take certain, take certain  
11 steps. Without getting into, since that's not my  
12 field of expertise, such things probably as different  
13 types of pipe, different class of pipe, and again  
14 those are usually spelled out in the compliance as  
15 part of the compliance filing.

16 Q Do you know whether any of that type of material has  
17 been provided to the Committee so that the Committee  
18 could evaluate whether PNGTS has taken appropriate  
19 mitigative measures in terms of safety to address the  
20 concerns of the residences located within 30 feet?

21 A We have provided material to both yourself and to the  
22 Committee as requested in data requests and would be  
23 willing to provide information as far as particular  
24 mitigation measures that would be requested by any of

1 the permitting agencies.

2 Q Do you know whether at this point in time whether any  
3 of that type of material has been provided to the  
4 Committee so that the Committee could look over that  
5 material and make a judgment about whether you had  
6 properly addressed the concerns, the safety concerns  
7 that people might have about such a location?

8 A I can't say specifically if, given the number of  
9 material that's been provided to the Site Evaluation  
10 Committee and yourself as to whether or not that  
11 specific question has been addressed.

12 Q So you don't know?

13 A I don't know.

14 Q Now, are you also aware of some work that's been done  
15 by PNGTS in terms of evaluating routing alternatives  
16 through Shelburne?

17 A Yes.

18 Q And there has been several different matrixes prepared  
19 for Shelburne, has there not?

20 A There has been an evaluation of alternative routes for  
21 Shelburne.

22 Q And you used several different matrixes to do that  
23 comparison, have you not?

24 A I don't know if the matrixes is correct, but we have

1           used, we have looked at alternative routes for  
2           Shelburne.

3       Q     Now, you provided some of that material to the FERC,  
4           did you not, are you aware of that?

5       A     Yes.

6       Q     Now, do you know specifically which of the matrixes  
7           that you provided to, that you did, that you provided  
8           to FERC?

9       A     I don't want to be facetious, this one that we  
10          provided, I presume is the one that we provided to DES  
11          as well as to the town to look at other alternatives.

12      Q     Let's go back then.  First of all, in terms of your  
13          initial application you did a matrix back in November  
14          in terms of the route, did you not?

15      A     I'm not sure if I would characterize November as the  
16          time in which we had the matrix.  If I recollect the  
17          filing date, we made our change from Vermont to New  
18          Hampshire, the route that was selected through  
19          Shelburne for the November filing probably at the time  
20          did not, going back to the iterative process, probably  
21          did not have a matrix at that time.

22      Q     And your previous route went south of Gorham, did it  
23          not?

24      A     I would prefer, on the questions with regard to

1 specific line changes, again, there are people here  
2 that will give a more precise answer with regard to  
3 beginning routes and ending routes and changes that  
4 have occurred.

5 Q Do you know on the route that went south of Gorham  
6 whether there were any constraints that prohibited a  
7 routing on that south of Gorham?

8 A I'm not personally, have knowledge about that.

9 Q Well, let me go back and show you the rating table  
10 that was done as part of your initial application, the  
11 amendment to your application on the 1996 routing, and  
12 I'll just hand it over to you, and you can see there  
13 is a revision mile post 67.05 to 72.08 compared to a  
14 diversion 8. Do you see that?

15 A Yes.

16 Q So, Mr. Minkos, I asked you before about your rating  
17 and this was the rating that you gave in November of  
18 1996 as part of your amendment, is it not, the one I  
19 just showed you, the revision is and the diversion is  
20 17?

21 A Well, that's the rate set, but my personal knowledge  
22 of that document is somewhat limited.

23 Q Well this, you said, I thought when Attorney Kruse  
24 asked you, that you were responsible for preparing the

1           permitting applications and this is the amendment to  
2           the application that was filed with this committee?

3                           MR. KRUSE: I don't think that was  
4           the question or the answer. He's addressed it thoroughly  
5           as to his involvement so if we stick to those questions and  
6           those answers I think we will be all right.

7           BY MS. LUDTKE:

8           Q     Mr. Minkos, isn't it your practice to review the  
9           permitting application before it's filed with the  
10          Committee?

11          A     I do not personally review the permitting applications  
12          before they're filed. My role as the president of the  
13          company is more policy oriented and the individuals  
14          that we have hired for that are responsible for  
15          preparing these permits and when they tell me that the  
16          application and form is suitable for filing then I  
17          give the okay.

18          Q     So you wouldn't actually review the application to  
19          make sure that the application had the information in  
20          it that was required as part of the application  
21          criteria?

22          A     No, I would not.

23          Q     And you don't review the underlying information to  
24          determine whether the representations made in the

1 application are actually supported by data?

2 A No, I do not.

3 Q Well, what do you do then with respect to permitting?

4 A It is my role as president of the pipeline to ensure  
5 that when we do make a permit application that the  
6 criteria used for filing and policy that is set for  
7 filing permits are within the guidelines established  
8 by the agency and do not deviate from that.

9 Q What do you do then to make sure it meets the policy  
10 that's established by the agency if you don't review  
11 the application and you don't review the underlying  
12 data?

13 A The plan for filing all of our permits started with  
14 some underlying meetings with the agencies to take, to  
15 discuss requirements, timing, etc, and then the  
16 applications are prepared.

17 Q What, what's your involvement in this permitting  
18 process? I'm trying to figure out what you did. If  
19 you didn't review the underlying data and you didn't  
20 review the application, and you testified that you had  
21 some responsibility for ensuring that it met with the  
22 policies for permitting for the state, what was your  
23 role in the process?

24 A Again, my role is administrative. It's to ensure that

1 we do not -- that we file our permits and adhere to a  
2 filing policy in the manner such that we present an  
3 application as complete as possible and one that will,  
4 will see a successful permitting, successful permit  
5 from the Site Evaluation Committee.

6 Q Since the filing of the application in November and  
7 then the filing of the joint application in February,  
8 have you been involved in the data requests? Have you  
9 reviewed any of the data requests to determine if the  
10 data requests are accurate?

11 A I review them for informational purposes. My, my  
12 questions when we have monthly project meetings is to  
13 ask questions and I'm confident that the professional  
14 staff that we have hired and engaged to prepare these  
15 applications have provided information necessary to  
16 receive a permit from the Site Evaluation Committee.  
17 We have prepared essentially the same information and  
18 have received two successful environmental impact  
19 statements from FERC. A lot of the information is  
20 duplicative in nature and we work very hard with the  
21 state agencies to provide any additional information  
22 that may be required.

23 Q Have you ever personally read the responses to the  
24 data requests that were made to the state?



1 A Yes, I have. I haven't read all of them. They are  
2 very voluminous as you know.

3 Q And you indicated, for example, on the DEIS you had a  
4 successful result on the DEIS, but, for example, you  
5 don't know specifically what material was filed with  
6 the FERC, do you?

7 A Again, I have reviewed, I reviewed the, since all the  
8 data requests come to me from FERC as the starting  
9 point, I look at the questions and again I, to the  
10 extent that I can, I review data responses from an  
11 informational standpoint for self knowledge, but I can  
12 tell you that I do not review every detail of every  
13 answer that goes in.

14 Q Well, for example, if I asked you what material had  
15 been provided to the FERC with respect to the  
16 Shelburne routing, you wouldn't be able to tell me  
17 that, would you?

18 A Specifically, each data request, no. I can tell you  
19 that, that the proper data has been filed as a result  
20 of requests that we had from both FERC as well as the  
21 state, and we have received a DEIS and there are  
22 mitigation measures that we're proposing, but the  
23 route selection, information that's been provided has  
24 been, at least in that purview, sufficient to at least

1 receive a draft environmental impact statement.

2 Q Well, Mr. Minkos, for example, do you know whether  
3 PNGTS ever provided the FERC with a copy of the most  
4 recent rating on the matrix that it did on the  
5 Shelburne routing issue? Do you know what matrixes  
6 the FERC actually was provided with by PNGTS?

7 A Specifically, no, but the information has been  
8 provided sufficient for them to issue their assessment  
9 of the route that's been selected.

10 Q But for example you wouldn't know if this first  
11 rating, which is 9 on the Gorham South area -- or 17  
12 on the Gorham South and 9 on the revision, which shows  
13 a difference of almost 100 percent in terms of the  
14 routing values versus the most recent revision which  
15 shows, recent comparison which shows probably a  
16 difference of about 5 percent in terms of the numbers,  
17 FERC would be interested in some changes like that,  
18 wouldn't it?

19 MR. KRUSE: With due respect, Mr.  
20 Chairman, I object to in fact testimony from Public  
21 Counsel. I think if she can break it down into specific  
22 questions about what Mr. Minkos knows, that's fine, but I  
23 think all of the assumptions underlying there are not fair  
24 game.

1 BY MS. LUDTKE:

2 Q Well, Mr. Minkos, let'S just have a comparison then.  
3 I showed you the one that was 9 and 17. I think you  
4 can take a look at that one. And then we have the  
5 most recent, the one that was given to the -- in  
6 response to our data request.

7 MR. KRUSE: Can we establish that  
8 Mr. Minkos knows personally when these things were filed  
9 with whom and by whom?

10 BY MR. LUDTKE:

11 Q Let me show you these two items. One is dated May 9,  
12 1997 and it's a response to a data request, data  
13 request 29, third set, page 14, called the alternative  
14 analysis and it's Shelburne, and I'll compare that to  
15 table 1.24, amendment to application for energy  
16 facilities certificate, that's page 97 in the  
17 application. If we could just compare those ratings  
18 there.

19 MR. KRUSE: I would object to a  
20 comparison of ratings because I don't know that we've  
21 established how they are to be compared, how they are to be  
22 read or how they are to be interpreted.

23 MS. LUDTKE: Well, I'll represent  
24 to you that those are the ratings of the routing in

1 Shelburne and one rating relates to the amendment of the  
2 application that was filed with this Committee in November  
3 and another rating was done of the same alternative routing  
4 in response to the Shelburne, the Town of Shelburne's  
5 request and filed with us on May 9, 1997. Are you familiar  
6 with those Mr. Minkos?

7 THE WITNESS:

8 A I'm not familiar with these specific documents.

9 BY MS. LUDTKE:

10 Q Well, let me call your attention to the numbers on  
11 those documents. You see the numbers and how they're  
12 rated in the first one, how do they, how are they  
13 rated in terms of your preferred routing versus the  
14 alternative?

15 MR. KRUSE: Objection, he  
16 indicated he was not familiar with the documents.

17 THE WITNESS: I can't give you a  
18 good answer.

19 MS. LUDTKE: All right. Well,  
20 I'll ask somebody else then.

21 CHAIRMAN VARNEY: Does that  
22 conclude your questions?

23 MS. LUDTKE: I just wanted a  
24 minute to review any notes. I think I'm almost done.

1 MR. CANNATA: Mr. Chairman, while  
2 she's reviewing her notes if I could ask a question for  
3 clarification. We talked earlier about data requests.  
4 Back in our own shop data requests are not a formal part of  
5 the record. Are data requests a part of the record here?

6 MS. GEIGER: I think counsel for  
7 the public had previously asked that they be marked for  
8 identification. I don't know what the next number on the  
9 list is, but perhaps that might help to clarify. I think  
10 they're in, they're not introduced yet, but my  
11 understanding was that they had all been, at least all of  
12 the responses to the counsel to the public data requests,  
13 had been marked for identification.

14 MS. LUDTKE: I thought that they  
15 were part of the record automatically because they were  
16 part of the process that was going on, but we can mark them  
17 for identification as part of the record.

18 CHAIRMAN VARNEY: Yes, if you  
19 could.

20 MS. LUDTKE: That's not a problem  
21 at all. We have a couple boxes of them over here.

22 MR. CANNATA: Thank you.

23 MR. KRUSE: I think if that being  
24 the case, then all data requests, including data responses

1 to the DES -- I mean if we want to make data requests a  
2 part of the record, I think it ought to be the full panoply  
3 of data requests, not just Public Counsel's data request.

4 MS. LUDTKE: That's fine. I have  
5 them all here.

6 MR. PATCH: I think at some point  
7 it would be clear -- I don't know, Mr. Kruse, you didn't  
8 actually specifically request, but I assumed you wanted  
9 marked for identification 1 through 73 as proposed at the  
10 beginning of your green booklet.

11 MR. KRUSE: I did, Mr. Patch,  
12 although, as Leslie properly pointed out, there are numbers  
13 there that are referred to as reserved and they really are  
14 meaningless because they haven't been used. It's just that  
15 I couldn't mechanically go back and readjust all the  
16 numbers.

17 MR. PATCH: I just think at some  
18 point we ought to be clear about what we're marking, what  
19 we're not, what the numbers are, what we're marking, you  
20 know, and perhaps during a break the two of you could  
21 confer on that and come up with some numbers maybe with Mr.  
22 Iacopino and come up with some numbers that were clear to  
23 the Committee about, you know, what was being marked for  
24 identification as responses to data requests and so forth.

1 I think that might be helpful.

2 MR. IACOPINO: We will do that.

3 MS. LUDTKE: I'm done.

4 CHAIRMAN VARNEY: You're done,  
5 thank you.

6 MR. CARLISLE: Dave Carlisle,  
7 Chairman of the Shelburne Conservation Committee, am I  
8 allowed to ask questions at this point?

9 CHAIRMAN VARNEY: Yes, I believe  
10 so.

11 BY MR. CARLISLE:

12 Q Mr. Minkos, you made significant comments about the  
13 critical need to stick with the published schedule, is  
14 that correct?

15 A I commented on the necessity and affirmed the previous  
16 witness' testimony for the need to stick to the  
17 current schedule, yes.

18 Q Based on this, is there a very significant reason why  
19 the table full of exhibits in front of us wasn't  
20 available until the day after the pre-agreed date for  
21 final pre-filed testimony?

22 A The information I believe was available in form, if I  
23 heard Mr. Kruse correctly, it has been available, you  
24 know, prior to today. In fact that it wasn't utilized

1 is a, is a function of the people's interest in having  
2 access to the information, but if I heard Mr. Kruse  
3 correctly, it was available prior to today.

4 Q Was there any effort to it available to the Town of  
5 Shelburne, which is approximately a 2 1/2 hour drive  
6 away?

7 A I don't know on that one.

8 Q Just a couple of questions about the decision criteria  
9 matrix that was used for Shelburne. Is this a  
10 standard industry-wide format, used nationwide? I  
11 mean routing decisions are made all the time, I assume  
12 that there is an industry standard and tables for  
13 designing this type of criteria?

14 A I'm not sure that there is an industry standard for  
15 route selection. There are more industry standards  
16 applicable to design and operations of the pipeline.  
17 The selection of the pipeline route is somewhat of a  
18 dynamic process because there are a number of criteria  
19 that have to be met before you can successfully permit  
20 any pipeline or location of a pipeline.

21 Q Is it safe to assume that this same standard matrix  
22 that you used for Shelburne was completed and used for  
23 all your routing decisions along, at least the  
24 northern route, or was it just used specifically in



1 the Town of Shelburne?

2 A The Town of Shelburne probably had a little bit more  
3 of an in depth or a different type of assessment  
4 methodology because of the, the concerns that were put  
5 forth by the town, the Town of Shelburne in the  
6 initial route selection. And other parts of pipeline,  
7 we have not had as much interface or as much concern  
8 from entities on the location of the pipeline. It's  
9 generally done on a response basis.

10 Q So there must have been, somewhere along the route, at  
11 least one other town in which there were sufficient  
12 diversions or changes that required creation of a  
13 matrix like this?

14 A In the total route of the pipeline, you know, a  
15 process getting like this, from the various inputs  
16 that are received from the permitting agencies,  
17 special interest groups, there have been, there have  
18 been numerous line changes proposed.

19 Q And there are design or routing criteria matrixes for  
20 those other changes quite similar to the one in  
21 Shelburne?

22 A They're not necessarily the same as Shelburne. I  
23 don't think there are probably any two locations that  
24 are the same. It's a function of the location, and

1           the applicable mitigation effort that has to be  
2           undertaken. It may be endangered species, it may be a  
3           wetland, it may be a public way, there are a number of  
4           criteria which require a different set of  
5           circumstances to utilize for picking the optimal  
6           route.

7       Q     So there aren't any other matrixes that are at all  
8           similar to one used in Shelburne, is that what I  
9           heard?

10      A     I don't know if there are specific matrixes. I tried  
11           to describe the process and for Shelburne, because of  
12           the, of the interest that has been put forth by the  
13           various parties, we have utilized and try to come up  
14           with a criteria which gets, which is a little bit more  
15           involved than other sections of the pipeline.

16      Q     Would it be correct to say then that this decision  
17           criteria matrix was designed specifically for  
18           Shelburne?

19      A     The criteria or trying to come up with an assessment,  
20           call it a matrix, but again, the process that was  
21           developed for Shelburne is the result of the  
22           requirements and the specifics of that specific  
23           location and in an attempt to try to reach a  
24           resolution for the all the parties.

1 Q Is it safe to say that this matrix that we're talking  
2 about was essentially put together and rated after the  
3 route was chosen?

4 A I can't answer that question. That question may be  
5 best put forward to one of the other witnesses who was  
6 actually involved in picking the route and they can  
7 elaborate on the criteria.

8 MR. CARLISLE: Thank you, no  
9 further questions.

10 CHAIRMAN VARNEY: Thank you.  
11 Members of the Committee?

12 BY MR. ELLSWORTH:

13 Q Mr. Minkos, just to close a couple of issues that were  
14 raised this morning, there was one question concerning  
15 the potential future use of this pipeline and whether  
16 it might be limited to the use of natural gas or  
17 whether it might be at some later date converted to  
18 oil. Could you give us your policy position as to the  
19 potential use of the this pipeline?

20 A The use of this pipeline, and what we're going to be  
21 certificated for by the FERC and the New Hampshire  
22 certificate, it will be for a pipeline used for  
23 natural gas use. And also our contracts, at least for  
24 the first 20 years, are designated for natural gas

1 use. I think the predominate fact is that we are  
2 applying for a certificate of public convenience from  
3 FERC for a pipeline that will be used for natural gas.

4 Q To the extent that the company found in the future  
5 that it was necessary to consider its use for some  
6 other product, would you accept that it would be  
7 necessary to come back at least before this Committee  
8 as well as probably others in order to get any other  
9 use for that pipeline?

10 A I'm not sure what the applicable New Hampshire  
11 regulations are, but I believe that FERC would require  
12 a certificate process for an alternate use of the  
13 pipeline. And I believe we would at least be in the  
14 federal forum, and since there, I don't know what the  
15 environmental consideration would be, the pipeline was  
16 already installed, other than the use, I'm not sure at  
17 this point what the applicable state requirements are.  
18 If there are any we would be back.

19 Q Another question that was asked was the use of the  
20 right-of-way, uses other than your own purposes, that  
21 you might want to turn around and resell or release  
22 portions of the right-of-way. Could you give us your  
23 policy response to that please?

24 A Yes, we have recently, we have recently altered our

1 policy. In our standard right-of-way agreement we had  
2 asked, again it's voluntary, our standard right-of-way  
3 agreement had us asking landowners for the right to  
4 use the right-of-way for purposes other than a natural  
5 gas pipeline. However, FERC will only certificate,  
6 give us a certificate, the right to condemn will only  
7 be for the ability to put a natural gas pipeline, a  
8 single pipeline in that right-of-way. Our  
9 right-of-way again has been modified to address that  
10 fact. However, that does not preclude a landowner on  
11 a negotiated basis for granting PNGTS and/or Maritimes  
12 or Northeast the ability on a negotiated basis, proper  
13 remuneration, to grant us rights other than for a  
14 pipeline.

15 Q But unless and until that next action is taken, can a  
16 customer, can a property owner be assured that there  
17 will be no alternate use of that right-of-way by your  
18 company?

19 A From our certificate I, I would, unless he signs a  
20 voluntary agreement giving us the particular right to  
21 use that right-of-way for other than a natural gas  
22 pipeline, our certificate will only allow us to use  
23 that right-of-way for natural gas in the pipeline.

24 Q Now, there was another concern expressed this morning

1           about landowners rights to use that property for their  
2           own purposes, to cross it for the purposes of logging  
3           or for farming. Do you have a policy response to  
4           that?

5       A     The general policy for the pipeline is when we acquire  
6           a right-of-way, we will work with the landowner and  
7           will describe in his agreement the abilities, what his  
8           description will be for the use of the right-of-way,  
9           the rights that we are acquiring. In general, we have  
10          some limited use and generally permanent fixtures such  
11          as houses or garages, something that comes close to  
12          the pipeline are prohibited, but there are other uses  
13          that are not prohibited and would be contained within  
14          the particular individual's easement agreement. So,  
15          if he wanted to use it for, you know, for agriculture  
16          or whatever use, it can be sometimes accommodated.

17       Q     There was a concern in the back that they cannot hear  
18           our dialog.

19                           UNIDENTIFIED SPEAKER: As a member  
20           of the general public I would just ask, will the company  
21           install sleeves over the pipe?

22                           MR. ELLSWORTH: Well, I think  
23           maybe I can help you, sir by working into that, some of  
24           those questions.

1 BY MR. ELLSWORTH:

2 Q If a customer brought to your attention prior to  
3 construction the need for specific crossings for  
4 specific reasons, is the company prepared to respond  
5 positively to that, and if so, what information and  
6 assistance would be necessary in order for you to  
7 accommodate them?

8 A I don't want to say that the company is in a position  
9 to respond positively. We are in the position to  
10 respond to the customer depending on the application  
11 that is requested. If it does not, it doesn't violate  
12 any safety standards or cause any concerns which may  
13 be concern of operations to the pipeline, we would be  
14 willing to work with the customer to work those out.

