

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

June 25, 1997 - 9:15 a.m.
Concord, New Hampshire

Adversarial Hearing Day III
*****Day Session*****

* * * * *
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 25, 1997, commencing at 9:15 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.}
Kenneth Colburn, {DES - Air Resources}
Deborah Schachter, {Gov. Energy Office}
Philip Bryce, {DRED - Forests & Lands}

SAMUEL S. GRAY, C.S.R.
Court Reporting Services
30 Highland Avenue
Derry, New Hampshire

APPEARANCES:

COMMITTEE COUNSEL:

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

FOR THE PUBLIC:

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

FOR PORTLAND NATURAL GAS:

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

FOR MARITIMES & NORTHEAST:

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

FOR THE TOWN OF SHELBURNE:

John Carpenter
Mr. Judge

ADMINISTRATOR:

Cedric H. Dustin, Jr.

I N D E X

Public Comments:

By Mrs. Bergeron.....4

WITNESS: Michael Morgan (Continued cross)

By Ms. Ludtke.....15/218

By Chairman Varney.....44/120/133/155/205

By Mr. Richardson.....81

By Mr. Carpenter.....82/226

By Mr. Judge.....87

By Mr. Iacopino.....102/112/216

By Mr. Patch.....105/191/208

By Ms. Geiger.....113/134/192

By Dr. Schmidt.....115

By Mr. Taylor.....138

By Mr. Ellsworth.....142/173/223

By Mr. Colburn.....167

By Mr. Cannata.....171/211

By Mr. Bryce.....198

By Ms. Patterson.....212

WITNESS: Panel - Mr. Gilbert/Ms. Conway/Ms. Weinstein

By Mr. Richardson.....231

By Mr. Pfundstein.....254

By Dr. Schmidt.....262

1 CHAIRMAN VARNEY: We had a witness
2 I believe.

3 MS. LUDTKE: Mr. Chairman, I
4 understand that there are some people from the public here
5 who would like to make brief statements before we start if
6 that's appropriate.

7 CHAIRMAN VARNEY: Sure, I didn't
8 realize that. Members of the public?

9 MS. BERGERON: I'm Sheila Bergeron
10 from Newton. Some of this I may be repeating because I
11 know you heard from Steve Cushing yesterday, but I had to
12 leave early so I'm not sure what he covered, but it will be
13 brief.

14 Newton is a small town in Rockingham County
15 with a population of about 3,800 people. Thirty-eight
16 residents' properties would be crossed by the Portland
17 Natural Gas proposed route. Many other residents would be
18 affected by the construction of a 30 inch pipeline and the
19 presence of a 85 to 125 corridor near their homes although
20 not on their property.

21 A recent petition initiated by the Newton
22 Citizen Committee generated over 150 signatures of Newton
23 residents who are concerned about the proposed pipeline
24 route through Newton, the lack of appropriate study of the

1 I-95 alternate route and the effects of this type of
2 corridor and pipeline on the future growth and developments
3 in Newton.

4 People move to Newton because of its small
5 town atmosphere and its proximity to job markets in
6 southern New Hampshire and Mass. There is virtually no
7 industry in Newton. There are many small home businesses
8 and many people commute to nearby larger cities for work.

9 The social centers for town residents are
10 the schools, churches, library, Fish and Game Club and the
11 little league ballfields. People watch out for each other,
12 help each other, it is a nice place to live and raise
13 children.

14 We depend exclusively on artesian and dug
15 wells and septic systems for water and waste. Of the 38
16 landowners in Newton, 12 have signed PNGTS option
17 agreements which contain wording allowing the
18 transportation of oil, gas or by products, or other
19 substances that can be transported through a pipeline,
20 cable and equipment for communication and transmission
21 lines, under, over and across the right-of-way. The
22 agreement also gives PNGTS the right to sell, lease and
23 assign the right of ways and easements to other companies
24 or parties.

1 1997, testimony by Mr. Wally Stickney addresses some issues
2 regarding this project and future concerns for New
3 Hampshire and hopefully for this Committee, and I like to
4 just read part of that.