15 Q There was a question asked earlier about construction  
16 standards. As a matter of policy, what construction  
17 standards will your company use in building this  
18 pipeline? And have they been -- let me start with one  
19 question at a time. Will your company use  
20 construction standards in building this pipeline?

21 A Yes.

22 Q Have those construction standards been put into place?

23 A They will be incorporated as part of the final permit  
24 that we will be issued from FERC.

1 Q Have they been provided to this Committee?

2 A Subject to check, I hope so.

3 Q And if not, would you be willing to provide them to  
4 us?

5 A Yes, we will.

6 Q And will those construction standards meet whatever  
7 performance standards are set forth by the federal  
8 Department of Transportation?

9 A I believe they will.

10 Q And to the extent that there are relevant rules and  
11 regulations set by this Commission for construction of  
12 pipelines, do you anticipate that they will conform to  
13 those rules and regulations? That's a trick question  
14 I'll tell you ahead of time.

15 A It is a trick question.

16 Q Let me tell you what the trick is, one of the tricks  
17 is that there is a requirement in our rules and  
18 regulations that whenever a pipeline in excess of 200  
19 pounds pressure is constructed that it can be no  
20 closer than 40 feet to a dwelling, and that kind of  
21 goes to some of the questions that were asked earlier.  
22 So, the trick that I'm getting to is as to whether or  
23 not you're prepared to accept that as a policy in  
24 constructing your pipeline?



1 MR. PFUNDSTEIN: Excuse me,  
2 Commissioner Ellsworth, I apologize for interrupting, but  
3 that's an issue that we will be prepared to address in more  
4 detail later. As the Committee well knows, it involves an  
5 area where there is a legitimate issue with respect to the  
6 extent or scope of the various jurisdictional authorities  
7 of the federal and state government, and I think it would  
8 be misleading to perhaps get into it in a little more  
9 detail here. We will be prepared to address it later on in  
10 the proceeding.

11 MR. ELLSWORTH: I understand that  
12 and I respect that so let me ask it a different way. As a  
13 matter of policy, would you consider a policy which would  
14 assure that the pipeline is not built within 40 feet of any  
15 dwelling?

16 THE WITNESS:

17 A I guess the word, "consider," I can answer in the  
18 affirmative on a consideration. Now, on the  
19 implementation, depending on the, on the ability to,  
20 to conform to the consideration, if it doesn't  
21 represent any jurisdictional questions, we would  
22 probably be willing to conform.

23 MR. ELLSWORTH: Thank you.

24 CHAIRMAN VARNEY: Mike.

1 MR. CANNATA: I've got a follow-up  
2 question to Commissioner Ellsworth's question and I have a  
3 couple of my own, Mr. Chairman.

4 BY MR. CANNATA:

5 Q Mr. Minkos, you talked about changing your corporate  
6 policy regarding the ability to resell and release  
7 land that you had easements on earlier?

8 A That's correct.

9 Q To my knowledge many easements have already been  
10 obtained which contain that language. What is your  
11 corporate policy as to releasing existing landowners  
12 from that language which they have signed?

13 A Michael, I can say we haven't discussed that yet and  
14 that's one, which I'm not prepared to answer today.

15 Q Thank you.

16 A Generally, I would say that the, to date, the  
17 easements that we have have been entered into on a  
18 voluntary basis. And, therefore, unless there is  
19 something we're not, we're not in a position to, won't  
20 be in a position to renegotiate.

21 Q We've had many opportunities through informational  
22 discussions which were not part of the record and many  
23 company representatives made representations to the  
24 Committee and to the public regarding things such as,

1           you know, 100 percent of the welding would be x-rayed,  
2           padding would be utilized, that during construction  
3           the crossing of the Piscataqua River would not  
4           interfere with oil shipments that would be used for  
5           heating, can this Committee, on the record now, rely  
6           on those representations of the company?

7           A     If we made such representations, we made those with  
8           the full understanding that we can comply if they are  
9           part of our permitting consequences, if they have been  
10          made we will comply.

11          Q     And part of those representations have been that the  
12          routing process in itself is iterative, starting from  
13          the conceptual design as it goes through the process  
14          and part of the iterative process are routing changes  
15          imposed by this Committee, is that still a  
16          representation that's true from your corporate  
17          standpoint?

18                                   MR. KRUSE:   Excuse me, I don't  
19          understand the question.

20                                   CHAIRMAN VARNEY:  Is that another  
21          trick question?

22                                   MR. CANNATA:  Yes -- No, it's not.

23          BY MR. CANNATA:

24          Q     Representations have been made during the

1 informational hearings that the routing process is  
2 iterative in nature, starting with a conceptual idea  
3 of what the route is and then just start working with  
4 landowners and localities, route changes are made and  
5 that the final route is not completed until route  
6 changes are made by the regulatory bodies, including  
7 the FERC and this Committee. Is that still a fair  
8 representation?

9 A It's a fair representation, I believe, as long as  
10 there are no jurisdictional questions that come into  
11 play.

12 MR. CANNATA: Thank you.

13 MR. KRUSE: For the record, Mr.  
14 Chairman, I think there is a, an issue of jurisdiction when  
15 it comes to the question of changing routes. I'm not sure  
16 how to sort it all out right now, but I think it ought to  
17 be clear for the record that that is an issue.

18 CHAIRMAN VARNEY: That's right,  
19 the state has the jurisdiction, you're right. Excuse me,  
20 this is questions from the Committee. If you have  
21 questions save them for the end of the day or see the  
22 counsel for the public. Thank you.

23 MR. TAYLOR: Mr. Chairman, I'd  
24 like to confirm an exchange of about 5 minutes ago. As I

1 understood Mr. Carlisle's question, it was whether or not  
2 the decision making framework, the matrix that has been  
3 discussed here, was in fact put together after a routing  
4 decision had been made. So I guess to Mr. Carlisle I'd  
5 like to confirm that that was the intent, the thrust of  
6 your question?

7 MR. CARLISLE: That's correct.

8 BY MR. TAYLOR:

9 Q And Mr. Minkos, as I understood your response, it was  
10 to defer a response to that question to someone who  
11 had been more involved?

12 A That's correct, as to the timing I would prefer that  
13 the individuals responsible for making that  
14 preparation are in the best position to give you the  
15 exact answer with regard to timing.

16 Q So you would leave open the possibility that a  
17 decision was made before the decision making matrix  
18 was established?

19 A Well, I guess the function is what you call a  
20 decision. From a PNGTS routing perspective, we chose  
21 a route that we filed with the applicable regulatory  
22 agencies for traversing the Town of Shelburne. And  
23 through the data request process, through the hearing  
24 information process, the route was, from various

1           entities, was not acceptable to certain parties. So  
2           if you have to prepare and you get data requests for  
3           preparing a viable alternative or looking at  
4           alternatives so the FERC and the permitting agencies  
5           can make a decision as to what is going to be the  
6           final route, you have to provide information. Now, as  
7           to whether the decision tree and the matrix providing  
8           all the applicable tangibles, variables that were used  
9           in either staying with or changing the route in  
10          Shelburne was prepared before or after, I'm not sure  
11          and I'd defer to the preparing parties.

12                           MR. TAYLOR: Thank you. Further  
13          questions from the Committee?

14          BY MR. COLBURN:

15          Q       Thank you, Mr. Chairman. I'd like to follow on the  
16                  question about existing easements that Mr. Cannata  
17                  asked. Mr. Minkos, in the case of landowners that  
18                  have existing easements, who may not have realized  
19                  that they needed to specify sleeving or other special  
20                  precautions for logging equipment or for farm  
21                  equipment access, has the company undertaken any  
22                  proactive efforts relative to their land use, or are  
23                  we going to be in a situation where a landowner  
24                  presumed that he or she could continue to use his or

1 her property in the manner that they traditionally  
2 have, for example, logging, you presumed that they  
3 understood that there might not be access over the  
4 pipeline for heavy equipment, and we have a real  
5 problem after the fact. As I say, my question is has  
6 there been a proactive effort to inquire about such  
7 uses on the front end?

8 A I'll state what I believe has been the policy of our  
9 Right-of-way in negotiating for easements. We, in our  
10 original easement policy, we have multiple rights use,  
11 but we did pay attention to individuals who either  
12 requested specific use of their property, what would  
13 be allowed and what would not be allowed in securing  
14 that easement, and I believe, and there is a person  
15 here that can attest to that more fully, that  
16 individuals' rights to use their property have been  
17 specified or at least there is an understanding of the  
18 individual of what their uses of their property are  
19 when they signed the lease agreement. And we have  
20 tried to accommodate, to the best of our ability, the  
21 uses which would not be detrimental to either safety  
22 or the operation of the pipeline in the future.

23 Q I'm not sure that that answers my question as to  
24 whether your folks asked or didn't ask and the

1 landowner didn't tell then what kind of situation are  
2 we going to be in, in the future? Has there been an  
3 affirmative effort to inquire of the landowners about  
4 what uses they may undertake in the future which you  
5 guard against or provide for in protecting the  
6 pipeline?

7 A It's a difficult question the way you've asked it as  
8 to, you know, if we proactively asked the landowner if  
9 he knows in perpetuity what he is going to use his  
10 land for, you know, on this location. What we have  
11 asked in discussions is that we are asking to secure a  
12 right-of-way for, at the time, the original ones, for  
13 an agreement which would allow us to build a pipeline  
14 plus other uses of the right-of-way. If an owner has  
15 not put forth any comments with regard to that as to  
16 he may want to do this or may have a particular use in  
17 the future, but we have not, we have not, I don't  
18 believe, volunteered to ask.

19 MR. COLBURN: I think that answers  
20 my question. Thank you.

21 CHAIRMAN VARNEY: Bruce.

22 BY MR. ELLSWORTH:

23 Q Mr. Minkos, I have a question regarding your  
24 compliance efforts during construction, your



1 inspection procedures. I'm reminded that in 162-10,  
2 the Committee has an opportunity to hire consultants  
3 or investigators or assistants to make sure that an  
4 applicant does what is necessary in order to assure  
5 that the application requirements are met, and in  
6 order for us to avoid doing that in this case, I ask  
7 you, what compliance inspection procedures you will  
8 have in place, and what type of inspectors you will  
9 have on the site during construction?

10 A That, Bruce, is currently under development as part of  
11 the engineering/construction package and I think that  
12 is better addressed by Mr. Morgan. In his testimony  
13 he will probably be able to provide you more detail.  
14 Inspectors seem to be in vogue today from various  
15 entities, and I'm sure exactly how many we will have  
16 and where -- we will have ours and depending on what  
17 comes out from the various permitting aspects as to  
18 what may or may not be involved for other type of  
19 inspections along the pipeline. I'll tell you that  
20 Mr. Morgan will be able to give you a little more  
21 detail of what's currently being planned from the  
22 PNGTS contractor inspector and then there will be  
23 others that will probably be involved for maybe some  
24 of the other agency requirements.

1 Q Finally, if this application is approved, could you  
2 give us your general sense of construction dates, when  
3 the northern project will start, when the southern  
4 project will start, and whether they will run  
5 concurrently?

6 A It is our expectation that given the -- anticipating  
7 that our FERC permits will be issued by late summer as  
8 currently envisioned by PNGTS, and that we receive all  
9 of our applicable state permits in a similar timely  
10 fashion, that we will start the entire project on a  
11 concurrent basis.

12 MR. ELLSWORTH: Thank you.

13 CHAIRMAN VARNEY: Doug.

14 BY MR. PATCH:

15 Q Mr. Minkos, when Claire Lamm testified this morning  
16 she had some fairly strong things to say about your  
17 agents and how they obtained the deeds from residents,  
18 and I guess I'm curious, I'm not sure if you're the  
19 one to respond to it, but she had said, she said in,  
20 I'm reading now from the written testimony, brutal  
21 tactics employed by PNGTS agents and said residents  
22 were badgered and coerced to sign deeds with  
23 threats of eminent domain. I'm just curious to know  
24 what sort of training you might have done with your

1 agents, if there are any documents that you can supply  
2 that can show us how your agents are trained to deal  
3 with people? I wonder if you've heard complaints  
4 about those kinds of tactics and if so what you've  
5 done to respond to them?

6 A We have a witness here that will be able to answer the  
7 specifics of right-of-way training that takes place  
8 and we also have the ability to document each and  
9 every contact I believe with landowners. I did take  
10 some notes this morning. It is not the policy of  
11 PNGTS to badger any landowners. We're going to be  
12 neighbors for a long time, you know, assuming that we  
13 get certificated for this pipeline, and it is not our  
14 goal to have any unhappy landowners. We recognize  
15 that in building of a pipeline such as this that we're  
16 not going to make everybody happy, but it is not our  
17 goal, and I will specifically, I wrote the name down  
18 of the woman who testified this morning, and we will  
19 be able to find out if that in fact happened because  
20 we do track all our contacts with landowners.

21 CHAIRMAN VARNEY: We'd also be  
22 interested in any written material that you may have,  
23 information sheets or an information package that you may  
24 give to landowners to help them understand as you enter

1 that process.

2 THE WITNESS: Again, if Mr. Wilber  
3 is called to the stand today he will be able to answer all  
4 those questions in detail.

5 MR. KRUSE: He will be.

6 CHAIRMAN VARNEY: Ed.

7 BY DR. SCHMIDT:

8 Q Mr. Minkos, when the original application was filed  
9 there was a calculation of a fee that was required for  
10 that application. Since that time there have been  
11 some changes made in the routing that have resulted in  
12 increased impact areas and by our calculations there  
13 are changes that ought to be made in the amount of  
14 that fee. Could you tell me what your intentions are  
15 relative to those increased areas and the fee that  
16 might go along with them?

17 MR. PFUNDSTEIN: Mr. Chairman, I  
18 have direct knowledge of that. We are certainly aware of  
19 Director Schmidt's comment concerning the needs to complete  
20 a reconciliation of the appropriate fees. We certainly  
21 don't anticipate this Committee or the agencies to sit back  
22 without a resolution on that issue and conclude this  
23 process and although I'm not sure Mr. Minkos has been  
24 involved in any of those discussions lately, we are aware

1 of it and we certainly expect to resolve it to the  
2 satisfaction of this Committee and whatever appropriate  
3 agencies involved.

4 CHAIRMAN VARNEY: Thank you.

5 DR. SCHMIDT: I have one other  
6 one.

7 BY DR. SCHMIDT:

8 Q I don't know if you're the correct witness to deal  
9 with this, but late last week we received an  
10 application for a variance from the Shore Land  
11 Protection Act conditions, and it was, to my way of  
12 reviewing the request, somewhat incomplete. Are you  
13 in a position to talk about that, that application?

14 A I am not, but our environmental witness, two of our  
15 environmental witnesses are here today and they should  
16 be able to answer that question in more detail than I  
17 can provide you.

18 DR. SCHMIDT: Thank you.

19 BY MR. IACOPINO:

20 Q Mr. Minkos, Mr. Marini from the Public Utilities  
21 Commission submitted some testimony through the Public  
22 Counsel's submission. Have you had an opportunity to  
23 examine that?

24 A No, I have not.

1 Q Let me just say that in that testimony he made a list  
2 of recommendations. Will you have a witness that will  
3 respond to those, whether or not they're acceptable  
4 recommendations or whether any are objected to?

5 MR. KRUSE: I can tell you, sir,  
6 that we will, Mike Morgan will be addressing that.

7 MR. IACOPINO: So we will have a  
8 witness who will say whether or not they consent to or have  
9 no objection to some of the recommendations or what  
10 objections they do have to any of them?

11 MR. KRUSE: Yes, and Brent Evans  
12 is also available on direct and to respond to panel  
13 questions.

14 MR. CANNATA: I have one  
15 procedural question, Mr. Chairman. Due to the layout as I  
16 understand the agenda, there won't be an ability for  
17 rebuttal testimony. Will I have the ability to reask  
18 questions of witnesses once they've come off the stand?

19 MR. IACOPINO: A Committee member  
20 has a lot of authority. Usually Committee members may ask  
21 questions whenever they deem them necessary.

22 MR. CANNATA: Then I may have  
23 additional questions for Mr. Minkos after I get some of the  
24 technical testimony to be provided further.

1 CHAIRMAN VARNEY: Leslie?

2 MS. LUDTKE: I have several more  
3 questions if that's acceptable.

4 CHAIRMAN VARNEY: Sure.

5 BY MS. LUDTKE:

6 Q Mr. Minkos, is it the policy of PNGTS to provide  
7 sleeves over the pipeline for heavy equipment whenever  
8 it's needed for wood roads, access to fields, or any  
9 other use which might have equipment travelling over  
10 it?

11 A Once again, it will be the policy of PNGTS to design  
12 and install a pipeline according to applicable  
13 Department of Transportation codes. And depending on  
14 the application, the site, a proper mitigation method  
15 will be employed. It may not necessarily be a sleeve.  
16 It could be another mitigation method that may be  
17 appropriate.

18 Q Is that mitigation method installed at cost to the  
19 landowner so that the landowner can continue to use  
20 the property in a way in which that landowner had been  
21 using the property? For example, as an access road or  
22 something along that line? (Court Reporter paper  
23 change.)

24 A Would you repeat the question, please?

1 Q I thought I had, but I'll ask it again. Will those  
2 types of mitigation measures be put in at no cost to  
3 the landowners so that the landowner can continue to  
4 use his or her property in the way that the property  
5 had been used previously?

6 A If there is an agreement as to the appropriateness of  
7 the mitigation measures that it would most likely be  
8 provided as part of the construction of PNGTS. And I  
9 preface that that is a very difficult question because  
10 it can't be somewhat frivolous and it has to be  
11 legitimate.

12 Q Who makes the determination of whether it's  
13 legitimate, is it legitimate if it allows the use to  
14 be made that was previously made before the pipeline  
15 was installed, is it considered legitimate?

16 MR. KRUSE: Can we break that down  
17 into two questions as who decides and then go whether he --

18 BY MS. LUDTKE:

19 Q Well, maybe I can just ask what is the criteria for  
20 making a determination as to whether something is  
21 legitimate or not?

22 A As we sit today we don't have a criteria, a specific  
23 criteria. Again, each application will be unique and  
24 individual in nature. The decision criteria for who



1 determines the legitimacy will be PNGTS.

2 Q So the example that I gave you before where there was  
3 a previous use made such as a driveway or something  
4 along that line over the pipeline, would that be  
5 considered legitimate or not?

6 A Again, each individual field application is unique and  
7 I'm not in the position to sit here today and decide  
8 which what "if's" are legitimate or not.

9 Q So in my example of a driveway over the pipeline area,  
10 you have no knowledge of whether PNGTS would install  
11 that as an appropriate mitigation measure?

12 MR. KRUSE: Install what?

13 BY MS. LUDTKE:

14 Q Install a sleeve or some other protection of the pipe  
15 to allow that use to continue at no cost to the  
16 landowner, you can't tell me that?

17 A If we're dealing in hypotheticals, I mean if you want  
18 to, if we have routes along, I believe the northern  
19 section under which we may be in roadways and pass  
20 across people's driveway, one, the pipeline will be  
21 installed according to code, protection, and  
22 restoration will be done in an appropriate manner.

23 Q Does that mean people will be able to drive over it?

24 A If the pipeline goes underneath a driveway, I would

1           assume they would be able to drive over it.

2       Q     Do you know or are you assuming?

3       A     They will be able to drive over it.

4       Q     And I'd like to note for the record that that was a  
5           question that was given to me by one of the landowners  
6           here.  Another question I have from one of the members  
7           of the public is what policy does PNGTS have relative  
8           to disciplining its land agents for misrepresentation  
9           or coercive behavior?  If you discovered that this has  
10          occurred are they terminated, what's the policy of  
11          PNGTS?

12      A     I can tell you what the policy, you know, will be.  
13          Any land agent that is, that coerces or uses, you  
14          know, what would be deemed any type of forcement (sic)  
15          tactics on any landowner would be subject to  
16          disciplinary action up to and including dismissal.

17      Q     Has any land agent been disciplined since the project  
18          started in August of 1996?

19      A     I can't, I don't know for a fact.  Again, that's a  
20          question that you would have, would be best referred  
21          to Mr. Wilber from our Right-of-way organization.

22      Q     Have any reports been made to you of any disciplinary  
23          action or any action taken with respect to a lawowner  
24          since August of 1996?

1 A No, not specifically.

2 Q And if a landowner is concerned with regard to the  
3 conduct of a land agent, what should that landowner  
4 do?

5 A He, in the contacts that we have, there are phone  
6 numbers that have been published that they can call  
7 PNGTS directly, and again I think Mr. Wilber will  
8 testify that we log each individual landowner contact  
9 and I believe, subject to check, that we log the  
10 response also.

11 Q Let me ask you a few more questions, Mr. Minkos.  
12 There was some questions here relative to language in  
13 easement which allowed other uses besides a pipeline.  
14 Do you recall those questions?

15 A Yes.

16 Q And you indicated that you recently made a policy  
17 change in response to a FERC request, or a FERC  
18 statement that it was only going to certificate a  
19 pipeline?

20 A No, we did not make that change because of a FERC  
21 request. We made that as a policy decision from  
22 PNGTS.

23 Q What precipitated that policy decision?

24 A The policy decision was precipitated because of the

1 nature of right-of-ways today. We agreed, at PNGTS,  
2 that the landowner, one of the most significant things  
3 that a landowner has today is his property, and that  
4 if we're only going to be permitted to condemn and  
5 utilize that individual's property, we should only be  
6 asking for the use for which we are asking for a  
7 permit. And on a voluntary basis if an individual, on  
8 a negotiated basis wants to allow us to have something  
9 in addition to that, that's perfectly within their  
10 realm.

11 Q Well, you had no expectations that you were going to  
12 be permitted or certificated for anything other than  
13 the installation of a pipeline, did you?

14 A That's what we asked for, that's what our expectation  
15 is.

16 Q So you knew that all long and knew that at the time  
17 you started using the easements, correct?

18 A That's right.

19 Q And in fact you started using the easements at the  
20 beginning of this process, did you not?

21 A That's correct.

22 Q And the easements allow the installation I believe of  
23 overhead transmission wires as well as a  
24 telecommunications cable?

- 1       A     It allows multiple use.
- 2       Q     And in fact there was some discussion that a  
3             telecommunications cable might be installed on the  
4             right-of-way at one point?
- 5       A     I'm not aware of the specifics of that.
- 6       Q     You've heard that, haven't you?
- 7       A     We've heard -- multiple use means multiple use.  
8             You've described an array of multiple use activities  
9             for the right-of-way.
- 10      Q     And that was put in the easement that you were  
11             offering to people, that there would be the right to  
12             put in a telecommunications cable in the right-of-way?
- 13      A     Again, I'll reiterate the answer, our standard lease  
14             agreement at the beginning had multiple use activities  
15             within the right-of-way, up to and including  
16             communication cables.
- 17      Q     So that telecommunications cable was in the easement  
18             deed?
- 19      A     It wasn't spelled out, I don't know if it was spelled  
20             out. Specifically it called for multiple use, right.
- 21      Q     Now did these multiple use rights in the easement deed  
22             affect your routing decision? In other words, did you  
23             look for an easement that might have given you a  
24             little wider right-of-way so that you would be able to

1           sell or use these other rights that would be part of  
2           the easement deed?

3       A     No.

4       Q     Did that affect your routing decision at all?

5       A     No.

6       Q     And when I asked you before on the routing decision,  
7           what your involvement with the routing decision was,  
8           you said that you were just consulted on a policy  
9           basis, was that a policy determination that was made  
10          that was specifically discussed that you would not  
11          select an easement that allowed for multiple use, was  
12          that ever discussed that you recall?

13      A     I'm sorry, can you repeat that again, please.

14      Q     Well, I'm asking you about whether the multiple use  
15           aspects of your easements affected your routing  
16           decision, and you--

17      A     I believe I answered no.

18      Q     And you're very clear that it did not affect your  
19           routing decision? Was that discussed as part of your  
20           routing decision?

21      A     No.

22                                   MS. LUDTKE: Nothing further.

23                                   CHAIRMAN VARNEY: Michael?

24      BY MR. CANNATA:

1 Q One last question, Mr. Chairman. If in fact your  
2 construction required cutting down of trees, whose  
3 account would the value of the lumber or cordwood,  
4 etc. be attributed to?

5 MR. PFUNDSTEIN: Excuse me, Mr.  
6 Chairman, we are prepared to offer a panel of experts that  
7 are familiar with construction, engineering, environmental  
8 and I think that question would fairly be put to the people  
9 who would actually be involved on a day to day basis for  
10 those decisions.

11 CHAIRMAN VARNEY: Michael, do you  
12 want to wait or do you want to rephrase it?

13 MR. CANNATA: We can wait for an  
14 answer.

15 THE WITNESS: Thank you.

16 CHAIRMAN VARNEY: Yes.

17 BY MR. CARPENTER:

18 Q John Carpenter, Town of Shelburne Planning Board. One  
19 question, when the line comes in close proximity to a  
20 business, on-going business, does PNGTS have a policy  
21 for mitigating the impacts to that business?

22 A Can you be a little more specific?

23 Q Shelburne has a number of Inns, bed and breakfast,  
24 motels, hotels, and you will be passing in close

1           proximity to a number of them on any of the multiple  
2           routings that we're looking at, and a concern has come  
3           up about whether you would mitigate impacts to these  
4           motels from either loss of business if they can't  
5           access their property, or two, if your hours of  
6           operation during construction conflict with guests,  
7           with standard practices around the inns.

8           A    Again, our policy, we don't have one specific to each  
9           individual application. We, as a company in  
10          installing the original pipeline, I mean installing  
11          the pipeline, will work with each individual landowner  
12          in the most expeditious way that we can and most  
13          favorable way we can to minimize the impact and  
14          inconvenience during the construction of the pipeline.

15          Q    The question is if you specifically impact their  
16          business do you have a mitigation policy on  
17          mitigation?

18          A    Again, each individual, each individual landowner or  
19          entity that we deal with is, is somewhat different in  
20          nature. We don't have a specific policy that  
21          addresses every instance, but we are willing to work  
22          with each individual landowner to develop an  
23          appropriate mitigation measure which is satisfactory  
24          to both parties. I'm not trying to avoid the



1 question, but you've asked it in a difficult manner.

2 MR. CARPENTER: I understand that.  
3 It's a difficult question too.

4 CHAIRMAN VARNEY: Anything else  
5 from Shelburne? Any other questions? Okay, with that I  
6 guess we will take a quick lunch break. Given the hour I  
7 think we will try to shorten it up to a half an hour.  
8 There is a cafeteria down stairs for convenience and we  
9 will resume with the next witness at 2:00 p.m. Thank you.

10 (Lunch recess.)

11 (Resumed.)

12 (Whereupon Christen B. Wilber was  
13 duly sworn and cautioned by Mr.  
14 Kruse.)

15 CHRISTEN B. WILBER, SWORN

16 DIRECT EXAMINATION

17 MR. KRUSE: Mr. Chairman, I'm  
18 advised that our red line version of the testimony has been  
19 produced. I'm not trusting enough of computers to want to  
20 just distribute it without reading it first, but it's here  
21 if anybody would like it before I have a chance to read it,  
22 you're welcome to it, but before it is distributed I want  
23 to make sure nothing was missed.

24 BY MR. KRUSE:

1 Q Would you give us your full name, sir?

2 A My name is Christen B. Wilber. I am the Right-of-way  
3 Coordinator for PNGTS.

4 Q And where do you reside, sir?

5 A I live in Kennebunk, Maine.

6 Q What is your educational and professional background?

7 A I have an Associate's degree in Forestry from the  
8 University of New Hampshire, and I've got  
9 approximately, I believe, 8 years doing right-of-way  
10 related work.

11 Q For whom do you work?

12 A I work for Northeastern Land Services out of  
13 Providence, Rhode Island.

14 Q Is that related in any way to PNGTS?

15 A Northeastern Land Services is a subcontract company to  
16 PNGTS and it is responsible for obtaining right-of-way  
17 on the project.

18 Q So your job specifically is what?

19 A I oversee all the acquisition of easements, completing  
20 the title work, identifying landowners in the very  
21 beginning, the initial phases of the routing, and  
22 that's about it.

23 Q I want to show you what we marked as exhibit 10, the  
24 updated pre-filed direct testimony in the second

1 revised list of exhibits. Did you participate in  
2 preparation and review of the panel testimony with the  
3 names of Messrs. Auriemma, Morgan, Trettel and  
4 yourself?

5 A Yes, I did.

6 Q And to what extent did you contribute substance to  
7 this panel testimony?

8 A Basically, if it related to any landowner or  
9 right-of-way related work that was the area of my  
10 expertise.

11 Q And to the extent of your contribution and with your  
12 expertise, is this true and accurate to the best of  
13 your knowledge?

14 A Yes, it is.

15 Q Are there any corrections or modifications that, based  
16 upon a final review of that, you need to make?

17 A No.

18 Q What's the first major step that you oversaw in  
19 connection with the PNGTS project?

20 A Initially we were given a basic route from the  
21 engineers. That was given to us on a USGS quad sheet.  
22 We took that quad sheet, went to the town halls and  
23 scaled it as best we could on the tax maps and I  
24 identified the landowners from those tax maps.

1 Q And what's the next basic step?

2 A From there we take basically the, after the landowners  
3 have been identified, we try to contact all of the  
4 landowners. That contact is basically done in person.  
5 We sent a land agent out to the field to try and track  
6 these people down as best as possible. There are  
7 cases where timing issues arise and sometimes this is  
8 done by the telephone. There are also instances where  
9 there may be out of state landowners and we will do it  
10 by letters.

11 Q What's the central purpose of your getting in touch  
12 with these landowners?

13 A Basically to secure permission to perform centerline  
14 engineering surveys, environmental surveys including  
15 wetlands, threatened and endangered species and also  
16 archeology surveys.

17 Q There have been some concerns expressed today and in  
18 the course of the Public Counsel's testimony about  
19 land agents entering on people's property without  
20 permission. Would you first tell us what sort of  
21 supervisory mechanisms there are over your land  
22 agents?

23 A Basically, the land agents that are out in the field  
24 would have one person that they would report to who

1 would directly report to myself. And basically the  
2 policy is that if we have not obtained access from the  
3 landowners then we will not go on the property.

4 Q And in fact are there a number of areas along the  
5 proposed pipeline where we have what are called survey  
6 skips?

7 A That's correct. There are numerous areas where  
8 basically on the alignment sheet it just shows a  
9 dashed line. It may say no environmental survey if  
10 the landowner didn't allow access for environmental  
11 surveys, and there are areas where landowners said  
12 it's okay to do an engineering survey, you know, but I  
13 don't want anything else.

14 Q How are the land agents trained in terms of contacting  
15 people for purposes of obtaining permission?

16 A There's no specific training as far as how you become  
17 a land agent to do this type of work. Basically, the  
18 agents that we have working for us have worked on a  
19 number of different projects throughout the country,  
20 and we basically look at the past experience that  
21 they've had before employing them out in the field.

22 Q Is there some sort of indoctrination or introduction  
23 to this particular project that these land agents are  
24 provided?

1       A     Basically, if there is a new land agent that comes on  
2             board we will discuss the project with him, the  
3             overall routing issues and so forth and at that point  
4             we will get into pretty much how we approach  
5             landowners. We make sure they're instructed and they  
6             understand that this project does not have any federal  
7             rights of eminent domain at this point and that when  
8             asked about those issues that the land agents are to  
9             instruct the landowner about them, but to make sure  
10            that it's emphasized that at this point we do not have  
11            any federal powers.

12       Q     The same land agents that you refer to seeking  
13             permission to enter the land, are they also the people  
14             that negotiate with landowners about acquisition of  
15             easement rights?

16       A     That's correct. In most instances the same land  
17             agents who make the initial contact come out and  
18             actually negotiate the easements. It's not, it's not  
19             that way in 100 percent of the cases, but that is  
20             something we try to do.

21       Q     And what sort of instructions are given the land  
22             agents when they come on board with respect to  
23             negotiating easements?

24       A     In addition to discussions of the project and the

1           permitting process, basically they're instructed to  
2           explain the entire easement, to give that easement to  
3           the landowners to review--

4       Q     You mean the easement document?

5       A     Yes, the easement document, excuse me, and to move  
6           forward with that, that landowner based on negotiation  
7           for fair market value.

8       Q     Mr. and Mrs. Lamm testified today about their concern  
9           that agents had been on their property in Stratford in  
10          connection with this project without permission, do  
11          you have any knowledge of that situation?

12      A     Basically, the knowledge that I have about that, the  
13          Lamms, I believe actually reside in New York and  
14          initially we had some difficulty getting in contact  
15          with them. Our field personnel are instructed, if a  
16          landowner says no, we do not go on the property. If  
17          they have not been able to contact that landowner then  
18          it is considered the same way, it's no access. In  
19          reality sometimes what happens, and there are a few  
20          cases that when these field crews are working out in  
21          the field, sometimes property lines are not delineated  
22          exactly, or there are some cases where they do  
23          ultimately get on people's property without proper  
24          permission.

1                   In the specific case of the Lamms, what  
2                   ended up happening is there was an initial crew that  
3                   went through basically picking out, picking line and  
4                   looking at routing issues. Once they got back to the  
5                   road they realized that they were on a property that  
6                   they did not have access to, and at that point  
7                   respected the landowner's rights. The reasons for the  
8                   discrepancies on the mapping and so forth, basically  
9                   because any skip or any area which we didn't actually  
10                  survey is usually shown as a straight line and is  
11                  dashed.

12         Q        They expressed concern about pressure tactics with  
13                  other people in the neighborhood, are you aware of any  
14                  complaints that have come into the company about such  
15                  tactics in the Stratford area?

16         A        Yes, I was at a meeting about a month ago with a  
17                  multitude of residents up in that area who voiced  
18                  concerns about that. I can say that I've looked into  
19                  it, we did some minor shuffling of personnel, and at  
20                  this point I would say that the land agents had their  
21                  own views of how that transpired.

22         Q        What was the reason for the shuffling of personnel?

23         A        Primarily to, primarily to take agents who might be, I  
24                  would say, better apt at dealing with the situations



1           that are typically in a residential area as opposed to  
2           the rural north country where there are a lot of  
3           timber issues and so forth that perhaps that  
4           particular agent didn't have that much experience  
5           with.

6        Q     In the pre-filed testimony filed by the Public Counsel  
7           there was a complaint from some folks by the name of  
8           Bezanson?

9        A     That's correct.

10       Q     Do you recall that, where were they from?

11       A     I believe they were from Newton.

12       Q     Does their complaint offer an illustration of any  
13           other form of, type of complaint that you have  
14           received, or type of contact you've had with certain  
15           people?

16       A     Well, I think that many times when you deal with  
17           landowners who may not be for a certain project, for a  
18           pipeline of this type, you get situations where people  
19           may be somewhat hostile and sometimes some of the  
20           things that are said are somewhat inflammatory. In  
21           that particular case I had a conversation and the  
22           person in question here basically said, wanted to know  
23           who our attorneys were so that, so that we could be  
24           sued.

1 Q And what was the underlying complaint?

2 A That we hadn't been, I guess it was that we hadn't  
3 been up front with them with exactly what the project  
4 entailed. I'm sorry, just a clarification. This  
5 particular case, I don't believe that the entire  
6 pipeline was on that, on this property. I think what  
7 we're looking at in that particular area is what we  
8 call an additional easement, which basically is just  
9 protection for our pipeline. I don't think that the  
10 pipe itself was on that property.

11 Q There has been some discussion today of the terms of  
12 the proposed right-of-way agreement and easement deed,  
13 and I gather that the company has revised its proposed  
14 right-of-way agreement with these perspective, or with  
15 these landowners, is that correct?

16 A That's correct. That was something that a lot of the  
17 input came from this meeting up in Stratford that I  
18 attended.

19 Q And is exhibit number 26, does that contain a copy of  
20 the revised right-of-way agreement?

21 A That's correct.

22 Q And how does this document that we identified in the  
23 exhibit change the proposal from that which was  
24 originally presented to these people?



1 do have extra copies, and it's listed in the list of  
2 exhibits, but I didn't have it at the time of the earlier  
3 submission.

4 MS. GEIGER: The question I had,  
5 you have exhibit 26 pre-marked for the right-of-way  
6 agreement easement deed. My question is whether you will  
7 be putting the old easement deed language that Mr. Wilber  
8 testified to in the record as exhibit 26, or whether you  
9 will be putting merely the updated, or the new language  
10 that you just referred to?

11 MR. KRUSE: I had intended to just  
12 put the new language in, but I'm happy to put the old one  
13 in as well, which actually I think the old one is  
14 incorporated in Public Counsel's pre-filed testimony, but  
15 if it would be handier to have it in this exhibit folder,  
16 we can do that.

17 MS. GEIGER: I think so long as  
18 it's in the record somewhere it really doesn't matter to  
19 me.

20 MS. SCHACHTER: Did you say you  
21 had enough extra copies?

22 MR. KRUSE: I have some extras. I  
23 don't have 16, but you're welcome to what I've got.

24 MR. ELLSWORTH: Mr. Kruse, that

1 does raise a more general question. Of the 73 or so  
2 exhibits that have been listed in the filing, have copies  
3 of each of those exhibits been submitted to the Committee  
4 members? I took it from your answer that the answer is no?

5 MR. KRUSE: That's correct.

6 MR. ELLSWORTH: Then at some point  
7 in time will each, if each of them is to be part, become a  
8 part of the process here, is it your intent that a copy of  
9 each will become available to the Committee members?

10 MR. KRUSE: These are yours. When  
11 I talked to counsel Vince Iacopino about whether we needed  
12 multiple copies, I think we left it that we will do it any  
13 way you want. I think we left it that you would have in  
14 effect a reference library where there would be one master  
15 set. We will make duplicates of anything that's needed.

16 CHAIRMAN VARNEY: Cedric will  
17 arrange for copies of anything that we need.

18 MR. KRUSE: I guess it was Cedric  
19 I spoke to, I'm not sure.

20 MR. IACOPINO: What I said was  
21 whatever was previously distributed you would not have to  
22 distribute again as long as you made reference to it again,  
23 but if it was something new then they're entitled to a copy  
24 of it.

1                   MR. KRUSE: Fine. We can make  
2 duplicate sets. I don't know at this point, as I said  
3 earlier, I think probably 90 percent of it has been  
4 distributed beforehand, but I'm not positive of each  
5 document. So I will probably be making multiple sets of  
6 this array for your reference, either at your own offices  
7 or here.

8                   MR. ELLSWORTH: I don't think  
9 we're trying to ask you to ruin another forest by providing  
10 more copies of papers, but I think it is necessary that we  
11 know more specifically what you are using with your  
12 witnesses so we will have a better sense, in the absence of  
13 those exhibits, what the issue is before us.

14                   MR. KRUSE: Well, forgive me for  
15 only having 4 more, but those are 4 extras right now, and  
16 as I say, these will be fully comprehensive that are here  
17 on this table.

18                   MR. CANNATA: Mr. Chairman, it  
19 would be most helpful to me if there was more than one set  
20 of the exhibits available to the Committee because I think  
21 Committee counsel will require a set as he does his work,  
22 perhaps maybe a set here at DES and a set at the  
23 Commission, you know, I think people could reference them  
24 as they needed them. When could we expect those exhibits?

1 MR. KRUSE: Where are we -- well,  
2 Kinko's is pretty good. I would say by the end of the week  
3 anyway.

4 MR. CANNATA: That would be fine.

5 MR. KRUSE: We should have bought  
6 stock in that company.

7 BY MR. PATCH:

8 Q Just to clarify then, based on the question -- this is  
9 the new one and so in the first paragraph where it  
10 says, "for the transportation of natural or artificial  
11 gas," is that the place where it's really changed so  
12 that the old one talked about telecommunications and  
13 other, you know, for the whatever, I mean is that the  
14 place where it's changed? I guess I just want to make  
15 sure I understand where the new easement deed changed  
16 from the old one.

17 A Yes, that's the, the key change is there, which brings  
18 up another good point, was that this agreement does  
19 not include the rights to flow oil, etc, it's been  
20 narrowed down to gas.

21 Q Are we in the status then that you have some easements  
22 with some landowners that do allow you to do more than  
23 natural gas, but you've got some that have been done  
24 later that only allow you to do natural gas?

1       A     That is correct, and throughout this process even  
2             though the original agreement that was filed with this  
3             Committee had multiple pipeline rights and, you know,  
4             certain other rights to flow oil and so forth, during  
5             the negotiations with landowners we have had areas  
6             where those have be struck and initialed.

7       Q     So the only thing that you have a complete line for is  
8             natural gas, not for oil, not for telecommunications,  
9             not for anything else?

10      A     That's correct.

11      BY MR. ELLSWORTH:

12      Q     Is any corrective action being taken to make them all  
13             uniform?

14      A     No, there isn't, not at this time.

15      Q     Was any premium paid to those easements for which  
16             multiple uses were authorized?

17      A     I can't tell you that specifically. We started out at  
18             a certain percentage value with every landowner that  
19             was out there, and I can't tell you, you know, which  
20             ones, there were different amounts paid.

21      BY MS. GEIGER:

22      Q     Could you give us an approximate estimate of what  
23             percentage of landowners have executed the old  
24             easement form and what percentage have executed the



1 new easement form and what percentage are still  
2 outstanding in terms of perhaps not having executed  
3 anything?

4 A I would say that statewide we've probably executed  
5 agreements of one type or another with about 38  
6 percent of the landowners. I don't have exact  
7 breakdowns as far as how many signed agreements with,  
8 you know, the original agreement and how many are with  
9 this new agreement. I would say the ones with the new  
10 agreement are relatively small from a percentage wise.

11 MS. GEIGER: Thank you.

12 CHAIRMAN VARNEY: Continue.

13 BY MR. KRUSE:

14 Q Mr. Wilber, there have also been questions raised  
15 concerning the company's flexibility in making line  
16 changes to accommodate people's concerns about their  
17 property, including wells and septic systems and  
18 springs and so on. What can you tell us as a practice  
19 that PNGTS engages in to deal with those types of  
20 requests?

21 A From a routing standpoint, and I'm going to talk in  
22 generalities, but for the most part where we're in an  
23 existing corridor we've tried to stay within that  
24 corridor for a multiple of reasons. The biggest of

1           which was not wanting to create another corridor  
2           across people's property.

3                        If there are areas where we're on a new  
4           route or we've had to divert for one reason or another  
5           such as wetland or something like that then through  
6           negotiations with landowners we're making line changes  
7           to realign the route with property lines and to  
8           minimize impact wherever we can.

9                        There are areas where there are septic  
10          systems and generally what we'll do with a septic  
11          system is we'll weigh the existing routing against the  
12          added impact of creating a new corridor. Obviously,  
13          it's a lot easier to repair a septic system than it is  
14          to cut down a new swath of trees and so forth. The  
15          impacts are relatively short-term to the septic system  
16          as opposed to the creation of a new corridor.

17        Q        And this gentleman earlier talked about a well, what  
18           do you do about dealing with wells?

19        A        It depends on where the well is during the initial  
20           routing of the pipeline. A lot of these wells were  
21           looked at and we tried to avoid them or to get as much  
22           of a distance from them as possible. And ultimately  
23           if there is, if there is a well on line and we have an  
24           impact to that well, then the project is responsible

1 for it.