5 This monster pipeline project is part of a
6 billion dollar plus project designed to bring Canadian gas
7 down from the sea bottom of the Canadian continental shelf
8 in the metropolitan northeast and should be regarded as
9 such. It will set the tone and the markers for how gas
10 pipelines and systems are constructed in the 21st century.
11 That should be reason enough to require more than the same
12 old, same old approach to location and construction that
13 have been used for generations. Sure there have been
14 improvements in construction technology, but the people
15 affected are no better off than when the railroad barons
16 were stealing their land.

17 This project is, in fact, a nearly perfect
18 example of how the gas companies, hiding behind the skirts
19 of a sixty year old law, have not had to confront any
20 reason to be innovative, or try new and different
21 approaches or even operate within the slightest ghost of
22 the challenges of a free market which engenders innovation.
23 Simply stated, the railroads did not and never would have
24 invented the automobile and a government coddled gas

1 industry will never think up anything new on its own.

2 Other options which endanger less people,
3 cause far less environmental impact and are better for all
4 concerned are there for the choosing. The pipe does not
5 have to be in the lawns of innocent citizens and it does
6 not have to cut across their land, devaluating it for ever
7 more and potentially available for use by other public
8 utilities of all sorts. If the gas companies were required
9 to follow the same rules that other agencies follow when
10 given federal or state authority to seize land from people
11 for the public good there would be a real cost comparison
12 between options as well.

13 There are other major defects in the draft
14 as well. It does not, for instance, discuss how the
15 Uniform Relocation and Assistance Act would be employed to
16 ensure that people are treated fairly in this government
17 backed right of way and property taking process, it leaves
18 many aspects of the final project undisclosed or undefined
19 and it provides nothing in mitigation for people and
20 communities. This compares to a recent highway project
21 which proposed \$37 million in mitigation for a \$200 million
22 dollar project and was not deemed acceptable by the
23 regulators. The section on secondary impacts on a normal
24 highway project runs to several thousand words in some

1 cases. In this EIS it runs to several dozen.

2 Many Newton residents do not have the
3 resources to hire a lawyer for an eminent domain proceeding
4 or know how to navigate the legal system to ensure they are
5 justly compensated.

6 I have listened to much of the testimonies
7 at these hearings over the past two days. It is clear that
8 the PNGTS route is based on economic gain and speedy
9 construction, and rightly so. They are a business and
10 therefore their primary concern is the most profit for the
11 least cost. The FERC siting process is severely flawed to
12 rely on the applicant to give objective analysis of the
13 environmental impacts. As we have heard, this is quite
14 impossible. And it kind of reminded me when I'm trying to
15 get my 6 year old to eat her spinach and she wants the
16 chocolate cake, and I say well, eat the spinach first and
17 then you can have the chocolate cake and I put them down in
18 front of her. Well, as soon as I leave the room guess what
19 she eats? And it's sort of like asking the gas line
20 company, you know, study of the impacts of the environment
21 and then come back and tell us what's best for our
22 environment. Well, you know, the chocolate cake is the
23 money that they can save by doing it the shortest and
24 quickest way.

1 We've all heard how the numbers can be
2 manipulated to support or reject a route. You, the SEC
3 Committee members and the people of New Hampshire know the
4 best route. We live here, this is our home. Be
5 courageous, be innovative, do not be party to a
6 fundamentally flawed federal process that is being
7 challenged in several other areas of the country and will
8 be continued to be challenged. Do not grant permits for
9 this project until accurate and unbiased data analysis is
10 completed, including a study of the adjacent I-95 route
11 from Greenland to Plaistow.

12 If permits are granted for this proposed
13 route, please protect the rights of the landowners who do
14 not have access to legal services. Require PNGTS to use
15 wording in easement agreements which allow only the
16 transmission of natural gas. Omit from present agreements
17 the selling of easements to other parties for other uses,
18 above ground wires and structures and transmission of oil
19 and by products. All easement agreements should be
20 terminated upon the pipeline being abandoned when it is no
21 longer used for the transmission of natural gas.
22 Landowners, of course, would always have the option to
23 write in these omissions if they so chose to do so.

24 Please choose siting for this pipeline that

1 insures the orderly and quality planning for the small
2 communities of New Hampshire, preserves our natural
3 resources and scenic areas that attract tourists and
4 millions of dollars to our state economy. Listen to the
5 people that live here, that raise their families here and
6 keep their land for generations. Choose siting in
7 corridors that are already impacted by roads, highways or
8 other utilities, not through small towns, neighborhoods and
9 farms with a 35 foot gas line corridor that was last used
10 in the early 1960's.

11 Please choose siting that considers the
12 enormous projected growth for Rockingham County and the
13 hundreds of homes that will be built to accommodate this
14 growth in the next 25 years. Wouldn't the pipeline be more
15 useful and less apt to be disturbed and less damaging to
16 the environment and the people near a highway corridor
17 rather than through 200 properties, many of which will be
18 developed on in the future.

19 I'd like to thank the Committee members for
20 your time and diligence in working through all the volumes
21 of material and thank you for allowing the public to make
22 comment.

23 CHAIRMAN VARNEY: Thank you, Mrs.
24 Bergeron. Questions? I have one. When the agent

1 approached you about the easement, was there any
2 information, written information provided to you in the
3 form of a fact sheet or an information package along with
4 the document itself?

5 MS. BERGERON: No. We had
6 discussions with the land agent and after about 3 weeks of
7 discussions he presented us with a 6 page legal document
8 granting exclusive options to purchase an easement and
9 right-of-way agreement.

10 CHAIRMAN VARNEY: Are you aware of
11 any other people who received any written information?

12 MS. BERGERON: No, other than
13 the--

14 CHAIRMAN VARNEY: Other than the
15 legal document?

16 MS. BERGERON: The survey, we did,
17 probably 6 to 8 months prior to that we received a letter
18 requesting to do survey on the land.

19 CHAIRMAN VARNEY: With some
20 information I assume in that?

21 MS. BERGERON: Right. Michael?

22 MR. CANNATA: Ms. Bergeron, you
23 mentioned deceptive land agent practices, will you expand
24 on that, please?

1 MS. BERGERON: Yes, in our case
2 when the land agent began discussions with us he told us
3 that basically the right-of-way that we had would be the
4 same with this new construction. That they would make it a
5 little bit wider, but it really wouldn't affect us, it
6 really wouldn't impose any kind of risk or, you know, any
7 concern to us. He also said that the route had been
8 approved, and that it was really now just a matter of time
9 of, you know, working out the final details with
10 landowners.

11 MR. CANNATA: Thank you.

12 CHAIRMAN VARNEY: Any other
13 questions? Yes, Jennifer.

14 MS. PATTERSON: Yes, do you have
15 copies of the initial letter that came to you asking for
16 the survey?

17 MS. BERGERON: I don't with me,
18 but I could get that to you.

19 MS. PATTERSON: I think that would
20 be helpful if you could submit a copy of that, thanks.

21 CHAIRMAN VARNEY: Leslie?

22 MS. LUDTKE: Do you recall the
23 name of this land agent.

24 MS. BERGERON: James Ford.

1 MR. PATCH: When he said it had
2 been approved, the route had been approved, did he
3 elaborate on approved by whom or did you ask him?

4 MS. BERGERON: No, I mean we were
5 pretty unknowledgeable at that point and what he basically
6 said is look, this is a done deal, it's going to happen,
7 there's really not much you can do so let's work together
8 and see what kind of an agreement we can come up with. And
9 it was later as we started attending the hearings and, you
10 know, looking into it that we realized that was pretty
11 deceptive.

12 CHAIRMAN VARNEY: Jennifer?

13 MS. PATTERSON: How did you find
14 out that it wasn't a done deal?

15 MS. BERGERON: I attended a
16 hearing in Salem in August in which I learned that there
17 were still route variations being discussed and looked at.

18 MS. PATTERSON: Thank you.

19 CHAIRMAN VARNEY: Okay, thank you.
20 Are there any other members of the public who would like to
21 offer comments at this time? Seeing none I guess we're
22 ready to resume examination of a witness. Mr. Morgan, good
23 morning?

24 MR. MORGAN: Good morning.

1 CHAIRMAN VARNEY: You should be
2 fresh, you've had at least 12 hours off.

3 MR. MORGAN: Ready to go.

4 MS. LUDTKE: Good morning.

5 MR. MORGAN: Good morning.

6 BY MS. LUDTKE:

7 Q You were here when I asked Mr. Minkos some questions
8 regarding his review of the permitting materials that
9 are filed in this case?