2 Q And have you made line changes in consideration of  
3 personal requests or landowner requests?

4 A Yes, we have, and that process will be on-going  
5 throughout the negotiations with landowners. I have a  
6 list of those line changes if that's appropriate.

7 Q Is this the list that you had prepared today?

8 A That's correct.

9 Q Which is dated June 20, 1997?

10 MR. RICHARDSON: Excuse me, is  
11 this an exhibit?

12 MR. KRUSE: It is.

13 MR. RICHARDSON: One of the  
14 numbered?

15 MR. KRUSE: It's not.

16 BY MR. KRUSE:

17 Q Was this updated information available to you before  
18 yesterday?

19 A Yes, it was in various formats.

20 Q Had you previously supplied, under what we marked as  
21 exhibit number 59, a line change chart along with some  
22 responses to some data requests on the issue of line  
23 changes?

24 A Yes, that's correct.

1 Q And does what you produced for today nullify or update  
2 or revise this previous chart, which we've marked as  
3 59?

4 A It's basically an update and like I was saying,  
5 throughout this negotiation process with the  
6 landowners, there will be minor tweaking of the line  
7 here and there to take care of specific concerns.

8 Q And are there concerns still pending that you need to  
9 deal with?

10 A Yes, there are.

11 Q Both on the north and south routes?

12 A That's correct, as well as the Newington lateral.

13 MR. KRUSE: What I would propose  
14 to do, subject to the ultimate ruling of the Committee on  
15 admissibility, I propose to add this update to exhibit 59  
16 since it the same topic.

17 CHAIRMAN VARNEY: Any objection?

18 All right.

19 MS. LUDTKE: Is it just being  
20 added for identification?

21 MR. KRUSE: Well, I'm moving all  
22 of it to be full exhibits, but if where we stand now  
23 procedurally is that it's just for identification, then  
24 yes.

1 MS. LUDTKE: Well, I don't object  
2 for identification.

3 MR. KRUSE: Do you object to it in  
4 substance?

5 MS. LUDTKE: Well, you haven't  
6 moved it in yet. We can take that matter up when you move  
7 the other exhibits in.

8 BY MR. KRUSE:

9 Q Perhaps I'd better have you describe in somewhat more  
10 detail the line changes that are contained on this  
11 list and what you know about how they were brought  
12 about?

13 A The first line change that is shown here is an area  
14 where the landowner never actually gave us permission  
15 to be on there to do the full surveys. Subsequent  
16 negotiations with this landowner, they've asked us to  
17 look at a few different routes and we picked initially  
18 a route based on the aerials and so forth. We've gone  
19 back and looked at that and we're trying to work with  
20 the landowner to address their concerns. The second  
21 line change shown in 27.6 dealt specifically with a  
22 view issue that the landowner had, and since we were  
23 on a diversion from the corridor, we realigned or  
24 looked at realigning the route to go along the

1 property line.

2 The next one, which is down in the Shelburne  
3 area, what we're looking at doing is doing some minor  
4 line changes and other mitigations which, and I don't  
5 want to talk about it here because I'm sure it's going  
6 to be addressed later on in this hearing, but I put  
7 down align the route with road.

8 CHAIRMAN VARNEY: Is that Hogan  
9 Road?

10 THE WITNESS:

11 A Yes, it is. On the joint pipeline route, the first  
12 one is a -- specifically as it says here, and keep in  
13 mind that these mile posts as you're looking at them,  
14 the mile posts on the joint pipeline run south to  
15 north as opposed to north to south. That was an  
16 alignment to change the route from crossing the  
17 property to move it more along the property line. The  
18 next one is one that was put forth by the town of  
19 Newton on their museum piece, which was to move a  
20 little closer to the Granite State gas transmission  
21 system. The next one that's shown there is the, the  
22 landowner there in particular is the Robie's down in  
23 Exeter, which was talked about. We realigned the  
24 route to address some clearing issues there.

1           Following that is a route along the Jollygrand Road  
2           area where the town has asked us to do some reroutes  
3           and so forth to avoid tree clearing along this road.  
4           And I guess I can pretty much lump the next 3  
5           together. Basically they were landowner concerns  
6           where we changed the route to go along the property  
7           line.

8                         The one at mile post 41.6 we had an original  
9           route going across this property. In between the  
10          initial picking of the route and where we stand today  
11          there has been a structure built there, a McDonald's,  
12          and we've had to change the route there.

13                        The final one that I show here is on the  
14          Newington lateral, and this is an area where the town  
15          of Newington has some concerns about their industrial,  
16          their water front industrial land. In addition, one  
17          of the major landowners down there has a development  
18          proposed, and we're looking at rerouting the pipeline  
19          to tie it into an existing, or a road that they're  
20          proposing to avoid, avoid impacts of that area.

21         BY MR. KRUSE:

22         Q         Thank you. With respect to Newington, were there  
23                     other concerns expressed about the size of the  
24                     right-of-way that was planned on Arboretum Drive?

1       A     Yes, our alignment sheets show basically a 75 foot  
2             construction right-of-way along Arboretum Drive.  
3             We've been working a lot with the town, more so with  
4             Pease Development Authority, trying to take into  
5             consideration the town's concerns in the historic  
6             forest, and we have developed a plan where we will  
7             basically construct the pipeline off the shoulder of  
8             the road and we're pretty much going to have to close  
9             that road down and use it for construction and  
10            maintain a reduced work space in that area to get  
11            through that whole town forest with minimal tree  
12            clearing. Instead of a 75 foot wide construction  
13            right-of-way, what we're looking for is basically 38  
14            feet through there. Where there are areas where the  
15            trees allow it, and it's a little wider, that's what  
16            we're going to do, we're going to use all the space  
17            that we have available there, but in general it's  
18            about 38 feet.

19       Q     Have you satisfied the concerns raised to you by those  
20             who were objecting?

21       A     I would say that this will satisfy the concerns from  
22             both the town and the PDA. I haven't had a specific  
23             conversation with them about this.

24       Q     Have you prepared a sketch or drawing that



1 demonstrates what your revised plan will do?

2 A That's correct, and keep in mind that this, this  
3 sketch is basically the results of some specific  
4 conversations that we've had with the Pease  
5 Development Authority in this area.

6 MR. KRUSE: Mr. Dustin, I don't  
7 have this one pre-marked, if we could mark it with any  
8 number, number 74 would be fine.

9 (The document, as described, was  
10 herewith marked as Exhibit 74 for  
11 identification.)

12 BY MR. KRUSE:

13 Q Mr. Wilber, we mentioned earlier this notion of survey  
14 skips, and I believe you described what they were.  
15 Can you give us a general qualification of remaining  
16 areas that require surveying both in the south and in  
17 the north?

18 A Yes, we've got a table here which basically shows the  
19 remaining areas which we need to survey.  
20 Unfortunately, I do not have it broken down between  
21 the, as far as the total mileage from the north and  
22 the south. We're looking at about in total 3.15 miles  
23 of survey skips and this is broken out into about ten  
24 individual tracks.

1                   In addition, there are some pipe yards and  
2                   some access roads which we have not thoroughly, or  
3                   completed the surveys on yet. If it, if the  
4                   Commission needs it then I can add up the mileage to  
5                   address what's in the north and what's in the south.

6                   MR. RICHARDSON: Is this an  
7                   exhibit also marked?

8                   MR. KRUSE: What I would propose  
9                   to do, since it relates to -- well, let me establish this  
10                  in testimony.

11                 BY MR. KRUSE:

12                 Q     Mr. Wilber, does this chart that you've just described  
13                         update one that was prepared in response to Public  
14                         Counsel's data request 428, which we included in  
15                         exhibit 28?

16                 A     Yes, that's correct.

17                         MR. KRUSE: With that in mind,  
18                         what I propose to do is just add it to the exhibit folder  
19                         number 28, except, Mr. Chairman, I gave you all my copies.  
20                         Is there one left that I might have back?

21                 BY MR. KRUSE:

22                 Q     Mr. Wilber, I wanted to ask you generally speaking  
23                         when you encounter areas where you cannot get direct  
24                         access by landowner permission to conduct the

1           engineering and environmental and cultural resources  
2           and natural heritage resource type survey, what, what  
3           other information is acquired pending permission to  
4           get on the land itself?

5       A       Basically we can obtain information through the use of  
6           national wetland inventory maps, which Roger Trettel  
7           can speak a little more about.

8                       We can obtain information from various  
9           databases, again, Roger can speak more about that, and  
10          also from aerial photos. We can take a look at the  
11          general route, tree clearing issues, etc. and also  
12          residential impacts through the use of aerial  
13          photographs.

14                       MR. KRUSE: Thank you. I have no  
15          further questions.

16                       CHAIRMAN VARNEY: Leslie?

17                       MS. LUDTKE: Justin is going to be  
18          questioning this witness.

19                       MR. RICHARDSON: Thank you, Mr.  
20          Chairman.

21       BY MR. RICHARDSON:

22       Q       Mr. Wilber, you indicated earlier that there had been  
23           some minor reshuffling of land agents in response to  
24           landowner concerns?

1       A     I would say that the shuffling was probably more aimed  
2             to get agents who are a little bit more familiar with  
3             residential type right-of-way and construction issues  
4             and working down in the more residential areas and  
5             some individuals who are a little bit more familiar  
6             with rural land and timber issues up in northern  
7             areas.

8       Q     So, am I correct in understanding then that you didn't  
9             testify earlier that agents were reshuffled or moved  
10            around in response to landowner concerns out of  
11            particular areas?

12      A     I will not say that -- yes, that's correct.

13      Q     Is there a land agent by the name of Mr. Ford who  
14             works for PNGTS?

15      A     That's correct.

16      Q     And he was the land agent in the Stratford area, is  
17             that correct?

18      A     That's correct.

19      Q     And were there any complaints filed against him that  
20             you're aware of?

21      A     Yes, there were -- well, I'm not going to say they  
22             were complaints that were filed. I had landowners who  
23             objected to the way, to the way Mr. Ford presented  
24             himself, the fact that he was not from the area and

1           some complaints along those lines, yes.

2       Q     So presented himself, that's a type of conduct then,  
3           how he dealt with the people in question?

4       A     Yes, you could say that.

5       Q     And it was before or after those complaints that he  
6           was removed or reshuffled as you stated?

7       A     I would say during those complaints.

8       Q     It was during those. Now, was the fact that he was  
9           reshuffled, did that have anything to do with the  
10          complaints that had been filed against him?

11      A     I would say that, you know, in dealing with employees  
12          and so forth, you have a multitude of issues which you  
13          have to take into consideration and--

14      Q     And one of those issues--

15                               MR. KRUSE:   Excuse me, if he could  
16          just finish his answer and then I'm sure he'd be happy to  
17          answer the next one.

18      THE WITNESS:

19      A     As I started to say, the primary reason that Mr. Ford  
20          was reassigned had to do with the fact that he was not  
21          best suited to negotiate and to address all of the  
22          concerns in the north country.

23      BY MR. RICHARDSON:

24      Q     Now, you stated that there were a variety of issues

1           just a minute ago that had to be considered, was one  
2           of those variety of issues the fact that several  
3           complaints had been filed against him?

4        A     I would say that there had been comments that people  
5           had addressed to me about the way he handled himself  
6           up there, and I would say that, to save going around  
7           and around on this one particular point, that I did  
8           consider it, yes.

9        Q     Now, these complaints, they didn't occur recently, did  
10          they, they occurred say back in December some time  
11          within the last year?

12       A     Within the last year, yes.

13       Q     And in addition to the complaints about Mr. Ford,  
14          there have also been ones, as you indicated, by Mr.  
15          Bezanson, is that correct?

16       A     Mr. Bezanson's comments came more at a, at a Selectmen  
17          Board hearing.

18       Q     And those concerned unauthorized use of the property,  
19          is that correct? That's one of the comments we heard  
20          today as well as before?

21       A     I would have to check my file to see what the exact  
22          nature of his comments were. I recall that, as I  
23          stated, they were, they were some what inflammatory.

24       Q     Now you stated before that his concerns, for lack of a

1 better word, related to the location of what was on  
2 the property, and that his property wasn't really  
3 directly impacted by the main line so that land agents  
4 weren't actually on his property, they were just next  
5 to it, was that the essence of your comment before?

6 A As I started to say when, or as I said earlier, when  
7 we contact landowners during this original phase, we  
8 don't know specifically, because tax maps are not 100  
9 percent accurate, the total impacts that are going to  
10 be on one particular property, especially if we're  
11 coming close to a parallel property line, which is in  
12 this case, I couldn't have told you whether we're  
13 exactly on Mr. Bezanson's property or if we're on the  
14 abutting property. It's not until all the title work  
15 and all the engineering surveys get completed that we  
16 know exactly what the impacts on these properties are.

17 Q Now, you became aware, you said, of his concerns at a  
18 town meeting.

19 A That's correct.

20 Q And that was in the town of Newton?

21 A That's correct.

22 Q And when was that town meeting?

23 A I don't know the specific date. I would say it was  
24 last fall. Probably during the winter time some time.

1 Q Now, there was also a comment today that you referred  
2 to by the Lamms, that Claire Lamm testified to  
3 earlier, is that right?

4 A I spoke about that property, yes.

5 Q And you indicated that what had occurred there was  
6 that the survey crew had accidentally walked on to her  
7 property?

8 A When you say survey crews, I assume you're grouping a  
9 lot of people together. Because basically what it was  
10 was an advance crew that was out looking at the line,  
11 they did not have survey equipment per se with them.  
12 They were basically just looking at the route for a,  
13 for the best potential route that there was, you know,  
14 whether it was due to the construction issues or  
15 wetlands or what have you, they walk out in advance of  
16 the actual survey crew.

17 Q So this was a preliminary type investigation early in  
18 the--

19 A That's correct.

20 Q And so this didn't occur recently either, right?

21 A No.

22 Q Do you know when it occurred?

23 A I would say it was probably some time during the late  
24 summer of last year, '96.



1 Q Now, you stated earlier in reality that what happens  
2 is that they suddenly realized that they were on a  
3 property for which they didn't have access, is that  
4 right?

5 A Well, I don't know how suddenly it occurred. I assume  
6 that probably some time during the, you know, after  
7 they got done the field work that day they reviewed it  
8 and that's when they became aware.

9 Q So after they entered the property they realized that  
10 they were in reality on a property for which they had  
11 no authorization?

12 A In that particular area there are very few roads that  
13 actually cross the right-of-way. I would say they  
14 probably didn't realize that until they hit the next  
15 road.

16 Q Now, that's a trespass, isn't it?

17 MR. KRUSE: That calls for a  
18 conclusion of law. On those grounds I'd object.

19 BY MR. RICHARDSON:

20 Q So there was no authorization to be on that property,  
21 is that correct?

22 A That is correct.

23 Q And the PNGTS people, as you indicated before, were  
24 aware that they didn't have that, or they became aware

1 at some later time?

2 A After the fact. I guess I need to make note that  
3 there are many areas up there that it's not entirely  
4 clear where property lines are and, you know, based on  
5 the best information that we may have based on tax  
6 maps or one thing or another, the tax maps could be  
7 wrong and there could be deeds, outsales and so forth  
8 that are not representative or not shown on the tax  
9 maps that we may get into, into those situations.

10 Q But you testified before that at some point you became  
11 aware that they, that this had occurred, that they  
12 were on the property and there wasn't an authorization  
13 that had been received?

14 A That's correct.

15 Q And when did that occur?

16 A I'm sorry, when did we find out about it, or when did  
17 the survey crew, or the crew that was out there?

18 Q Well, let's start with the survey crew, when do you  
19 think the survey crew became aware?

20 A I can only speculate on that. I would assume they  
21 found out some time later on that day or into the  
22 evening because the following crews that were doing  
23 the actual location, the actual detailed surveys, did  
24 not get on that property.

1 Q And the Lamms wrote you a letter concerning that,  
2 right?

3 A There was several letters from the Lamms, yes.

4 Q And you became aware that that was an issue. When  
5 did, when did you notify the Lamms that you had  
6 trespassed, or excuse me, when did you notify the  
7 Lamms that PNGTS agents had been on their property?

8 A I don't have those specific files with me. If this is  
9 an issue then I could bring -- review those.

10 Q Did those files contain the information, would you be  
11 able to determine that?

12 A I believe so. I can only speculate on that.

13 Q Do you know that those files exist, or is it possible  
14 that the files don't state that a notification was  
15 actually given?

16 MR. KRUSE: Well, I have to object  
17 to asking him to speculate on a file he doesn't have, and I  
18 would volunteer that Mr. Wilber would be happy to go back  
19 and see if he can find the file and then ask questions  
20 based on the file.

21 MR. RICHARDSON: That's fine.

22 BY MR. RICHARDSON:

23 Q Mr. Wilber, are you aware of any notification having  
24 actually been sent by PNGTS concerning an occurrence

1           like that on the Lamm's property?

2       A     No.

3       Q     Similar complaints have also been made by someone in  
4           North Stratford by the name of Bruce Blodgett, is that  
5           right, about PNGTS land agents?

6       A     That's correct.

7       Q     And those also occurred within the last 6 months shall  
8           we say or earlier?

9       A     I believe so.

10      Q     And then there is also a woman, Carol Holly in North  
11           Stratford, are you familiar with her?

12      A     Yes, I am.

13      Q     And she in fact filed a police report, didn't she,  
14           concerning a trespass -- what she alleged to be a  
15           trespass?

16      A     Yes, you've mentioned two people here. Specifically,  
17           I have specific knowledge that we actually had  
18           permission from both of those properties. In fact,  
19           Mr. Blodgett has even said to me after the fact, oh  
20           yeah, it does seem to me I remember somebody talking  
21           to somebody about, about this pipeline, but I don't  
22           remember what. The specific area of Ms. Holly, we had  
23           permission to go across that property. There was some  
24           construction constraints where we're following the

1 existing Public Service easement, we had to kick out  
2 and reroute the pipeline in that area. And that is  
3 when Mrs. Holly, actually I believe it was her husband  
4 who called us up and complained about that.

5 Q And when did that occur?

6 A I believe that was last fall and subsequently, we've  
7 been back to that property owner several times and  
8 discussed the route in detail, and actually changed  
9 the line to align it with the property lines and take  
10 some of their concerns into account.

11 Q Now you also testified earlier that there had been a  
12 number of reroutes to address concerns about wells and  
13 springs, is that right?

14 A That's correct.

15 Q And wells and springs were brought up at the Groveton  
16 hearing, weren't they?

17 A I believe so.

18 Q Do you remember Mr. Fred King attending the Site  
19 Evaluation Committee's hearings?

20 A I recall him being there, yes.

21 Q And do you remember him mentioning wells and springs  
22 at that point?

23 A I recall some discussions that he had about water  
24 lines and so forth that are being crossed by the

1 project, but I don't remember the specifics.

2 Q Now, you've also shown the Committee today this  
3 exhibit, I don't remember the number that it was  
4 marked, concerning -- excuse me, this isn't the one on  
5 line changes, there was one on line change. This one  
6 right here, there are a number of line changes on  
7 this, is that right?

8 A That's correct.

9 Q And some of these line changes are indicated, the  
10 status is under study, is that right?

11 A That's correct.

12 Q And others have been completed?

13 A That's correct.

14 Q Now, the line change process takes a fair amount of  
15 time, isn't that right?

16 A That's correct.

17 Q Do you know how long these line changes have been  
18 under consideration?

19 A I can't tell you in each specific case. I can say  
20 that there is one of them that came about about 2  
21 weeks ago. There is another one that's been under  
22 review for about a month now, it varies.

23 Q Mr. Wilber, there is one line change here at mile post  
24 22.4 in reference to the town of Newton's concerns, is

1           that right?

2       A     That's correct.

3       Q     And that is the town of Newton request that you  
4           consider an alternate route to address the town  
5           library site?

6       A     The museum track.

7       Q     Museum, sorry, and the town of Newton originally sent  
8           letters concerning that, I can't remember, but say  
9           back as early as December of last year?

10      A     It's possible.

11      Q     Now there is also another exhibit you've given us, a  
12           list of, these are, I guess line updates, survey  
13           permission areas in response to the April 28th data  
14           request? Excuse me, they were provided on May 9th in  
15           response to the April 28 data requests, is that  
16           correct?

17      A     That's actually an updated list.

18      Q     I'd like to show you one of Portland Natural Gas's  
19           exhibits, I pulled it out of the folder. This is the  
20           PNGTS and Maritimes updated pre-filed direct  
21           testimony. This is the wrong exhibit. This is the  
22           May 9th response to Public Counsel's data request.  
23           Could you read me the first sentence in the second  
24           paragraph. Please?

1 MR. KRUSE: Where are you?

2 MR. RICHARDSON: On the cover  
3 page.

4 THE WITNESS:

5 A You want the whole paragraph?

6 BY MR. RICHARDSON:

7 Q Just the first sentence.

8 A "We are enclosing the PNGTS/Maritimes first revised  
9 list of exhibits.

10 Q And this was provided on what date?

11 A I'm not the proper person to give you permission --  
12 submission dates.

13 MR. RICHARDSON: I'd like the  
14 Committee to note that the date marked on the exhibit is  
15 May 9, 1997.

16 BY MR. RICHARDSON:

17 Q Now, part of the revised list of exhibits, that  
18 includes your revised pre-filed direct testimony, is  
19 that right?

20 A It's possible. I don't have the exact knowledge of  
21 what goes into these, all these exhibits and so forth.

22 Q Could you, this particular document here is marked  
23 exhibit 10, is that right?

24 A Yes.



1 Q Now--

2 MR. KRUSE: I couldn't hear the  
3 last question.

4 MR. RICHARDSON: I asked him if  
5 the particular exhibit was marked as exhibit number 10.

6 MR. KRUSE: The green document in  
7 front of him?

8 MR. RICHARDSON: Yes.

9 MR. KRUSE: Yes.

10 BY MR. RICHARDSON:

11 Q So now you've testified to me that the revised list of  
12 exhibits includes your revised testimony and that was  
13 going -- that was an indication that that would be  
14 filed on May 9th, is that right?