10 A Yes.

11 Q And he said that he gave them basically a cursory
12 review, that would be a fair statement of his
13 testimony, don't you agree?

14 A Yes.

15 Q If you could, I think it would be helpful for the
16 Committee to describe the process that PNGTS goes
17 through to develop its permitting materials and its
18 responses to the data requests, what is the review
19 process?

20 A For the application first I guess?

21 Q Why don't we start with the application?

22 A Basically, there's separate groups of disciplines, the
23 environmental, the engineering, and the land group.
24 The field data is collected through all different

1 survey parties and brought back to individual
2 disciplines. They process the information, whether it
3 be tables from the impact areas for environmental or
4 it be alignment sheet data processed from the
5 engineering survey data collection, or it be the line
6 list generation from the right-of-way group.

7 That stuff is put together then in a package
8 by one location, either it's in the Houston Epic
9 office or one of the, many times the environmental
10 discipline will incorporate the engineering
11 information, the right-of-way as well and put it all
12 together in one package.

13 Once the package is put together then it's
14 distributed within the project team for review to
15 ensure its completeness. It normally goes through one
16 draft review and then it will go through a final
17 review before it's filed.

18 The first step we try to do, which is what
19 we did with New Hampshire, is we try to have a meeting
20 up front to get as much information as we can to see
21 how the package is best, how they would best like to
22 see it. We have ideas from past projects and things,
23 but I believe we had a meeting, I don't know the exact
24 date, when we had a meeting with all the agencies

1 together to try to get their input on what they would
2 like to see in the application so that's the standard
3 process for an application.

4 Q Now what about the data requests, what's the process
5 for responding to the data requests?

6 A Normally the project engineer or project manager will
7 take a look at the data requests and try to see what
8 the bulk of the information requirements are and
9 normally it's from an environmental standpoint, and so
10 normally someone like Roger Trettel or John Auriemma
11 will take that and we normally have a big conference
12 call and we go through every single data request and
13 we assign them and some times it's not only one
14 individual, it's a team of individuals that attack one
15 data request, but we put deadlines, we set draft
16 comments or draft answers have to be done by a certain
17 time and whoever is taking the lead on it, whatever,
18 just whatever the requirements are, the majority of
19 the questions, they will put it together and then it
20 goes through a draft review and then it's submitted.
21 If information can't be answered at that time then we
22 try to project a date that it could be submitted.

23 Q So it would be a fair assumption to make that the
24 person with expertise on that area would be responding

1 to the data request?

2 A Person or persons, yes.

3 Q Now, who would be responsible for the quality control?

4 For example, the town of Newton came in here yesterday

5 and discussed a situation where the alignment sheets

6 didn't match the narrative, who would be responsible

7 for that kind of error, is there a quality control

8 process?

9 A Yes, we try to cover everything in our review process

10 of alignment sheets. We actually before, before the

11 alignment sheets went out, we actually took all levels

12 of discipline right away, environmental, engineering,

13 we took everybody to Tulsa and did it all, quality

14 review as best as possible in the Tulsa office right

15 there with the engineering and drafting group.

16 You know, no one is perfect, obviously some

17 mistakes take place. When things are noticed or

18 brought to our attention it's normally the project

19 engineer or the person responsible over the extent of

20 the error that takes an effort at trying to correct

21 it.

22 Q Well, the town of Newton brought to your attention the

23 fact that the narrative didn't match the alignment

24 sheets, isn't that correct?

1 A I guess I'd have to see that. I'm not familiar with
2 that.

3 Q Well, that was their testimony yesterday.

4 A I guess I don't recall that.

5 Q And that was never clarified to the best of your
6 knowledge?

7 A What was never clarified?

8 Q Which one controlled, the narrative or the alignment
9 sheet?

10 A I guess from the standpoint of yesterday I looked at
11 it with Mr. Ellsworth down there, the alignment sheet
12 that he had for the town of Newton, I guess that was
13 the area we were talking about, and the alignment
14 sheet here shows the initial proposed route. Chris
15 Wilbur identified that that is an area that we're
16 looking at a line change. I'm not familiar with the
17 text that you're talking about. If you show me the
18 text I could read it.