15 MR. KRUSE: Objection. He didn't  
16 prepare this list. He hasn't testified to that. But I'll  
17 testify to the situation if you want it, which I think you  
18 know better. I object to the form of the question.

19 BY MR. RICHARDSON:

20 Q Mr. Wilber, you've now stated a number of events that  
21 have occurred with respect to a variety of landowners  
22 and wells and spring reroutes and several other  
23 situations, is that right?

24 A Yes. A clarification on the wells and spring

1 reroutes. Sometimes or quite often what you will see,  
2 you know, when we see that there is a well or spring  
3 in the initial picking of the route, you know, then we  
4 will change the route at that point, so, yes.

5 Q And you testified that you've been aware of these for,  
6 since prior to the May 9th filing, is that correct?

7 A In some cases.

8 Q Can you give me any reason why this information was  
9 not submitted before your May 9th, excuse me, the  
10 pre-filed revised testimony that was submitted on June  
11 19th.

12 A In some cases they weren't thoroughly developed at  
13 that point to submit.

14 Q But in other cases you were at least aware of the  
15 problem since as early as say December of last year?

16 A That's possible, but there is no sense in submitting  
17 something unless you have an actual plan of how to go  
18 through the situation.

19 Q And these events and what not, they have, they've been  
20 on-going, is that right, some of them?

21 A Some of them.

22 MR. RICHARDSON: No further  
23 questions.

24 CHAIRMAN VARNEY: Committee

1 members? Does the town have any questions? Why don't we  
2 do the town before the Committee.

3 BY MR. CARLISLE:

4 Q You stated, Dave Carlisle, Conservation chair for the  
5 Town of Shelburne. I think you stated earlier Mr.  
6 Webber (Wilber) that there was no formal training for  
7 your land agents?

8 A Wilber is the last name.

9 Q Sorry.

10 A Yes, that's correct.

11 Q Is there a manual of like standard procedures that  
12 govern the actions of your land agents, do you have a  
13 manual of practice or something?

14 A No, there is not.

15 Q Is there a standard list of questions or anything that  
16 your landowner, your land agents are required to ask  
17 landowners about well location, septic systems,  
18 property, historical use, future use, anything like  
19 that?

20 A All of our agents are instructed to inquire about the  
21 location of wells, septic systems, or any other  
22 particular construction related issue or issues which  
23 might affect the routing of the pipeline.

24 Q Are you a licensed land surveyor in the State of New

1 Hampshire, sir?

2 A Yes, I am.

3 Q What led to the decision to take property in  
4 perpetuity as an easement as opposed to a 30 year or  
5 50 year capital life expectancy for the pipeline?

6 A I would say that it's, for projects like this it's  
7 pretty much industry standard to obtain a permanent  
8 easement.

9 Q Would you consider it under some cases more reasonable  
10 to actually take ownership of the property to,  
11 alleviate the need for individuals to pay taxes on  
12 that property in perpetuity?

13 A From a practical standpoint when you get into actual  
14 land ownership you bring up a host of different  
15 circumstances why that would not be an appropriate  
16 thing to do such as subdivision of land and so forth  
17 and leaving non-conforming building lots, etc.

18 Q Is it ever a possibility that the landowners would be  
19 the, have the option of being paid a year by year  
20 lease as opposed to a one time lump sum?

21 A I would say no.

22 MR. CARLISLE: No further  
23 questions.

24 CHAIRMAN VARNEY: Anything else

1 from the town? Committee members, Jeff.

2 BY MR. TAYLOR:

3 Q Mr. Wilber, we have a pipeline here that's  
4 approximately 90 plus miles within the State of New  
5 Hampshire and I think a good deal of that we've  
6 understood comes within utility rights of way, whether  
7 they be transmission lines or existing gas pipelines.  
8 As proposed, what percentage of the 90 plus miles is  
9 under private ownership and what percentage is within  
10 a utility right-of-way at this point?

11 A That's actually two questions. Most of the ownership  
12 under these rights of ways in New Hampshire is  
13 actually owned by private individuals. Public Service  
14 generally, Public Service is what we're paralleling  
15 for the most part in New Hampshire along with Granite  
16 State. They are easement holders so the landowner  
17 retains the rights, underline rights. That exact  
18 percentage, I don't have off the top of my head. I  
19 believe Roger Trettel is --

20 Q Can you give me an estimate as to how many private  
21 landowners you have dealt with in the 90 plus miles?

22 A I believe in that area we're looking at somewhere  
23 around 900.

24 Q And can you tell me how many formal or informal

1 complaints you have received concerning the actions of  
2 your land agents?

3 A I would say at the top maybe a half a dozen to a  
4 dozen. There have been, yeah, that's about where it's  
5 at.

6 Q Earlier you mentioned that 38 percent of the  
7 right-of-way is under agreement. Is that 38 percent  
8 of the 900 parties or 38 percent of the 90 plus miles,  
9 what does that figure relate to?

10 A That relates to the individual landowners, which we're  
11 dealing with.

12 Q So 38 percent of the 900 underlying private entities  
13 you have under agreement at this point?

14 A That's correct.

15 MR. TAYLOR: Thank you.

16 CHAIRMAN VARNEY: Bruce.

17 BY MR. ELLSWORTH:

18 Q Mr. Wilber, where would we find in the exhibits today  
19 your most current view of the centerline of the  
20 proposed pipeline?

21 A My most current view, I don't think you would find  
22 that. If you could rephrase the question a little  
23 bit, are you talking my own view of it or where the  
24 actual centerline is?

1 Q Where the actual centerline is and I assume that  
2 centerline is based in part in view of where it should  
3 be. If I'm wrong please explain.

4 A Well, I guess I would say that probably the last  
5 submission of the alignment sheets, and maybe Mr.  
6 Kruse could give you the exact date, the exhibit  
7 number of those, would have the most up to date  
8 alignment.

9 Q And while --

10 MR. KRUSE: I won't dump this on  
11 your lap but this is exhibit 19, set of alignment sheets,  
12 if there are any questions for Chris on that.

13 MR. ELLSWORTH: Has that been  
14 filed with us?

15 MR. KRUSE: It has, sir.

16 BY MR. ELLSWORTH:

17 Q And, Mr. Wilber, do you have an opinion as to how much  
18 additional deviation you expect may occur as a result  
19 of your studies and findings and activities, will it  
20 vary from that centerline in exhibit 19 in terms of  
21 inches or feet or miles?

22 A I would say that the remaining line changes that you  
23 will see probably could be measured in the feet range.  
24 Certainly, no major reroutes or anything like that --





1 Q So I'll ask him further on that. I don't know if you  
2 can answer this, but it relates to the same thing. If  
3 you want to defer that to them please tell me. In the  
4 original filing the selection of the route north of  
5 the Androscoggin River in Shelburne was identified as  
6 being more readily permitted, and I'm interested in  
7 knowing whether any permitting agencies have expressed  
8 an opinion that other alternatives could not be  
9 permitted?

10 A I can't answer that. I'd have to defer.

11 Q In another area, are you the person that I would ask  
12 about the variance requests for the comprehensive  
13 shoreline protection ordinance?

14 A Yeah, I'd defer that to either Roger Trettel or to  
15 John Auriemma.

16 Q Let me try one more on you. The survey skips, I think  
17 you mentioned that there are some ways that you have  
18 of defining the nature of what's in those areas that  
19 you can't get access to, I think you mentioned aerial  
20 photography and national wetland inventory maps and  
21 things like that. Have you made any effort to  
22 identify, even in a preliminary fashion, what areas or  
23 what, what amounts of impact you're likely to have in  
24 those survey areas or will it be that you will just

1 know nothing until you finally get access for the  
2 surveyors?

3 A I believe in, probably Roger Trettel can correct me if  
4 I'm wrong, but I believe that we filed the best  
5 information that was available, which would include  
6 those national wetland inventory studies, etc. But  
7 I'd have to defer that question to Roger Trettel.

8 DR. SCHMIDT: That's it for me.

9 CHAIRMAN VARNEY: Doug.

10 BY MR. PATCH:

11 Q Mr. Wilber, in terms of that 38 percent figure, the  
12 remaining 62 percent, landowners whom you have not yet  
13 approached or who have not been responsive to your  
14 letters or phone calls?

15 A I would say a little bit of both. Right now what our  
16 priority is to talk with the landowners who are  
17 actually going to be impacted by the pipeline itself.  
18 There are certain areas where there are additional  
19 easement or temporary work space that we're going to  
20 need that we have not contacted at this point to at  
21 least sign some type of an agreement with us and I  
22 guess the remaining landowners, we're either currently  
23 in negotiations with or will be starting up very soon.

24 Q And if there are a number of landowners with whom

1           you're unable to reach agreement, what's the next step  
2           after that?

3       A     The next step would be to see if we could, depending  
4           on what the issues with the landowner are, but we  
5           would try to obtain some type of an appraisal just to  
6           verify the figures and so forth, the fair market value  
7           determinations that we've made. At that point we  
8           would probably wait until FERC issues, or if they  
9           issue a certificate of public necessity and then we  
10          would be back in contact with the landowners.

11       Q     And once they issue it then does that give your  
12          company or the company for whom you're working with at  
13          least on this particular matter, the authority to take  
14          that land by eminent domain?

15       A     Yes, it does, I believe so.

16       Q     But if I understand you correctly not all of the  
17          landowners have been contacted yet so is there a  
18          potential for some of those landowners never being  
19          contacted until after the certificate has been issued  
20          by the FERC?

21       A     No. We are, not only as a project policy, but I  
22          believe part of the requirements, is to negotiate with  
23          the landowners, with each and every landowner out  
24          there, and negotiate in good faith with them for the

1 fair market value of their easement rights. So we  
2 will have to contact every single person out there.

3 Q And does that have to be done though before the  
4 certificate is issued? Because I imagine there are  
5 some landowners that don't even know that their land  
6 is at issue here if you haven't contacted them?

7 A I would say that we've contacted, or sent mailings to  
8 all the landowners that we've identified. As far as,  
9 and I guess I'll make a little clarification here, as  
10 far as entering into negotiations, we haven't done  
11 that with everybody at this point, but--

12 Q When you say the ones you identified, have you  
13 identified all the ones that are necessary to  
14 constitute the land that you need to put the pipeline  
15 on?

16 A Yes, we have. I think what we're talking about here  
17 is a timing issue, and just because FERC issues a  
18 certificate on a project does not mean that we can get  
19 around negotiating with the landowners in good faith.  
20 If there is somebody that we haven't contacted for the  
21 purchase of an easement by the time FERC issues a  
22 certificate, we will still have to go out and  
23 negotiate with them.

24 CHAIRMAN VARNEY: Michael?

1 BY MR. CANNATA:

2 Q Mr. Wilber, putting aside the particular land agents  
3 that we talked about earlier, I believe you said his  
4 name was Mr. Ford, what representations were made to  
5 landowners regarding the original easement, not the  
6 revised easement, was that represented to landowners  
7 that negotiation should be fruitful because of  
8 potential eminent domain anyway?

9 A No. The land agents are instructed to present the  
10 easements, to discuss what is involved with those  
11 easements as far as the width and the temporary work  
12 space that we need as well as the rights that are  
13 contained within them. We're also out there  
14 explaining the whole project and the process both from  
15 the permitting standpoint and the fact that this is a  
16 federal project and when asked specific questions  
17 about eminent domain then we do answer them, yes.

18 Q And you indicated earlier that you use an easement  
19 whereby the property owner retains the underlying  
20 property rights?

21 A That's correct.

22 Q And why then do you include in the easement that you  
23 keep the value of the timber and lumber that's on the  
24 property? This is a question I asked earlier.

1       A     I don't think -- basically any timber that is within  
2             the easement or the temporary work space, the project  
3             will compensate the landowner for that, whether it's  
4             based on the actual stumpage value or an appraisal  
5             that's to be determined with the landowner.  What we  
6             do basically is consider it a crop just like going  
7             into a corn field, we compensate that landowner for  
8             that.

9       Q     But the easement is structured to come to an agreement  
10            in price, "X" dollars, and then it includes the value  
11            of the lumber and I think we heard the lady this  
12            morning talk about 400 feet in her area, and I would  
13            refer you to, I guess you don't have the specific  
14            easement here, but the last paragraph, and I'll read  
15            it, it says grantee, acceptance here, agrees to pay  
16            for damages to crops, pasture, fences, personal  
17            property, which may arise from preparing land,  
18            construction, maintaining, operating, improving or  
19            repair or removing side lines.  So, right in the  
20            agreement it says that the grantee, being PNGTS or  
21            Maritimes, will pay for timber.  That conflicts with  
22            three paragraphs above which states, grantee shall  
23            have the right to cut and keep clear all trees, brush,  
24            structures, dwellings and other obstructions that may

1 injure, endanger, or interfere with the exercise of  
2 its rights in easements granted hereby. And I'm  
3 assuming that that part of the easement kicks in as  
4 soon as it's signed.

5 A Basically, once the pipe is in the ground we need to  
6 keep it clear from deep rooted plants such as trees  
7 and so forth. So, we will pay for the timber when  
8 it's cut and then once it's cut we have to keep it  
9 clear as part of the on-going maintenance of the  
10 pipeline.

11 Q For clarity of the record then if I summarize your  
12 statement, would you agree with the following: That  
13 in addition to the negotiated land price, all  
14 landowners will be compensated in addition to the  
15 amount of timber that's taken off the property?

16 A That's correct.

17 MR. CANNATA: Thank you.

18 CHAIRMAN VARNEY: Deborah.

19 BY MS. SCHACHTER:

20 Q I believe that in prior testimony there was some  
21 discussion of records being kept of contacts with  
22 individual landowners, are there such records?

23 A That's correct.

24 Q Could you explain to us what kind of form those

1 records take, what is recorded relative to those  
2 interactions?

3 A Basically, we have a, what we call a right-of-way  
4 database and all, and I'll say meaningful contacts  
5 with the landowners are recorded within that database.  
6 You know, if it's a conversation such as, you know,  
7 hi, when is the next meeting, then that doesn't get  
8 into the database, but if there is meaningful contact  
9 as far as negotiations, or concerns of the landowners,  
10 that gets entered in the database and there is also a  
11 hard copy put in the file.

12 Q So for each of 300 plus landowners with whom some  
13 agreement has been reached, there would be some  
14 written record of how that agreement was derived?

15 A Absolutely.

16 Q And you could tell by those then I assume, without  
17 having to reference them, how many of those easements  
18 were obtained by Mr. Ford, the individual whom we've  
19 been discussing?

20 A Yes, that would be possible.

21 Q Do know off hand?

22 A No, I don't.

23 Q In light of the perceptions, real or grounded or  
24 otherwise about Mr. Ford's performance and behavior



1 with landowners, has there been some discussion about  
2 those easements that were obtained by Mr. Ford and how  
3 those should be handled?

4 A No, there has not.

5 Q Would it be possible for you to get information for  
6 the Committee about how many easements Mr. Ford  
7 personally had obtained?

8 A I guess that would be possible.

9 Q I have one more question on a different subject  
10 matter. With regard to the line change status  
11 document, to make sure that I understand, of the line  
12 changes that are listed here, all but one are still  
13 under study, is that, just reading off the sheet.

14 A That's correct.

15 Q Or have any been completed since, this was just  
16 prepared so I assume this is current?

17 A Right, just that one has been completed.

18 Q And what is the process that's underway for resolving  
19 and coming up with a determination on these various  
20 line change requests?

21 A I don't have the specifics of where each one of these  
22 is in the process. There are some of them that have  
23 had the route actually staked in the field by the  
24 engineering surveyors. There are some of them that

1           are waiting for environmental reviews, some of them  
2           are waiting for archeology or endangered species.

3       Q     And once the information is provided then what's the  
4           process for rendering a final decision by the company?

5       A     As long as each one of these, you know, if there is  
6           nothing that would prohibit us from putting the  
7           pipeline in the ground, then basically we'll go  
8           through it, through these ones and file updated  
9           alignment sheets.

10                                   MS. SCHACHTER:  No further  
11       questions.

12                                   CHAIRMAN VARNEY:  Bruce.

13       BY MR. ELLSWORTH:

14       Q     Just one follow-up question on Mr. Cannata's  
15           questioning about timber.  If a customer, a homeowner,  
16           landowner, asked to keep the timber or the wood in  
17           lieu of being paid for it, is that an option that a  
18           customer or the landowner has?

19       A     I believe that's addressed in our environmental  
20           construction plan.  It would be our preference to pay  
21           the landowner for the timber and that way we make sure  
22           that it's, that it's cut and it's disposed of  
23           properly.  Past projects there have been issues with  
24           stockpiling timber for the landowner to take care of

1 and it ends up sitting there and rotting out on the  
2 right-of-way. So we would rather pay for it and make  
3 sure that it is disposed of.

4 Q If a customer insisted, would you deny them that  
5 opportunity?

6 A No.

7 CHAIRMAN VARNEY: Doug.

8 BY MR. PATCH:

9 Q In terms of the eminent domain proceeding that would  
10 come about after the certificate was issued by the  
11 FERC, what's the extent of the easement or the rights  
12 that your company would have, is it only for natural  
13 gas or would it cover as well telecommunications and  
14 some of those others, oil?

15 A It would only be for a single natural gas pipeline and  
16 a 50 foot permanent easement with the associated  
17 temporary work space needed to construct the pipeline.

18 CHAIRMAN VARNEY: Any other  
19 questions? Jennifer.

20 BY MS. PATTERSON:

21 Q You said that your land agents talked to the  
22 landowners about the permitting process, and I'm just  
23 wondering, I assume they told them that the permitting  
24 process was not yet final. Did the land agents tell

1 the landowners that they could participate in the  
2 permitting process and how they might go about doing  
3 that?

4 A You're correct. They were told that the permitting  
5 process is on-going and that we're working through  
6 that right now. As far as telling them specifically  
7 how to get involved, I can't tell you on a case by  
8 case basis how that was handled. If there are  
9 questions that the landowners have about how they  
10 entered or got into the process, we certainly provide  
11 them with all the necessary information as far as how  
12 to contact FERC, how to contact this Commission as  
13 well as how to participate in any local hearings that  
14 are held on it or meetings that are held.

15 CHAIRMAN VARNEY: Leslie.

16 BY MS. LUDTKE:

17 Q I just have a quick question. Attorney Kruse gave  
18 you, I think, exhibit 19 and that would be the  
19 alignment sheets you have I think right next to you,  
20 is that correct?

21 A That's correct.

22 Q And he indicated that the deviation from those  
23 alignment sheets would only be a small number of feet,  
24 do you recall that?

1 MR. KRUSE: I didn't indicate  
2 that.

3 THE WITNESS:

4 A I believe I said that. You know, I think what I said  
5 was, you know, it could be 20 feet or it could be 200  
6 feet, you know, it varies.

7 BY MS. LUDTKE:

8 Q Well, do you recall when those alignment sheets were  
9 produced that there was an issue with regard to the  
10 alignment through the town of Newton, that the  
11 alignment that was shown on those alignment sheets did  
12 not match the text or the description of the alignment  
13 to the town of Newton?

14 A I was aware of that.

15 Q And in the alignment sheets that are in front of you  
16 as exhibit 19, do you know what alignment is shown for  
17 the town of Newton so if the Committee were to approve  
18 it based on the alignment shown on those sheets, would  
19 that be the correct alignment or not the correct  
20 alignment?

21 A I believe the specific area that you're talking about  
22 is shown on this line change sheet as 22.4 and that is  
23 an area that there is some on going issues that we're  
24 still looking at so what's in these sheets would be, I

1 believe, the original Maritimes route on that  
2 particular property.

3 Q Just so that the Committee is clear, what is shown on  
4 the alignment sheets is not what is described in the  
5 text, and is not what is actually going to be the  
6 alignment for the town of Newton under this line  
7 change?

8 A I'm not totally familiar with what's shown in the  
9 text.

10 Q Is there any way that the Committee would have any  
11 idea what the alignment was through Newton based upon  
12 the information that's been produced to date?

13 A I would say that they could refer to this set of maps  
14 here, alignment sheets that shows the route. The  
15 route that this area that we're talking about I  
16 believe is, is probably a change in the neighborhood  
17 of a couple hundred feet.

18 Q So if the Committee wanted to see what the previous  
19 route was it should ignore the text that describes a  
20 different route and go by alignment sheets or should  
21 it pay attention to the text and ignore the alignment  
22 sheets?

23 A I can't specifically answer that question.

24 Q Will there be other alignment sheets filed for the

1 town of Newton?

2 A I believe that when these line changes, as I stated  
3 earlier, are finalized there will be a final set of  
4 alignment sheets printed.

5 Q Do you have any idea when the final alignment sheets  
6 will be filed with respect to the town of Newton's  
7 alignment?

8 A I can't answer that.

9 Q Are you aware that the Public Counsel has filed  
10 material from the town of Newton in its testimony  
11 because of the town's concerns relative to the  
12 alignment?

13 A Yes, I am.

14 Q So is there any material that the Committee can go on  
15 that's filed before it where it can get an idea of  
16 what the alignment will be through Newton, that will  
17 be produced in time for the Committee's decision?

18 A The line change in this particular area is talking  
19 about following the existing Granite State line. That  
20 line is shown on these alignment sheets that are on  
21 file with the Commission. As I was saying, there are  
22 still some issues that we're looking at on the line  
23 change forms so that when the route is finalized then  
24 we will submit final alignment sheets, but I can't--

1 Q Do those alignment sheets that you have in front of  
2 you marked as exhibit 19 reflect field survey data of  
3 additional temporary work areas? Have they been field  
4 surveyed?