19 Q Well, I don't think we need to go through that issue
20 again now, but that's just an example of the quality
21 control issue?

22 A Well, I'm not sure that there is text contradicting
23 our alignment.

24 Q Well, we'll get back to that. Now, Mr. Morgan,

1 yesterday I asked you some questions on river
2 crossings and I believe you referred to Mr. Evans on
3 those questions?

4 A Could you be more specific?

5 Q Well, I asked you about Haley and Aldrich's
6 recommendations relative to river crossings and you
7 said you didn't want to answer that, that you'd rather
8 have Mr. Evans answer that, do you recall that?

9 A I recall that you asked me to respond to their
10 recommendations, and I said Mr. Evans is better
11 prepared to answer those questions.

12 Q And those recommendations that I was asking you to
13 respond to related to the river crossings, correct?

14 A I guess part of it, yes.

15 Q And in fact you answered some data requests relative
16 to river crossings, didn't you?

17 A Myself and other members, yes.

18 Q Well, isn't it a fact, Mr. Morgan, that you are
19 identified as the sole respondent on some data
20 requests pertaining to river crossings?

21 MR. KRUSE: Could you show him the
22 data responses, please, so we can verify that?

23 MS. LUDTKE: Sure.

24 MR. MORGAN: Can I ask Mr. Kruse a

1 question?

2 MR. KRUSE: Sure. (Consulting
3 with Mr. Kruse.)

4 BY MS. LUDTKE:

5 Q Mr. Morgan, let me give you two documents. The first
6 document is response to Public Counsel's data request
7 dated May 9, 1997, and I'll call your attention to the
8 list of respondents, and specifically on questions 51
9 and 52, and if you could inform the Committee who the
10 respondent is on 51 and 52?

11 A 51 is myself, Mike Morgan, 52 is Buford Barr.

12 Q Well, I may have read that wrong, who is 50?

13 A 50 is Mike Morgan.

14 Q So, now if you could just read questions 50 and 51 to
15 the committee -- and you're listed as the sole
16 respondent on those questions, aren't you, Mr. Morgan?

17 A I'm listed as the person, that's correct.

18 Q There is no other person listed as a respondent?

19 A No other person listed, that's correct.

20 Q Why don't we read questions 50 and 51?

21 A "State the criteria used to identify sensitive bodies
22 of water and state the reasons for applying this term
23 to the Exeter River." This is question 50. Question
24 51 is, "Describe the method by which you propose to

1 cross all streams, produce all field data obtained
2 which supports the method selected."

3 Q And in fact those were two rivers considered in the
4 Haley and Aldrich report, weren't they?

5 A Yes, I believe so.

6 Q And there were recommendations made relative to those
7 rivers?

8 A I guess I'd have to see the recommendations.

9 Q Well, you testified you were familiar with the Haley
10 and Aldrich report yesterday, didn't you?

11 A Yes, but I can't spit back out exactly what they said.

12 Q And do you still defer to Brent Evans to answer
13 questions on rivers?

14 A Well --

15 MR. KRUSE: Just a moment, please,
16 let me interpose an objection here. Mr. Morgan can answer
17 questions about rivers. He can answer questions about
18 crossings if Ms. Ludtke would like to ask them. The Haley
19 and Aldrich report was not issued until long after these
20 data requests were propounded and answered.

21 The Haley and Aldrich report was issued
22 timely, but just before trial. And Mr. Morgan has
23 indicated that it's Mr. Evans who took responsible for
24 analyzing that report and is prepared to respond to the

1 recommendations. If Ms. Ludtke wants to ask Mr. Morgan her
2 own questions about river crossings, he can try to answer
3 them or defer as anticipated in the context of a panel
4 response.

5 MS. LUDTKE: Well, I think
6 Attorney Kruse's statements are just completely out of
7 order in this proceeding. I mean Mr. Morgan has
8 represented himself as the person on river crossings in
9 numerous agency meetings and in the data requests and to,
10 you know, change players at the last minute without
11 pre-filed testimony on Brent Evans and then limit
12 questioning on river crossings to a specific area of river
13 crossings is completely without precedent and that's fine,
14 we'll ask Brent Evans questions on rivers, but I just want
15 the Committee to understand that Mike Morgan has been the
16 person that has dealt with rivers all along in this.

17 MR. MORGAN: I don't want to leave
18 that impression. I can answer questions about the
19 selection of preliminary methods of crossings, about the
20 route selection. The geotechnical aspects of the river
21 crossings and the borings have been entirely the
22 responsibility of Brent Evans through our project team.

23 For me to stand here and try to explain the
24 coring applications and the interpretation of those cores,

1 wouldn't benefit anybody. Brent Evans is our resident
2 expert in that area, he's been doing it the entire project.
3 He is on our team and I think he has a lot of value and
4 could answer questions much more succinctly than I could.
5 So if you want to talk about other aspects of river
6 crossings, I'll be glad to answer them as best I can.

7 BY MS. LUDTKE:

8 Q Mr. Morgan, it's interesting that you say that Brent
9 Evans is the expert on river crossings. How many
10 meetings with the agencies and with Public Counsel has
11 Brent Evans attended before today's proceeding?

12 MR. KRUSE: Objection, the
13 testimony was that he was an expert on geotech.

14 BY MS. LUDTKE:

15 Q Same question, Mr. Morgan.

16 A He has attended one other.

17 Q And when was that?

18 MR. EVANS: I'm sorry, Leslie, I
19 was on something else. What was the question?

20 MS. LUDTKE: I'm interested in how
21 many meetings you've attended with Public Counsel and
22 agency staff prior to today's hearing?

23 MR. EVANS: I'm sorry, give me
24 some time to think about it.

1 MS. LUDTKE: Can you recall any?

2 MR. EVANS: Again, my mind is on
3 something else.

4 MR. MORGAN: Yes, you did attend
5 one meeting with Jim Spaulding and Irene Garvey and we can
6 get the date, Justin was there.

7 MR. RICHARDSON: April 18th, it
8 was my birthday.

9 MR. MORGAN: April 18th, thank
10 you.

11 MR. KRUSE: I wish we had known at
12 the time.

13 MR. MORGAN: The problem that I
14 see with this sole answering to these data requests, there
15 is no way one person can answer them all. We have to have
16 a point of contact and there is a significant support staff
17 required to answer 157 data requests or 200 data requests.
18 It takes a massive amount of people, no one person, and to
19 put everybody's individual name on there doesn't do any
20 good for anybody. You have to have a point of contact and
21 that's what I've been provided.

22 BY MS. LUDTKE:

23 Q Now, Mr. Morgan, you recall I asked you some questions
24 about quality control pertaining to the discrepancy on

1 the town of Newton's materials, the narrative
2 described a different routing than the alignment
3 sheets, do you recall?

4 A Yes.

5 Q And you said you wanted to see the materials?

6 A Yes.

7 Q Well, I have the materials for you to see and I'll
8 refer you specifically to request number 22 in the
9 Public Counsel's second set of data requests, the
10 answer on that, and request number 3 in the May 9,
11 1997 data requests. There you go, that's the second
12 set right there and this is the third set. (Documents
13 handed to the witness.)

14 A Okay. Question 22 you're saying?

15 Q Right.

16 A I guess you'll have to tell me what area is stated to
17 be incorrect.

18 Q I'm referring specifically to the alignment on the M &
19 N alignment sheet that refers to the historical
20 building on section B of that answer I believe.

21 A I guess you will have to show me, which one it is.

22 Q Right here. Maybe you could just read it for the
23 Committee, Mr. Morgan.

24 A The answer?

- 1 Q Sure.
- 2 A "Alignment sheet PTET14-4,000-1-207, historical
3 building site, letters of 1/13/97, 2/18/97. The joint
4 30 inch alignment sheets reflect an overlap of the 30
5 inch right-of-way with the existing right-of-way of
6 Granite State, generally following the route proposed
7 by M & N."
- 8 Q All right. And the town of Newton yesterday testified
9 that their preferred route was the PNGTS route,
10 correct?
- 11 A I don't recall exactly, but okay.
- 12 Q In fact that was the route described in the narrative?
- 13 A Again, I'm not understanding what narrative you're
14 talking about.
- 15 Q Well, I'll refer your attention to data request number
16 3 on the third set of data requests, May 9, and it
17 indicates that corrected alignment sheets will be
18 provided, do you recall?
- 19 A It says current alignment sheets have been ordered and
20 will be delivered the week of May 12th.
- 21 Q Were they ever delivered?
- 22 A I don't know, I'd have to check.
- 23 Q So you don't know?
- 24 A That's right.