5 A These are based on field surveys except where there is  
6 a skip for no access or if there was outstanding  
7 environmental skips per the exhibit, which was filed  
8 here today.

9 Q Have you ever tried to go through the maps, Mr. Wilber  
10 and translate the additional temporary work spaces  
11 that are shown on the maps into the actual alignment  
12 to determine whether the additional temporary work  
13 spaces actually fit on the alignment sheets? Have you  
14 ever done that process, gone through that process?

15 A I have not myself personally.

16 Q But it's your testimony to this Committee that they  
17 have all been field surveyed?

18 A With the exceptions that are listed as skips.

19 MS. LUDTKE: Nothing further.

20 CHAIRMAN VARNEY: Susan.

21 BY MS. GEIGER:

22 Q Mr. Wilber, when do you expect to complete or finalize  
23 the eminent domain process should you have to resort  
24 to that in the absence of consent from landowners?



1       A     I think a lot of that depends on court schedules and  
2             so forth and I can't answer that specifically.

3       Q     Assuming that you were granted permits from this  
4             Committee as well as FERC, when would the company plan  
5             to initiate construction?

6       A     I believe we're currently scheduled for construction  
7             of the main line and the laterals is anticipated for  
8             April of '98. There may be certain areas such as the  
9             Piscataqua River crossing that there may be something  
10            done ahead of that schedule, but that's the schedule  
11            the best I know it.

12      Q     Do you believe it is possible to complete the eminent  
13             domain process on all of the affected parcels by April  
14             of 1998?

15      A     Yes.

16                               MS. GEIGER: Thank you.

17                               CHAIRMAN VARNEY: Bruce.

18      BY MR. ELLSWORTH:

19      Q     We were provided at some point a set of maps  
20             identified as proposed natural gas pipeline, line  
21             number 5,000-1, and they were dated February 6, 1997.  
22             That's the date they were drawn and in view of the  
23             questions raised about the town of Newton I ask  
24             whether this is the centerline or whether it's,

1           whether it includes this dialog that you just had with  
2           Ms. Ludtke, because I'm uncertain as to what, what the  
3           issue is in Newton and I'd be interested in knowing  
4           how we could be better familiarized with it?

5       A     I'd have to take a look at that specific map and  
6           compare them to what's filed here in exhibit 19. I  
7           believe that's the issue that's been raised by the  
8           town is that they would like to see us following along  
9           the existing Granite State easement. And we have  
10          shown a slight route variation due to a residence on  
11          the other side of the street and I believe there are  
12          wetland impacts in that area as well.

13       Q     Maybe at a break counsel could see whether or not this  
14           is a, a map that we should continue to retain or  
15           whether it has been superseded exhibit 19 or whether  
16           this in fact supersedes exhibit 19.

17                           MR. KRUSE: Yes, sir.

18                           CHAIRMAN VARNEY: Any other  
19           questions for this witness?

20                           MR. CARPENTER: Just a procedural  
21           question. When will the Town of Shelburne receive copies  
22           of exhibit 19?

23                           MR. KRUSE: I'm sorry, I missed  
24           the question.

1 MR. CARPENTER: When will the Town  
2 of Shelburne receive pertinent copies of exhibit 19?

3 MR. KRUSE: I think we have some  
4 extra ones in our office that we can get them to you this  
5 week. As a matter of fact, I think they may be available  
6 this evening. If you want to go back with us we can see  
7 what we've got.

8 MR. IACOPINO: Weren't they  
9 previously distributed?

10 MR. KRUSE: I thought they had  
11 been so I'm surprised at the question.

12 MR. CARPENTER: I'm questioning if  
13 this is new information.

14 MR. KRUSE: These are the same  
15 alignment sheets that were filed in response to data  
16 requests from the Public Counsel, which I think at the time  
17 included data requests from the Town of Shelburne.

18 MR. CARPENTER: They have not been  
19 updated since the FERC DEIS, that is our question?

20 MR. KRUSE: They have not been  
21 updated since the FERC DEIS.

22 BY MR. CARPENTER:

23 Q Just one other follow-up question that deals with the  
24 question raised in Groveton, and that concerns who is

1 going to be responsible for the tax on the timber  
2 removed on the right-of-way, is that going to be  
3 Portland Natural Gas or is it going to be the  
4 landowner?

5 A PNGTS is responsible for taxes on the -- on the yield  
6 taxes as I understand it.

7 MS. LUDTKE: May I ask one more  
8 question?

9 CHAIRMAN VARNEY: Yes.

10 BY MS. LUDTKE:

11 Q Mr. Wilber, I asked you before about the field survey  
12 of the additional temporary work spaces and whether  
13 you had actually checked to see if they fit on the  
14 alignment sheets, do you recall that?

15 A Yes, I do.

16 Q Well, let me show you this here on this alignment  
17 sheet. This one is PTET14-5001-022 and come over and  
18 take a look at this. And I'll call your attention  
19 specifically to the payment circle area there and P  
20 street area and you can see right down there, you can  
21 look at the bottom of the map and see how that has  
22 space there where that additional temporary work space  
23 is, did you ever check to see if that area would  
24 actually fit in on that before it took the jog over

1           there, it doesn't seem to fit, does it?

2       A     Yes, I am aware -- maybe I should be using this, I'm  
3           aware of the specific instances where the temporary  
4           work space on the property, there may be well  
5           constraints in there, or there could be residential  
6           constraints or so forth when you actually plot that  
7           out. I think the question you asked was have I,  
8           myself, scaled any of these things out, the answer is  
9           no. But I am aware of areas where there are  
10          constraints and people on my staff have, when they,  
11          when they go out and present these to landowners they  
12          take these things into consideration and they only  
13          acquire temporary work space in areas that we can  
14          actually construct. In other words, we're not going  
15          to be constructing right up next to the house.

16                        In addition, there is residential site  
17          drawings that have been completed in areas where there  
18          are constraints to show specific techniques and actual  
19          offsets to these constraints and that's what's going  
20          to be used actually in the field to construct by.

21       Q     Well, Mr. Wilber, you must be aware that there has  
22           been no residential site specific drawings provided  
23           for the southern portion of the line?

24       A     They're in the process of being completed.

1 Q They haven't been provided, have they?

2 MR. KRUSE: I believe he just said  
3 they were in the process.

4 BY MS. LUDTKE:

5 Q I'm asking him yes or no, have they been provided to  
6 the Committee?

7 A I couldn't answer that.

8 Q And the issue that I showed you here on the map isn't  
9 related to a house issue, it's related to a problem  
10 with scaling off on the line and the scales not  
11 matching on the bottom portion of what's shown on the  
12 top portion, isn't that correct?

13 A I would have to look at this again.

14 Q Go ahead.

15 MS. LUDTKE: I'll make these  
16 available to the Committee. We have tape on here  
17 indicating how it's scaled off from the bottom to the top  
18 and the problem is, as you can see, that the scale does not  
19 work when it's translated.

20 THE WITNESS:

21 A You mean the actual scaling of this right here?

22 BY MS. LUDTKE:

23 Q I'm talking about this area where the space is there.

24 A These are not to scale. This band down here is a

1 graphic recommendation, it's not to scale.

2 Q Well, this has numbers on it, does it not, and it  
3 represents where it would fall on the pipeline?

4 A That's correct.

5 Q And so one can't actually by looking at this, at those  
6 numbers, really have any sense of where it's going to  
7 fall up here because it doesn't follow, does it, I  
8 mean the two don't match, do they?

9 A That's correct, but I don't think they were intended  
10 to match. They were intended to show a graphic  
11 representation of where this work space falls and  
12 there is just physically not enough room to show all  
13 of this stuff in the photo here.

14 Q Well, Mr. Wilber, look, this has 100 feet here, right,  
15 25 by 100 feet, this is 25 by 50 feet, this is 25 by  
16 100 feet, so adding those together it's 250 feet over  
17 to this bend, and if one were following this over to  
18 this bend one would expect that would also be 250 feet  
19 so you would get a visual representation of where your  
20 temporary work space would fall on the pipeline?

21 A That's actually past the bend.

22 MR. KRUSE: Chris, use the  
23 microphone.

24 THE WITNESS:

1       A     What I'm saying is is that, that the end, where this  
2             crosses right here represents a cross over of the  
3             existing Granite State line, and scaling back here, it  
4             doesn't actually show what this distance is right  
5             there. So, so there is no way of knowing, there is no  
6             way of accurately scaling that back from that point.

7       BY MS. LUDTKE:

8       Q     But I'll represent to you, when you scale off of here  
9             the bend comes a lot quicker than 250 feet and so,  
10            therefore, this is not an accurate representation of  
11            where it would be.

12                           MR. KRUSE: Is that a question?

13       BY MS. LUDTKE:

14       Q     The question is, how the scales match so that one can  
15             look down at the representation here and make some  
16             kind of judgment about where those areas would  
17             actually occur on the pipeline up here, which is  
18             marked on the alignment sheet as wetlands, etc. so one  
19             would know whether it's in a wetland or not in a  
20             wetland, and the problem is, as I understand from Mr.  
21             Wilber, is that it's not scaled so one can do that.

22                           MR. IACOPINO: Maybe I can hold  
23            this up so everybody can sort of see what we're talking  
24            about.



1 MR. CANNATA: Could counsel for  
2 the public go through that last iteration just to give us a  
3 better view of the scaling problem?

4 MS. LUDTKE: That's the section  
5 right there, and it has numbers on it with distances, and  
6 when the scale is translated up here the distances that are  
7 shown down here don't fit. So you cannot go from this  
8 visual depiction to locate it on the actual mapping up  
9 there. You can pass this around if you'd like to see it.  
10 There are other ones as well.

11 MR. IACOPINO: Just for the  
12 record, we're talking about a sheet that's marked  
13 PTET14-500-1-022.

14 MR. ELLSWORTH: Is there a date on  
15 which that was drawn?

16 MS. LUDTKE: This is exhibit 19.  
17 This is the final alignment sheet.

18 MR. ELLSWORTH: Just to the left  
19 of the block that says proposed natural gas pipeline there  
20 is a date, what is the date there?

21 MR. IACOPINO: February 6, 1997  
22 and then under that February 28.

23 MR. ELLSWORTH: That's the same  
24 series of maps that I was referring to earlier that had

1       been passed out to us. So we do have that.

2                               MR. IACOPINO: Except that she's  
3 plotted it out.

4                               MS. LUDTKE: It's the southern  
5 route that's been plotted out.

6                               MR. KRUSE: Mr. Chairman, Mike  
7 Morgan is here and perhaps he can answer some of these  
8 questions if you'd like to.

9                               CHAIRMAN VARNEY: Why don't we, if  
10 we could, is that the last question for this witness?

11                               MS. LUDTKE: That's it.

12                               CHAIRMAN VARNEY: Could we just  
13 end with this witness and then we could have the next  
14 witness pick up on this. Michael?

15                               MR. CANNATA: I had one quick  
16 question as a result of Leslie's questions.

17                               CHAIRMAN VARNEY: Okay.

18 BY MR. CANNATA:

19 Q     After you revert back to the 50 foot right-of-way  
20       after construction because the temporary 75 foot  
21       right-of-way, the way it's designed, and you go back  
22       to 50, if you have a problem with the pipeline how do  
23       you get your construction equipment in there? Can you  
24       fix anything that needs to be fixed with just the 50

1 foot easement or what's ever left?

2 A Yes, and if there is, I would say that's generally one  
3 of the reasons why we have a 50 foot permanent  
4 easement, is for on-going maintenance. If there was  
5 ever a situation where we needed additional temporary  
6 work space for any reason then we would have to go  
7 back to the landowner and negotiate again for extra  
8 space and pay extra damages and so forth.

9 MR. TAYLOR: Mr. Chairman, just to  
10 affirm a figure that the, the company has secured 38  
11 percent of the parcels under some type of either  
12 construction or long term easement, and if there is 62  
13 percent, nearly 600 parcels that you intend to secure the  
14 rights to prior to starting construction next April, that's  
15 the schedule that you're looking at?

16 THE WITNESS: That's correct.

17 CHAIRMAN VARNEY: Any other  
18 questions for this witness? Why don't we take a 5 minute  
19 break and then we will move on to next witness and I think  
20 we'll try to wrap up by 5 p.m.

21 (Brief recess.)

22 (Resumed.)

23 CHAIRMAN VARNEY: Mr. Martin?  
24 We're doing this simply so that he can leave today and not

1 have to return for the fun tomorrow.

2 MR. MARTIN: I just thought I  
3 could add some factual matter to the question of the  
4 delays, which are occurring in the process of applications.  
5 I can testify that the company sent me the proposed long  
6 form deed for the property, complete with 3 pipelines and  
7 the cables by mail, and I responded on January 28th of '77  
8 (1997) with 3 alternate routes through my property.  
9 Approximately, which is, as I testified earlier, about 3  
10 quarters of a mile long. Mr. Ford called back on February  
11 21st of '97 and he said the company will not be considering  
12 any alternate routes, and I said why, and he said, we have  
13 to cut trees, and I said, but my alternate route goes  
14 through a field, and he said we have to notify FERC, and I  
15 said, oh, and he said we will build the pipeline across  
16 your property in that location, and this heated me up and I  
17 hung up the telephone.

18 It's been several months. Mr. Wilber was  
19 present in North Stratford, I happen to be in North  
20 Stratford at the time, I went to the meeting, well,  
21 actually I read the paper. He announced in the paper that  
22 the company was negotiating with landowners. And the  
23 upshot of that was negotiations started again due to the  
24 good offices of Mr. Wilber and I sent him a paper on May

1 22nd with a proposed deed and nothing has come back.

2 I think the Committee should look into the  
3 question of how much of the \$10 million that's being spent  
4 on this is going into the land office because it strikes me  
5 that there is not enough staffing in this area. I think  
6 they're trying to do a good job but can't do it.

7 And I would also like to call the attention  
8 to the Committee to the fact that under the state law of  
9 New Hampshire, as soon as the certificate of public  
10 convenience and necessity is granted, and the lawyer files  
11 the petition in the court, this is RSA 371-15, said  
12 pipeline company may at any time after filing such petition  
13 may enter upon and take possession of the real estate. So,  
14 they don't have to negotiate with anybody, they can just  
15 build the pipeline. And years later there is a settlement  
16 according to the costs. Under the principles of eminent  
17 domain there is no resource against the power of the  
18 federal government, no state law, no local ordinance has  
19 any bearing. The only adequate compensation is money. So,  
20 thank you very much.

21 CHAIRMAN VARNEY: Thank you.

22 (Whereupon Roger Trettel was duly  
23 sworn and cautioned by Mr. Kruse.)

24 ROGER TRETTEL, SWORN

## DIRECT EXAMINATION

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BY MR. KRUSE:

Q Would you give us your full name and business address, please?

A My name is John Roger Trettel. I'm with Northern Ecological Associates at 386 Fore Street in Portland, Maine.

Q Do you have another office in any area?

A Yes, our main office is at 33 Park Street, Canton, New York.

Q And an associate of yours, Steve Compton, is he based out of that other office?

A Yes, he is.

Q Have both you and he worked on various phases of this project?

A Yes.

Q Could you tell us briefly what your staff is at NEA as it relates to working on the PNGTS project?

A We provide a full range of environmental services, we have provided a full range of environmental services on the PNGTS project from assisting with the original routing of the project, through performing biological, ecological field surveys, wetland delineations, threatened and endangered species survey, evaluating

1 stream crossing methodologies, preparing some of the  
2 permit applications. We came a little bit later in  
3 the game and some of the applications had already been  
4 filed or already been prepared. And we've also done a  
5 fair amount of responding to agency data requests and  
6 conducting agency meetings.

7 Q Besides Steve Compton, who else on your staff has been  
8 involved in working on this project?

9 A A variety of people, Robin Kim, who is here today.  
10 She was in charge of our field teams, field team  
11 leader; Sandra Lare, Alex Chimelewski, who else --

12 Q Is there a Wayne Harper?

13 A Wayne Harper, Sandra Goralski, Dave Santillo, I can't  
14 think of -- there's been a whole group of people  
15 working on the project.

16 Q And give us briefly your educational and professional  
17 background?

18 A I have a Bachelor of Science degree in Forestry from  
19 Penn State University; Master of Science Ecology from  
20 Duke University. I'm a Professional Wetlands  
21 Scientist as recognized by the Society of Wetlands  
22 Scientists. I have worked on, done environmental  
23 consulting for natural gas and oil pipeline projects,  
24 over 20 projects over the last 12 years throughout the

1 United States. I've done--

2 Q Excuse me, could you just turn your chair a little bit  
3 so that all the members of the Committee can see you.  
4 Where in the United States have you worked on pipeline  
5 projects?

6 A From coast to coast. I've worked on projects from  
7 California to the northeast.

8 Q Are these gas pipelines?

9 A Primarily natural gas pipelines.

10 Q Go on.

11 A I was going on to say that I've also been involved  
12 with providing environmental inspection services  
13 during construction, supervising environment  
14 inspection teams, providing inspection during  
15 construction and then post construction monitoring to  
16 ensure that the projects have been completed according  
17 to permit conditions.

18 Q How would you define your specific task and charge  
19 with this particular project?

20 A My duties or my title with PNGTS is Field  
21 Environmental Coordinator, and I've been responsible  
22 for overseeing and monitoring primarily the  
23 environmental field work that's been performed, and  
24 that has kind of evolved into assisting with principal



1 review of environmental permit documents, agency  
2 coordination, agency meetings, and preparation of data  
3 requests.

4 Q I want to show you exhibit 10, the updated pre-filed  
5 direct testimony, and ask you if you participated in  
6 the preparation of the panel pre-filed direct  
7 testimony with the names Auriemma, Morgan, Trettel and  
8 Wilber?

9 A Yes, I did.

10 Q Did you participate in the preparation of all of this,  
11 or were there only certain sections that you worked  
12 on?

13 A My focus was on the environmental aspects of this  
14 testimony.

15 Q And have you reviewed it to make sure that there is no  
16 need for any corrections or modifications?

17 A Yes.

18 Q Is it true and accurate to the best of your knowledge?

19 A Yes.

20 Q Now, sir, I want to focus now on the question of the  
21 Shelburne routing. There are a number of issues I'll  
22 be asking you about, some of the questions raised by  
23 the Committee will be dealt with as we go through your  
24 testimony, but right now I want to focus on Shelburne



1 as an exhibit?

2 MR. KRUSE: We have included the  
3 document that I passed around to the Committee that has  
4 been marked as exhibit 21-a, with copies having been  
5 supplied to Public Counsel and the Town of Shelburne and  
6 other intervenors prior to this time. So that's the same  
7 document that we incorporated in 21-a.

8 MS. LUDTKE: I'd like the  
9 Committee to note that that exhibit was not available for  
10 review on Friday as you indicated previously. It's date  
11 stamped as received by our office on June 19th at 5:00 p.m.  
12 So it was not available for our review as part of the  
13 exhibits on Friday in accordance with your previous  
14 representation regarding the exhibit list.

15 MR. KRUSE: I believe the plan had  
16 been supplied in advance incorporating it formally in the  
17 exhibit folder. I'll have to get out my correspondence to  
18 track exactly when we communicated about it.

19 MS. LUDTKE: If I could clarify  
20 for the Committee, I have a letter here dated June 17,  
21 1997, with a hand delivery. That's an incorrect date  
22 because it was date stamped when it reached our office and  
23 apparently it was hand delivered and I have a Department of  
24 Justice date stamp of June 19th at 5 p.m. So that's when

1 it was supplied and this is the transmittal letter on it.

2 MR. KRUSE: The 19th is Thursday?

3 MS. LUDTKE: Yes.

4 MR. KRUSE: So you had it on  
5 Thursday at 5 o'clock?

6 MS. LUDTKE: I had it on Thursday  
7 at 5 o'clock, and previously there had been a  
8 representation made that we had advantaged ourselves of the  
9 opportunity to review exhibits that had made available to  
10 us the previous Friday. I would like the Committee to note  
11 that the reason we did not take advantage of the  
12 opportunity to review the exhibits is that the new exhibits  
13 were not in the exhibits that were given to us to review on  
14 Friday, They were given to us later on the following week.

15 MR. KRUSE: You're absolutely  
16 right, and that's why I made sure when I represented to the  
17 Committee earlier that about 90 percent of the materials  
18 had been previously supplied and indeed this document was  
19 in its final working stages as of the time we supplied it.

20 CHAIRMAN VARNEY: Thank you for  
21 clarifying that.

22 BY MR. ELLSWORTH:

23 Q Could I ask for an additional clarification because as  
24 I look at your laser drawing the yellow is proposed as

1 the original route?

2 A That's correct.

3 Q Is that not the original revision? Because is there  
4 not another route that follows the existing pipeline  
5 south of the river?

6 A That's correct, this is the original, so called  
7 revision.

8 Q Well, there is an original, which was proposed along  
9 the original, the existing right-of-way--

10 A That's correct.

11 Q And then there was a proposal which is now your yellow  
12 line and now there is a revised revision which is red  
13 lined?

14 A That's correct.

15 MR. ELLSWORTH: Thank you.

16 MR. KRUSE: What I, as a road map  
17 here, what I want to ask Mr. Trettel to do is describe  
18 first what the route is as proposed under the capital "R"  
19 revision and then ask him how the company arrived at that  
20 route under the revision, and then go into the concern  
21 expressed by Shelburne and our response to them.

22 THE WITNESS:

23 A Following along, we enter the Town of Shelburne at  
24 mile post 69.5 approximately, following roughly

1 parallel to Hogan Road, but offset -- we travel on,  
2 there are a few areas where we had to divert away from  
3 Hogan Road.