1 Q And if the town of Newton said that they hadn't been
2 delivered, you would have no reason to--

3 A I still don't see where the discrepancy in the text is
4 to the alignment sheets. The alignment sheet now
5 shows the M & N route.

6 Q And your testimony is that there is a line change
7 going through?

8 A My testimony, no, Chris Wilbur's testimony was that we
9 are looking at the possibility of a line change
10 through that area to meet the town's need.

11 Q Well, when the Committee starts addressing these
12 issues and starts looking at the route change, what
13 route is being proposed as part of the application, do
14 you know?

15 A Yes, ma'am, I do know.

16 Q And what route is that?

17 A The route that's shown on the alignment sheet.

18 Q And -- (Witness and Ms. Ludtke interrupting each
19 other.)

20 A With the testimony of Chris Wilbur that we are looking
21 at a possible line change. You know, we're trying to
22 meet the needs of the town of Newton and we knew about
23 this before this hearing.

24 Q Now, Mr. Morgan, you identified yourself as having

1 some expertise in right-of-way matters as part of your
2 pre-filed testimony, do you recall that?

3 A I work with the right-of-way group that we
4 subcontract, yes.

5 Q And do you recall attending a meeting at which a
6 request was made for preparation of material which
7 showed the overlap with existing right-of-ways so the
8 Committee would have some idea as to the combined
9 width of the existing right-of-way and your
10 right-of-way, do you recall that?

11 A Do I recall the meeting?

12 Q Yes.

13 A You're speaking of the one in Don Pfundstein's office?

14 Q Yes.

15 A Yes, I recall it.

16 Q And you recall that request being made?

17 A I recall the conversation that there was uncertainty
18 as to where the full extent of the final easement and
19 boundaries would be, yes.

20 Q And in fact there was a follow-up to that request in
21 the third set of data requests, correct?

22 A You'd have to show me that.

23 MR. KRUSE: I think that's marked
24 exhibit 27.

1 BY MS. LUDTKE:

2 Q Well, let me show you attachment 2-a, which is in the
3 third set of data requests. It's dated May 7, 1997.

4 MR. KRUSE: Is that the same one
5 we have here as exhibit 27?

6 MS. LUDTKE: No, I don't think it
7 is because I think you attached additional material to your
8 exhibit. These materials are not part of that, this is
9 resource report number 8, which is not part of our data
10 request response. The only part of the data request
11 response goes up to this first section which is clipped to
12 this other part that's not part of the same material.

13 MR. KRUSE: But the top part of
14 exhibit 27 is indeed the attachment 2-a you're referring
15 to?

16 MS. LUDTKE: That's correct.

17 MR. KRUSE: So that Mr. Morgan can
18 look at it.

19 MS. LUDTKE: Right.

20 BY MS. LUDTKE:

21 Q Did you participate in the preparation of this
22 document, Mr. Morgan?

23 A Yes, I did.

24 Q So this would be an area of probably your primarily

1 responsibility, that would be fair?

2 A This is one of the areas that I oversee, yes.

3 Q And based on that meeting you knew that it was
4 important information that the Public Counsel wanted
5 as well as the Committee, is that correct?

6 A You told us your concern, yes.

7 Q And you realized that this was the type of information
8 that we would want to see at the hearing?

9 A I guess I can't deduce that from what our meeting was
10 in Mr. Pfundstein's office.

11 Q Well, Mr. Morgan, what efforts did you take to make
12 sure that this information that you were providing was
13 accurate?