4 The first one is an area of a ravine. If we  
5 were to be directly adjacent to Hogan Road there would  
6 be real construction constraints so we diverted a  
7 little bit to the north. And we continued essentially  
8 parallel and somewhat separated from Hogan Road all  
9 the way through the area. In the area where the  
10 Appalachian Trail is from, which begins at North Road  
11 and extends about 1,300 feet in, we were originally  
12 offset 50 feet from Hogan Road.

13 Then at the area of North Road we again are  
14 paralleling but offset several hundred feet into the  
15 woods. Continuing on then we cross North Road and  
16 we're basically off this map now, we don't have the  
17 entire route through Shelburne.

18 Across North Road to the south, cut across  
19 some open fields and some woods where we join up with  
20 the original or the existing Portland Pipeline  
21 corridor. We follow that for approximately 1 1/2  
22 miles, and then we divert again. The Portland  
23 Pipeline corridor drops down into a low area along the  
24 Androscoggin River. We felt that was a major

1           engineering and environmental constraint so we  
2           diverted away from that corridor up to the north and  
3           cross country for about a mile or so, and then we  
4           leave the Town of Shelburne and go into Maine.

5       BY MR. KRUSE:

6       Q     So by this chart Hogan Road is depicted along there by  
7           the two dotted lines, is that correct?

8       A     That's correct.

9       Q     And the original route under the revision is depicted  
10          in orange?

11      A     That's correct.

12      Q     Now, how did the company arrive at a determination  
13          that that was its preferred route for the revision,  
14          the northern route?

15      A     Well, as we were coming south from the Berlin area we  
16          were following the PSNH power line, and as a matter of  
17          practice for routing pipeline projects we strongly try  
18          to follow existing pipeline or power line corridors.  
19          So we're heading south, we're along PSNH, we get to a  
20          point where the existing power line corridor cuts  
21          across the river, and the only other corridor on the  
22          north side is the existing Hogan Road, which is, you  
23          know, a relatively minor corridor.

24                            So we looked at the possibility of staying

1 with the PSNH power line -- we, before we, initially  
2 there is another PSNH power line that diverts due west  
3 at about mile post, about 67, 67.5. That had extreme  
4 environmental and engineering constraints. We would  
5 have had to cross, make 3 crossings of the  
6 Androscoggin River, crossing of the Peabody River,  
7 Moose Brook, several highway and railroad crossings.  
8 There are just a number of constraints. That route is  
9 the so called Gorham North/Gorham South route that was  
10 in our EFSEC application and that route would have  
11 gone due west, due south and get on the existing  
12 Portland Pipeline corridor and travel south, south of  
13 Shelburne.

14 The other possibility was the power, you  
15 know, staying on PSNH and crossing the river just east  
16 of the village of Gorham and that was evaluated and  
17 determined to be infeasible from an engineering  
18 standpoint as well as environmental issues associated  
19 with the river crossing.

20 We looked at a couple of other potential  
21 river crossing areas, really couldn't find a  
22 reasonable place to cross the river, and basically  
23 then we started looking, okay, we're going to have to  
24 see what we can find on the north side.



1                   The north side of the river has existing  
2 Hogan Road corridor. We, in our route, we didn't want  
3 to interrupt usage of that road so we attempted to  
4 route the pipeline such as it would be -- we were  
5 aware of the potential sensitivity of the area, the  
6 potential visibility sensitivity, and so in our  
7 routing we attempted to get as low on the hillside as  
8 possible, get as close to the road as possible without  
9 interrupting the use of the road and kind of pick our  
10 way through avoiding any major environmental and  
11 engineering constraints along the way. Essentially  
12 working our way through until we could again rejoin  
13 the Portland Pipeline corridor.

14       Q       So how many alternatives then to that preferred route  
15 did you consider before arriving at a view that that  
16 was the preferred route?

17       A       We looked at a number but we ruled -- we only filed  
18 the Gorham North and the Gorham South because that was  
19 the, potentially the most feasible. The other  
20 alternatives were thrown out immediately because of  
21 the engineering constraints associated with the river  
22 crossing.

23       Q       When you say you filed the Gorham North and Gorham  
24 South you mean with the EFSEC application?

1 A That's correct.

2 Q Were those alternatives also filed with the FERC?

3 A That's correct.

4 Q Now, were there any concerns raised to the company by  
5 the Town of Shelburne with respect to this preferred  
6 route that you described with the orange line?

7 A Yes, the Town of Shelburne has been concerned about  
8 the routing. They were concerned about the creation  
9 of a new corridor, they perceived to be a new corridor  
10 and there are visual impact concerns, primarily  
11 associated with the Reflection Pond area and  
12 recreational usage along the Appalachian Trail.

13 Q In you know, what new corridor was the Town of  
14 Shelburne referring to, expressed a concern about? A  
15 new corridor?

16 A Our original proposal was to have a 75 foot wide  
17 construction right-of-way, somewhat offset from Hogan  
18 Road and that would be considered a new corridor.

19 Q To the extent that the preferred route followed Hogan  
20 Road, was that considered by you?

21 A We did consider a new corridor because we weren't  
22 directly on Hogan Road, we were paralleling it.

23 Q Now, has the FERC had an opportunity to review the  
24 proposed or the preferred route that you describe as

1 well as the alternatives that you described?

2 A Yes, they have.

3 Q And has the FERC considered anything more than the  
4 Gorham North and Gorham South?

5 A They identified to us in data requests another  
6 alternative that would cross beginning just west of  
7 the Shelburne/Gorham line, crossing south and getting  
8 parallel again to the Portland Pipeline, crossing the  
9 river again and extending on to Shelburne.

10 Q Has the FERC staff made any analysis or conclusions  
11 with respect to these alternatives in its DEIS?

12 A Yes.

13 Q And what are the findings and conclusions?

14 A The FERC has found that the alternative just  
15 described, addressed in the data request, they didn't  
16 discuss it in the draft DEIS, they discussed the  
17 Gorham North and South versions and our proposal, and  
18 based on their objective analysis they concluded that  
19 our proposal on the north side of the river was  
20 preferred providing we do some additional mitigation  
21 along Hogan Road.

22 Q Any specifics about recommended mitigation or did they  
23 leave that up to the parties?

24 A They provided a map in the DEIS that shows where they

1 would, they're proposing that we make maximum use of  
2 Hogan Road, they propose that we at approximately mile  
3 post 70.9, we would get on, directly within Hogan Road  
4 using, making maximum use of the road for our work  
5 space and minimizing our clearing, continuing on along  
6 Hogan Road to the point we get to the Appalachian  
7 Trail they've stated we need a total, or they will  
8 allow a total of 50 foot work space, including Hogan  
9 Road.

10 Q And what has the company done in response to the  
11 recommendations issued by the FERC staff?

12 A In response to the FERC staff, as well as concerns of  
13 the Town of Shelburne and the DEIS, we've gone back  
14 out and we've tried to essentially work from  
15 approximately mile post 69.1 we're going to get  
16 directly on Hogan Road, using the Hogan Road, which is  
17 approximately 18 to 20 feet wide as part of the work  
18 space, clearing a maximum of 50 feet for installation  
19 of the pipeline, essentially all the way through this  
20 area along Hogan Road. In addition to that, that's  
21 the basic right-of-way configuration. In selected  
22 areas where we perceive there may be a potential to  
23 be, for the pipeline to be visible across Reflection  
24 Pond and along the Appalachian Trail, we have

1 developed even more restrictive construction  
2 right-of-way. In a couple of areas where there is a  
3 slope, slopping up towards the north, we are going to  
4 have 25 feet of -- the pipe will be 5 feet offset from  
5 the road with an additional 25 feet of clearing,  
6 temporarily. Permanently there will be a total of 30  
7 feet maintained -- 20 feet maintained, I'm sorry. In  
8 the area of the Appalachian Trail we're going to be 5  
9 feet from the edge of the road, proposing to be 5 feet  
10 from the edge of the road and have a clearing of 15  
11 feet beyond that for a total of 20 feet during  
12 construction. Following construction we propose to  
13 replant that 15 feet of work space with shrub, with  
14 native shrubs and allow that to revert.

15 Q Your closer use of Hogan Road, does that exceed the  
16 recommendation of the FERC?

17 A Yes.

18 Q To what degree?

19 A Well, the FERC only proposed that we use, make use of  
20 Hogan Road from approximately mile post 70.9. We're  
21 going to, we're proposing to make use of Hogan Road  
22 for about 1.8 miles more -- 1.6 miles more, I'm sorry,  
23 beginning at about mile post 69.

24 Q I assume there will be some clear cutting associated

1 with this proposal?

2 A Yes, there will be clearing associated with this  
3 construction right-of-way.

4 Q And where will that be?

5 A That will be directly adjacent to the road.

6 Q On which side of the road?

7 A The north side and we've aligned the pipeline to be on  
8 the north side to avoid any clearing to the buffer,  
9 vegetative buffer on the south side which screens  
10 Hogan Road from Rt. 2 and from the south.

11 Q So the red, describe for us what the red line is  
12 intended to depict?

13 A The red line shows specific locations where we  
14 previously were offset from Hogan Road, but now we are  
15 moving directly into Hogan Road.

16 Q Are there still places along the way where you were  
17 unable to be directly next to Hogan Road?

18 A Yes. As I mentioned before, between mile post 69.7  
19 and 70, approximately 70, there is an area of a  
20 ravine, pretty steep ravine, where if we were to stay  
21 on Hogan Road it would be almost impossible to  
22 construct, it would cause an on-going potential  
23 erosion problem along the ravine. So we're keeping  
24 our original route which diverted away from that

1           ravine and it's important to note that this area where  
2           we're kicking out is undergoing clear cutting  
3           presently so our, our right-of-way will be at the  
4           lower end of an existing clear cut and I have some  
5           photographs that depict that.

6       Q     Why don't you pull out the photographs that depicts  
7           the present condition of the land in the vicinity of  
8           the ravine where you said you had to kick out?

9                           MR. IACOPINO:   Can you just tell  
10          us whether that's before or after Lead Mine State Forest?

11       THE WITNESS:

12       A     It's to the west, right in this area.   Lead Mine is  
13           right here.

14                           MR. PATCH:   Can you give us those  
15          MP numbers again?

16                           THE WITNESS:   I'm sorry?

17                           CHAIRMAN VARNEY:   Mile post  
18          numbers again.

19       THE WITNESS:

20       A     Beginning at mile post 69.7, extending to about mile  
21           post 70, about 0.3 of a mile.   The photograph that Mr.  
22           Kruse is holding, there are two photographs.   The top  
23           photo, and I believe the Commission has been provided  
24           with these, the top photo shows the active clear

1 cutting directly adjacent to Hogan Road, this large  
2 area, and the bottom photo shows a view from Rt. 2  
3 looking across the golf course. You can see the upper  
4 part of the clear cut. Our proposed pipeline will be  
5 at the lower part of the clear cut and would be  
6 screened by the existing trees.

7 MR. ELLSWORTH: Do you know the  
8 purpose of the clear cut?

9 THE WITNESS: It's on going forest  
10 management by Meade Paper. I'm not -- it's on going clear  
11 cutting by the timber company.

12 MR. KRUSE: Just for the record,  
13 the Committee has not been provided copies of these  
14 photographs. We made prints for Public Counsel and  
15 Shelburne, but we have not produced separate exhibits for  
16 the Committee.

17 MR. RICHARDSON: Just for the  
18 record, I received those photographs on Saturday afternoon.

19 MR. KRUSE: For the record again I  
20 have to say that a couple of days before that we offered  
21 them for their view at our office.

22 MR. CARPENTER: For the record  
23 Shelburne was never offered a chance to look at them.

24 MR. KRUSE: Well--



1 CHAIRMAN VARNEY: Continue.

2 BY MR. KRUSE:

3 Q We were in the process of describing the areas where  
4 you have to kick out from the road, and you described  
5 one in the vicinity of the ravine. Had you completed  
6 your discussion of that kick out?

7 A Yes.

8 Q How about the next?

9 A The next is in the area between mile post 70.59 to  
10 70.84. It's an area of an active gravel mining  
11 operation. The landowner is actively quarrying gravel  
12 from the area and he has requested that we, originally  
13 we were kind of going right through. We were as close  
14 to Hogan Road as we could be. We were going through  
15 his gravel deposit and he indicated to us that he  
16 intended to quarry out a larger area so we moved the  
17 pipeline out basically to the limit of his gravel  
18 deposit.

19 Q Do you have any idea how large the deposit is around  
20 which you had to route?

21 A I'm not sure. I know we were, we had to kick out  
22 about 135 feet to get to the edge, but I'm not sure of  
23 the exact extent of it. The landowner indicated that  
24 he, that their plans to quarry that deposit as well as

1           underneath Hogan Road which is laying on good quality  
2           gravel.

3                       The next place where we, we deviate from  
4           Hogan Road is actually a portion of the FERC proposed  
5           area where we were, they had suggested that we get on  
6           Hogan Road.  It's an area that begins about mile post  
7           70.9 and there is a large high quality wetland, bog  
8           community.  We evaluated trying to construct along  
9           Hogan Road.  Hogan Road is kind of on a causeway  
10          almost at that point.  It drops off into the wetland  
11          on one side, drops off into the river on the other.  
12          So that the real, the only real way to get through  
13          there was to divert north, kind of skirt the edge of  
14          the wetland, and make our way back to Hogan Road at  
15          about mile post 70.18 or 71.18.  From that point on we  
16          are directly on Hogan Road all the way to a point  
17          where we divert just north of North Road.

18        Q       Do you have any other photographs that would assist  
19                the Committee in anticipating the visual impact?

20        A       Yes, we've taken, we've taken some photographs in the  
21                area.  The top photo here is Hogan Road in the area of  
22                the Appalachian Trail presently.  The photo in the  
23                middle is another portion of Hogan Road somewhat to  
24                the west where there is an existing log landing or

1           there's been some existing disturbance and that  
2           depicts approximately about a 40 foot wide clearing  
3           adjacent to Hogan Road, which is what our, in some  
4           areas what our permanent easement would look like.

5                        The bottom photo here is a road a little  
6           further west in Gorham where there is an existing  
7           power line easement directly adjacent to the road and  
8           it has about a 40 foot wide right-of-way. So these,  
9           these are intended to depict what it would look like  
10          under our worst case scenario where we would have a 50  
11          foot temporary clearing, 40 foot permanent directly  
12          adjacent to Hogan Road.

13                      Then we have another set of photographs with  
14          a, the top one is a picture of Hogan Road in an area  
15          where there is a slope to the north. This shows one  
16          of the areas that had the highest potential for being  
17          visible across the Reflection Pond. And the  
18          photograph in the middle shows what, shows an existing  
19          road a little bit further to the west in Gorham that  
20          has an existing power line easement directly adjacent  
21          to it with a slope. And the bottom photograph  
22          indicates what our proposal would look like in a  
23          situation like this where we would have, our pipe  
24          would be 5 feet from the edge of the road and we would

1           have an additional 15 feet of clearing.

2           Q     And what have you done to develop that, the  
3           description -- let me start the question over again.  
4           The bottom photograph you indicated as something that  
5           would show what your right-of-way would look like.  
6           What have you done to the photographs to try to  
7           demonstrate that?

8           A     This bottom photograph, essentially there's a photo in  
9           the middle that's been, it's been retouched, we've  
10          added some vegetation to show what a 15 foot wide  
11          clearing on the edge would look like following  
12          construction.

13          Q     Other than this bottom photograph where you've done  
14          the, the digital enhancement with the vegetation, do  
15          these other photographs that you just described to the  
16          Committee all represent fairly and accurately  
17          conditions of these roadways as they exist today?

18          A     Yes.

19          Q     Have you had an opportunity to examine an exhibit  
20          prepared by or for Public Counsel for purposes of  
21          illustration of the Shelburne route issue?

22          A     Yes, the mitigation plan, yes.

23          Q     Do you have that with you?

24          A     Yes.

1 Q No, Public Counsel's three dimensional model thing.

2 A I didn't bring it.

3 Q Moving on, have you had an opportunity to examine the  
4 proposed exhibit submitted by Public Counsel?

5 A Yes.

6 Q And this is a, this is a graphic depiction of what  
7 purports to the view across Reflection Pond?

8 A That's correct, it's a three dimensional model  
9 prepared by Granite, or the University of New  
10 Hampshire I believe.

11 MR. RICHARDSON: Mr. Chairman,  
12 we're willing to offer, we have a copy of it here.

13 MR. KRUSE: Good, thank you.

14 BY MR. KRUSE:

15 Q Is this the exhibit from Public Counsel that you had  
16 an opportunity to review?

17 A Yes.

18 Q Do you have any observations to make about its  
19 accuracy?

20 A I'd like to point out, this type of model can be a  
21 useful tool. However, this particular model does have  
22 some problems with regard to accuracy. Number one, it  
23 depicts the railroad causeway and the power line  
24 corridor which is in front of the view here, which

1 crosses Reflection Pond. However, it shows water  
2 behind it. And in reality, as you can see from the  
3 photo we have down here, you can't see water behind it  
4 so it indicates that the digital simulation had the  
5 view from a higher elevation than directly across.

6 In addition, it also has the, it depicts  
7 the, our proposed corridor as being on the south side  
8 of Hogan Road in a stretch and in no case along this  
9 area would we be proposing to be on the south side of  
10 Hogan Road.

11 In addition, it shows an area where we would  
12 be, I'm not sure according to the scale, how far we  
13 will be removed from Hogan Road, but in no case was  
14 our original proposal this far from Hogan Road in this  
15 area. So it shows the, the cut much higher on the  
16 hillside than it would be.

17 Q Even under our original proposal, preferred route  
18 under the revision?

19 A Correct, even under our original proposed route. Our  
20 new route puts the corridor, the clearing directly  
21 adjacent at the same elevation as Hogan Road, very  
22 minimal clearing thus really this doesn't show what  
23 we're proposing at this point.

24 Q Well, in fairness we didn't supply our plan to Public

1 Counsel prior to their producing this model, is that  
2 correct?

3 A That's correct.

4 Q Because our plan was just developed when, our  
5 mitigation plan?

6 A Well, it's been put on paper in the past week, but  
7 it's been in the works for awhile. We recognize that  
8 it's been an issue.

9 Q Any other observations about the model?

10 A Those -- oh, oh, one thing that's somewhat misleading  
11 about it, it shows strongly contrasting colors,  
12 showing that our proposed corridor would be a  
13 distinctly different color than the surrounding  
14 landscape, which adds to emphasize the visibility of  
15 it. A more fair evaluation would be if you had more  
16 shades of green so that it -- this depicts that, that  
17 the new corridor would a different cover or texture  
18 than the surrounding landscape.

19 Q So under our mitigation plan, to what extent will our  
20 clearing be at grade of Hogan Road?

21 A I'm sorry.

22 Q To what extent will our clearing for our right-of-way  
23 be at the same grade as Hogan Road?

24 A One hundred percent except for the areas where we have

1 to divert out.

2 Q Now, there is another photograph here, a panoramic  
3 photograph, what does that depict?

4 A This is the scenic view from the south side of  
5 Reflection Pond on Rt. 2. There is a parking area.  
6 This has been presented to us as an area of concern by  
7 the Town of Shelburne as a very scenic area.

8 Basically just pointing out that in the  
9 foreground of the view is a railroad causeway and a  
10 power line corridor. In addition, you can't see any  
11 evidence of Hogan Road in this photograph. During the  
12 winter it's possible to see vehicles moving along  
13 Hogan Road, but based on our new proposal, with our  
14 corridor being directly adjacent at the same elevation  
15 as Hogan Road with minimal clearing, we feel that,  
16 that it will be basically invisible from the south  
17 side across Reflection Pond.

18 Q Have you done any calculations on the extent or use of  
19 the existing corridor as part of your mitigation  
20 planning?

21 A Yes, we have. In our original proposed route, in this  
22 area, we were only paralleling -- we only had 1.1  
23 miles adjacent to existing corridor and that was  
24 primarily in the area along PSNH's corridor. Our



1 revision, our revised proposal adds 2.6 miles along  
2 existing corridors.

3 Q Our mitigation plans that you just described adds 2.6  
4 miles?

5 A That's correct.

6 Q I want to show you exhibit 21-a, which contains the  
7 mitigation plan that we've just described and  
8 distributed, and I want to ask you if it contains a  
9 series of documents that traces, at least in part,  
10 PNGTS's various efforts to analyze and assess the  
11 alternate routes around Shelburne?

12 A Yes, it does, a series of diversion assessments and  
13 analyses that we performed with the proposed  
14 mitigation plan on the top.

15 MR. ELLSWORTH: Could I ask a  
16 clarifying question? Did I understand you to just say that  
17 it adds 2.6 miles, the mitigation plan adds 2.6 miles to  
18 the original revision?

19 THE WITNESS: It adds 2.6 miles  
20 along existing corridor. It doesn't add 2.6 miles of  
21 length, but we're paralleling, we're on existing corridor  
22 for 2.6 miles more than we were previously.

23 MR. ELLSWORTH: Thank you.

24 BY MR. CANNATA:

1 Q Follow up question, Mr. Chairman. Am I to interpret  
2 that all your figures, which state existing corridor,  
3 include not only utility corridors but road?

4 A That's correct.

5 Q Is there a break down as to which is which?

6 A Yes. I'm not sure what the exhibit would be, but we  
7 provided tables indicating where we are paralleling  
8 existing corridors and what type of corridor. For the  
9 most part it's power line and pipelines that we  
10 follow.

11 Q Could you maybe supply that information tomorrow  
12 morning when we resume?

13 A I believe so, I believe it may be an exhibit already.

14 MR. KRUSE: Exhibit 27. See if  
15 this is responsive.

16 THE WITNESS: Yes, this is exhibit  
17 shows where we are paralleling existing corridors and how  
18 much we overlap them. And it identifies the type of  
19 corridor that we follow.

20 MR. KRUSE: That is somewhere in  
21 your various piles. I can bring extra copies if you'd  
22 like. Do you want to address any specifics while we're on  
23 it?

24 MR. CANNATA: I just asked for the

1 break down. Perhaps maybe you can just read into the  
2 record what it is.

3 MR. KRUSE: Go ahead.

4 THE WITNESS: I don't think it's  
5 summarized that way. It's a running, running list by mile  
6 post of what we're paralleling.

7 MR. KRUSE: It's been pointed out  
8 to me that we've indicated on the exhibit list that this  
9 table is located in the appendix attached to our responses  
10 to Public Counsel's data request of 4/28/97, number 24.

11 THE WITNESS: I'd just like to  
12 point out that this table does not include our new proposal  
13 for Hogan Road.

14 MR. KRUSE: I'll correct my  
15 representation that that's question number 2 where that  
16 attachment exists. Responses to Public Counsel of 4/28/97,  
17 attachment 2-a.

18 MS. LUDTKE: If I could make a  
19 clarification. Only part of what I see in exhibit 27 is  
20 the response to the data request, and that would be the  
21 original table, attachment 2-a, but in addition to  
22 attachment 2-a I see a table 1-2, which is dated 1996,  
23 application for energy facilities certificate, and then  
24 there is a further table 8.1.1-1 which is labeled resource

1 report number 8, and neither of those documents are  
2 documents that were included in responses to the data  
3 request. In fact, one of the documents is a FERC document  
4 that was not provided at all in connection with this  
5 proceeding I believe.

6 BY MR. KRUSE:

7 Q Are these the most up to date tables that are  
8 available?

9 A They're the most up to date and most detailed. They  
10 show specifically where we're paralleling and how much  
11 we overlap.

12 Q Mr. Trettel, there was some testimony earlier about  
13 surveys skips and I'd like to ask you, as I did in  
14 general to Mr. Wilber, in those situations where the  
15 company cannot yet get access for full pledged survey  
16 where else does the company turn for the necessary  
17 data and information?

18 A We consult existing published data with regard to  
19 wetlands. We will consult SES soil surveys to  
20 determine if there are hydric soils. National  
21 Wetlands Inventory maps to determine if there are  
22 wetlands. The Division of Wildlife Services maps  
23 wetlands. We will use aerial photography in  
24 conjunction with soil surveys to attempt to interpret

1 wetlands. In addition, basically agency consultation,  
2 known locations of species of concern, etc.

3 Q I'd like to turn, unless -- this is a stopping point,  
4 but we're happy to proceed for however long you want.  
5 I was going to ask Mr. Trettel to comment and respond  
6 to some of the issues raised by Haley and Aldrich in  
7 the pre-filed testimony.

8 CHAIRMAN VARNEY: Do we want to  
9 just try and finish the presentation and then tomorrow pick  
10 up with the cross examination? How much longer will the  
11 presentation take?

12 MR. KRUSE: It shouldn't be, well,  
13 maybe 20 minutes.

14 MR. CANNATA: Mr. Chairman, then  
15 there will be questions after that so it's going to roll  
16 close to an hour probably.

17 CHAIRMAN VARNEY: Well, not the  
18 cross examination, just the presentation.

19 MS. LUDTKE: Mr. Chairman, I have  
20 a question. I noticed on the reserved exhibit list that  
21 there was an item, exhibit reserved for rebuttal testimony,  
22 is that going to be filed in writing or is this a  
23 substitute for that? It's marked for reserved exhibits,  
24 are we now hearing the rebuttal testimony?

1 MR. KRUSE: You are hearing  
2 rebuttal testimony. If there are other matters that come  
3 up upon hearing your case, that, if the Committee will  
4 allow it, we may ask for authority to file rebuttal  
5 testimony. That's the only reason that reserve is in  
6 there, but I'm essentially trying to save some time to  
7 respond to some of the issues raised by way of direct  
8 testimony.

9 MS. LUDTKE: So right now there  
10 may not be an exhibit filed for rebuttal testimony?

11 MR. KRUSE: That's correct, as is  
12 the case with most all of those reserved numbers.

13 CHAIRMAN VARNEY: Can we stay  
14 another 15 or 20 minutes? Thank you. Why don't you  
15 continue.

16 BY MR. KRUSE:

17 Q Have you had an opportunity, Mr. Trettel, to review  
18 Public Counsel's pre-filed testimony, in particular,  
19 the report from Haley and Aldrich?

20 A Yes.

21 Q And there was some commentary in there on various  
22 crossings, and I'll refer you to reference made by  
23 Haley and Aldrich's Phillip's Brook, and the question  
24 of need for slope stabilization, do you recall that?

1       A     Yes.  Haley and Aldrich pointed out that Phillips  
2             Brook appeared to be a highly erodable stream that  
3             would require structural stabilization and we don't  
4             feel that's necessary.

5       Q     And why do you not feel that's necessary?

6       A     It's a slow moving sludgish stream, well vegetated  
7             banks.  Their primary issue I think is that there was  
8             some disturbance caused by right-of-way maintenance in  
9             that area, power line right-of-way maintenance that  
10            has destabilized the banks.  We feel that our  
11            environmental construction plan will satisfactorily  
12            stabilize that area.

13      Q     With respect to the Exeter River there was concern  
14             regarding the crossing method.  Can you explain what  
15             the company has done to examine the proposed crossing  
16             method and its work with the DES?

17      A     The DES has requested that we attempt to conduct a dry  
18             crossing of the Exeter River.  Based on its size and  
19             slope characteristics it meets the criteria, the FERC  
20             approved criteria for an open cut.  We recognize that  
21             it has sensitivity as a rural scenic river as well as  
22             it's upstream of a water supply, and we're going to  
23             attempt to cross it using the method 2-a dry crossing  
24             technique which is in our environmental construction

1 plan.

2 Q Do you agree with Haley and Aldrich that a directional  
3 drill would not be feasible at the Exeter River?

4 A We agree with their conclusion that it's not the best  
5 solution to the Exeter River. Their conclusion was  
6 that it would require too much clearing and undo  
7 adverse impact.

8 Q There was also some discussion by Haley and Aldrich  
9 about the need for a crossing plan for the Pow Wow  
10 River, and we have exhibit 53, which is comprised of  
11 some text, tables and a series of plans. Let's just  
12 identify what's in here if we can. First of all the  
13 role of plans?

14 A These are site specific crossing plans. There's  
15 Piscataqua River, Exeter River, Squamscott River, Pow  
16 Wow River, Connecticut River, Mohawk River, Simms  
17 Stream, Lyman Brook, Upper Ammonoosuc, second Upper  
18 Ammonoosuc, Phillips Brook, and Androscoggin River.  
19 These are detailed site specific crossing plans.

20 Q Now, the plans for the Pow Wow River in here is not  
21 the current proposal, is that it?

22 A I would have to review the maps.

23 Q Let's take a look at it.

24 A Yes, this drawing is a somewhat earlier version of



1           what we're proposing now. It shows an equipment  
2           crossing across the Pow Wow River. We are proposing  
3           that at this time. We've done a revised construction  
4           plan.

5       Q     And is that revised construction plan, not the drawing  
6           itself, but is it that plan described as part of  
7           exhibit 53 as a response to a data request?

8       A     That's correct.

9       Q     And that's the data request of the Rockingham Planning  
10          Commission of February 24, 1997, request number 21, is  
11          that right?

12      A     That's correct.

13      Q     And briefly summarize what's the plan for the Pow Wow  
14          River?

15      A     We are proposing to cross the Pow Wow using the open  
16          cut technique in conjunction with a push-pull crossing  
17          of the associated wetlands. Both of those techniques,  
18          the open cut, and the push-pull wetland crossing are  
19          described in detail in the environmental construction  
20          plan.

21      Q     All right. Now there was commentary in the Haley and  
22          Aldrich report with respect to the use of sediment  
23          mats, do you recall that?

24      A     Yes, I do.

1 Q And do you recall where it was that the use of  
2 sediment mats was proposed?

3 A Haley and Aldrich proposed that we use sediment mats,  
4 which is an organic geo-textile material downstream of  
5 every open cut crossing, every wet crossing,  
6 apparently with the intent of preventing impact,  
7 downstream impacts to aquatic resources.

8 Q And have you examined that request?

9 A Yes, and we feel it's unnecessary based on our  
10 experience on previous projects where sediment mats  
11 were attempted to be used. They were not necessarily  
12 that effective.

13 Q And what's the alternative to address the problem  
14 that's raised?

15 A Well, the methods that we propose in our environmental  
16 construction plan, specifically the timing, the quick  
17 crossing methods, the sediment erosion control  
18 techniques to keep soils from the uplands to getting  
19 into the stream, the whole series of things that we do  
20 at stream crossing we feel is satisfactory to minimize  
21 down stream impact.

22 Q The environmental construction plan you're referring  
23 to, is that the one that we have here, this is  
24 applicant's exhibit number 29, dated April 30, 1997?

1 A Yes.

2 Q Does this document represent, is this the original  
3 environmental construction plan that was submitted by  
4 PNGTS with your application to EFSEC?

5 A No, this is a revised version that has gone through  
6 several iterations. The original one that was filed  
7 with the EFSEC application was based primarily on FERC  
8 guidelines and tried and true pipeline construction  
9 practices that we've used on other projects throughout  
10 the country. The DES provided comments on this.  
11 We've had meetings with them. We've incorporated  
12 numerous comments. There are still a few things that  
13 we're negotiating, but this, this plan has a lot more  
14 site specific and New Hampshire specific conditions  
15 and guidelines than our original ECP.

16 Q Does it also call for greater involvement in terms of  
17 notification to DES and approvals of DES?

18 A Yes, it does.

19 MR. IACOPINO: Now is that the  
20 one, has that been distributed to all the members?

21 MR. KRUSE: Yes, sir.

22 BY MR. KRUSE:

23 Q Now, there were comments also submitted in the  
24 pre-filed Public Counsel's testimony from the North

1 Country Council, did you have an opportunity to review  
2 those?

3 A Yes.

4 Q And there were some concerns about the absence of  
5 results of any investigation for potential  
6 contaminated sites, do you recall that concern?

7 A That's correct.

8 Q And could you tell us the status of work of the  
9 company both for the north route and the south?

10 A In our original applications, we had done database  
11 searches and had compiled preliminary information from  
12 the agencies. Some of the data showed us potentially  
13 affecting known contaminated sites, and we've since  
14 done additional database work, we've gone to the  
15 office of the -- the DES, I can't remember the  
16 actual--

17 CHAIRMAN VARNEY: Waste Management  
18 Division?

19 THE WITNESS:

20 A I'll have to tell you which agencies, and we obtained  
21 the site files and we've reevaluated and have  
22 essentially concluded that we do not cross any known  
23 contaminated sites at this time.

24 BY MR. KRUSE:

1 Q And is that in contrast to, maybe you said this and I  
2 didn't hear you, is that in contrast to the data and  
3 information supplied with the original EFSEC  
4 application?

5 A Yes.

6 Q And what is it, what has changed since that original  
7 representation or filing?

8 A We've just been able to do additional research and  
9 further refine the data that we had obtained from  
10 database searches previously.

11 Q And have you prepared an updated table that describes  
12 the work that you have done on identifying or ruling  
13 out the existence of hazardous sites?

14 A Yes.

15 Q Is this that table?

16 A Yes.

17 Q When was this prepared?

18 A Well, this has been prepared, the research has been  
19 prepared over the last couple of weeks, but this table  
20 was just finalized in the past week.

21 MS. LUDTKE: Is this an exhibit?

22 MR. KRUSE: I think this fits in a  
23 preexisting exhibit folder if you can give me a second to  
24 identify it or we will mark it separately.

1 MR. CANNATA: As we continue  
2 tomorrow could you bring more copies of your exhibits so  
3 each Committee member could have one?

4 MR. KRUSE: Yes, sir. Well, I  
5 guess in the interest of time, since I can't find where it  
6 was, I'd ask that we mark another one, Mr. Dustin, mark  
7 that as a new exhibit.

8 MR. DUSTIN: I think we marked 74.

9 MR. IACOPINO: Exhibit 74 was  
10 used, 75.

11 (The document, as described, was  
12 herewith marked as Exhibit 75 for  
13 identification.)

14 BY MR. KRUSE:

15 Q Can you provide any further explanation or can you  
16 elaborate on this information?

17 A Yeah, I'd just like to point out that all of these  
18 sites had been previously identified in the southern  
19 portion of the route. No additional, no additional  
20 information has been provided for the northern end,  
21 but nothing has changed from the original filing in  
22 the northern end.

23 Q There was also concern I think expressed regarding the  
24 status of your work on threatened and endangered

1 species for the north?

2 A Yes.

3 Q Can you advise us on where that stands?

4 A Yes, due to the schedule of our change of the route  
5 last fall, last September -- October, we essentially  
6 missed the ideal window for conducting rare and  
7 threatened endangered species. In addition, the New  
8 Hampshire Natural Heritage Inventory was somewhat late  
9 in providing us known location information for doing  
10 species of concern surveys so we were, because of the  
11 late season and the lack of information provided by  
12 Natural Heritage Inventory, we weren't able to do T&E  
13 surveys until this year, and the surveys are underway  
14 at present. We will be, we're conducting surveys on  
15 approximately 35 areas of potential habitat in the  
16 northern portion of the route and intend to provide a  
17 report to the DES at the end of the summer, early fall  
18 when the surveys are completed.

19 Q There was also concern about the existence or absence  
20 of revegetation standards, some plan for that?

21 A That's correct.

22 Q And where do we stand on revegetation plans?

23 A We, in addition to our standard revegetation plans  
24 that are provided in the environmental construction

1 plan, we've developed a seeding specification and an  
2 erosion and critical area planting plan in conjunction  
3 with the Natural Resource Conservation Service office  
4 in Durham and that has been provided to the DES for  
5 review.

6 Q Is part of that material associated with the revised  
7 ECP?

8 A Yes.

9 Q As identified as exhibit 29. Do you have a further  
10 explanation for the revegetation plan for soil hazard  
11 areas along the pipeline ROW at exhibit 33?

12 A Yes, in response to a data request we prepared a  
13 revegetation plan for soil hazard area along the  
14 pipeline right-of-way and that also has been submitted  
15 to the DES as part of the ECP.

16 Q That appears for the record at appendix volume 4 of  
17 the March 21st response, I believe, to Public  
18 Counsel's data request.

19 MR. IACOPINO: What exhibit is  
20 that?

21 MR. KRUSE: That's 33.

22 BY MR. KRUSE:

23 Q There was further concern expressed about the extent  
24 to which additional -- first of all, what is the



1 abbreviation ATWS?

2 A Additional temporary work space.

3 Q There was concern expressed in these comments about  
4 the extent to which additional temporary work space  
5 was proposed to be located in wetlands.

6 A That's correct.

7 Q By the North Country Council. Can you elaborate on  
8 the company's response to that?

9 A Well, in general, ATWS is requested in areas where we  
10 will need extra work space to cross a particular  
11 feature, whether it's a stream, a road, a railroad,  
12 another pipeline or another utility. We basically, we  
13 request these ATWS areas where they're needed. Often  
14 there is a wetland in the same location and although  
15 we try to minimize impacts to wetlands, in many cases  
16 there is no choice, you know, you either get the extra  
17 work space where it is needed or you're unable to  
18 construct. So we, in response to a data request, we  
19 provided a list of ATWS areas that occur in wetlands  
20 with an explanation of why it was necessary to, to  
21 request the ATWS in the wetland and why it could not  
22 be avoided.

23 Q Have you provided the information regarding the  
24 location of ATWS's in both the northern and southern

1 routes?

2 A Yes, we have.

3 Q And is that data contained in our exhibits 41 and 42?

4 A Yes.

5 Q You might as well read off each of the charts in each  
6 exhibit.

7 A In 41 we have a table water bodies crossed by the  
8 revision, northern New Hampshire -- all these?

9 Fisheries of special concern, summary of non-field  
10 verified wetlands, wetlands that were identified  
11 through interpretation and map review, wetlands  
12 crossed by the revision and then the wetlands within  
13 extra work space and staging areas along the northern  
14 New Hampshire revision, that's 41.

15 Q And are there comparable tables in 42 with respect to  
16 other portion of the project?

17 A Yes, 42 is also stream and wetland tables, as well as  
18 ATWS and wetlands table.

19 Q The North Country Council has made also a  
20 recommendation that there be some sort of independent  
21 inspection program to assure that the construction is  
22 done properly. Has there been any proposed  
23 independent inspector or third party inspector program  
24 thus far in the proceeding?

1       A     Yes, the DES, through some of our discussions, has  
2             identified their desire to have a third party  
3             independent inspector representing their interests.  
4             We've developed a draft plan in conjunction with the  
5             DES and have submitted it for their review.

6       Q     Would that plan be described in exhibit 32?

7       A     Yes.

8       Q     What are the essential elements of the plan?

9       A     The primary intent -- I'll read to you the objectives.  
10            Third party inspection program. Number 1. To  
11            coordinate with FERC and the project environmental  
12            inspectors (EIS) to ensure a consistent approach to  
13            the application of permit conditions and standards and  
14            to avoid conflicts between DES and federal conditions.  
15            2. To provide interpretation of DES conditions and  
16            standards at the request of the project chief  
17            inspector (CI) EIS; 3. To participate in field  
18            decisions with respect to stream crossing based on  
19            conditions in the field at the time of construction  
20            and to monitor all construction and restoration  
21            activities to assure compliance with DES permit  
22            conditions.

23       Q     Thank you. Another concern raised by the North  
24            Country Council had to do with whether or not there

1           would be refueling activities within 100 feet of a  
2           stratified drift aquifer, do you recall that comment?

3       A     Yes.

4       Q     And have you done any study of the existence of  
5           stratified drift aquifers?

6       A     We have. Brent Evans would probably be a better  
7           person to address that, but I can give you a brief  
8           overview.

9       Q     Has there been a description of our findings with  
10          respect to stratified drift aquifers in New Hampshire  
11          appearing at exhibit number 37?

12      A     Yes.

13      Q     And what is your response to the specific concern  
14          about refueling within 100 feet of a drift aquifer?

15      A     We recognize the concern of aquifers and we really pay  
16          a lot of attention to that. The stratified drift  
17          aquifers that we're proposing to be crossing tend to  
18          be at a considerable depth below our proposed  
19          pipeline, at least 10 to 20 feet deep. Our trench  
20          will be 6 to 7 feet deep. As far as refueling, our  
21          refueling is very well controlled. We monitor the  
22          fuel trucks, it's a refueling machine. If there is  
23          any potential for a, if there was any minor spill it  
24          would be cleaned up immediately. We feel there is

1           very little possibility of any kind of a contamination  
2           of an aquifer as a result of refueling.

3       Q     Another concern of the North Country Council that I  
4           think bears directly on route alternative analyses is  
5           found in their comment as follows:  The use of a  
6           relative value to measure the absolute constraints of  
7           route alternatives allows the applicant to manipulate  
8           the extent to which criteria will favor or disfavor a  
9           particular route.  Could you respond to that comment?  
10      A     We basically feel that -- we take this very seriously.  
11           When we perform an alternatives analysis we attempt to  
12           do it as, as objective a way as possible, a manner as  
13           possible.  There is absolutely no manipulation of data  
14           to support a preconceived notion.  We use these  
15           diversion assessments to help us make routing  
16           decisions.  So we, we are in strong disagreement with  
17           the notion of a manipulation of data.

18                           MR. KRUSE:  Mr. Chairman, I was  
19           going to move on to just a few comments from Newton and  
20           there were some quick matters to address with respect to  
21           DES proposed conditions, but I expect that may take longer  
22           than a minute or two.

23                           CHAIRMAN VARNEY:  Why don't we  
24           pick up tomorrow.  That would be fine.  A couple of items,

1       however, before we leave. One is we will pick up on this  
2       tomorrow morning at 9 o'clock sharp in this room. Members  
3       of the Committee, you can leave your materials here on the  
4       table. Also, is there anyone from the public who has  
5       something they'd like to say before leaving?

6                       MRS. LAMM: I'll do it tomorrow  
7       morning if that's all right with you. I don't want to hold  
8       you up. I do have some rebuttal on what happened here  
9       today.

10                      CHAIRMAN VARNEY: Thank you.

11                      MR. CARPENTER: Will you be doing  
12       your public comments at 9 o'clock in the morning? Will  
13       that be the first item on the agenda because we have some  
14       people that are planning--

15                      CHAIRMAN VARNEY: Maybe if we  
16       could get through this witness and then do it, would that  
17       be okay?

18                      MS. LUDTKE: Could we get the  
19       order of witnesses for tomorrow because we're trying to  
20       schedule our own witnesses.

21                      MR. KRUSE: I would expect Mr.  
22       Morgan to follow Mr. Trettel. Then I expect Mr. Evans to  
23       follow Mr. Morgan. I don't know whether it will be  
24       necessary to call Mr. Auriemma other than to sponsor his

1 participation in the joint testimony. And then we would  
2 follow with Mr. Flumerfelt and then I assume Maritimes  
3 would be putting on your two folks, Mr. Penny and Mr. Mohn.

4 CHAIRMAN VARNEY: Given the rate  
5 of progress here, I would ask that the Committee members to  
6 try to plan for a long day tomorrow so that we can in fact  
7 finish on Wednesday. Anything else? Thank you.

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C E R T I F I C A T E

I, Samuel S. Gray, a Certified Shorthand Reporter and Justice of the Peace of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of Day I of the Site Evaluation Committee hearing, taken at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this hearing was taken, 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.

---

Samuel S. Gray, C.S.R.