14 A What we did, in an effort to identify the total
15 easement, is that I had two engineers look at the best
16 they could to identify the existing easements of all
17 paralleling utilities, whether it be Portland Pipeline
18 or Public Service or Granite State. And we had to
19 make some assumptions about where the existing
20 facilities are within those easements because they're
21 not identified in any of the existing utilities'
22 mapping or anything like that. They give general
23 widths and offsets from their easement boundaries, and
24 we had idea from the -- basically from the aerial

1 photography we tried to identify the width of tree
2 clearing along those easements. If it's a 100 foot
3 wide easement it doesn't necessarily mean that the
4 trees are cleared 100 feet in it's entirety.
5 Sometimes they are, sometimes they're 80 feet,
6 sometimes they're 70 feet so it varies considerably.
7 So to project the exact width of the cleared corridor
8 after installation of our pipeline is difficult so we
9 tried to make some assumptions of overlap of final
10 permanent easement and put it in this table that you
11 see. So that's how it was developed.

12 Q Well, isn't it part of the permitting process to do an
13 actual field survey of the centerline of the existing
14 pipelines on corridors where there are other uses or a
15 centerline survey of the existing power poles or
16 whatever the, whatever the use of the corridor is,
17 wouldn't that be part of the process?

18 A Part of our survey too is offset, to start with a set
19 offset of either the centerline of the power poles or
20 the centerline of a paralleling pipe, and yes, we do
21 locate that and then pull our offset, yes.

22 Q So presumably that's something you've done?

23 A Yes, ma'am.

24 Q Now you know where these are, for example, the power

1 poles or the pipelines in the Portland corridor?

2 A I know where they are in relation to my pipeline, not
3 in relation to their easement boundaries.

4 Q Now, in looking at this easement you have, starting at
5 mile post 1.17 an existing utility right-of-way of 100
6 feet, is that correct?

7 A Yes.

8 Q And that existing utility right-of-way of 100 feet
9 continues along all the way to the Maine border,
10 right?

11 A I guess where are you saying the Maine border is --
12 we're looking at the joint pipeline here. So we're
13 starting--

14 Q That's the joint pipeline up at 1.17, Hall Stream?

15 A It's PNGTS's Maine line and PNGTS joint pipeline so
16 all of it is together in this table. So 1.17 is
17 northern New Hampshire, that's correct. So it
18 continues on, the 100 feet continues down to Groveton
19 I believe.

20 Q The 100 feet continues all the way to mile post 92,
21 correct?

22 A Well, it's got Portland Pipeline in there with it so--

23 Q The Public Service portion, do you see that, Mr.
24 Morgan?

1 MR. KRUSE: Could we have the
2 question again, please?

3 BY MS. LUDTKE:

4 Q Well, I'm asking Mr. Morgan just to review attachment
5 2-a and tell me if the 100 foot existing utility
6 right-of-way continues or starts in Hall Stream and
7 basically continues, with the exception of the
8 Portland Pipeline corridor, to the Maine border
9 according to this chart?

10 A Yes, that's what it shows.

11 Q Now, you recall responding to some data requests, the
12 first set of data requests, do you recall that?

13 A You'll have to tell me what data requests. I
14 responded to many data requests.

15 Q Let me refer you to the first set of data requests
16 that you filed in December.

17 A Okay.

18 Q And let me read you what it says. That data request,
19 and specifically it's data request number 12 --

20 MR. KRUSE: Are you going to read
21 the whole thing or shall we try to find ours?

22 MS. LUDTKE: I'm reading a portion
23 of it but it won't be too long.

24 MR. KRUSE: I guess we'd like to

1 have him have the whole thing in front of him.

2 MS. LUDTKE: Well, let me just
3 read it to you, Mr. Morgan, and then if you need to look at
4 it you can.

5 MR. MORGAN: That's fine.

6 BY MS. LUDTKE:

7 Q It talks about different sections and it says,
8 "beginning near West Stewartstown, New Hampshire an
9 existing 100 foot easement has been acquired by PSNH
10 and encompasses a single pole power line from West
11 Stewartstown south to Groveton, New Hampshire," is
12 that correct according to this?

13 A Continuing south to where, I'm sorry.

14 Q Groveton.

15 A Yes.

16 Q Now, according to your data request here, it
17 distinguishes the Groveton to Shelburne portion and
18 let me read you what it says about that portion. It
19 says, "from Groveton, New Hampshire to Shelburne, New
20 Hampshire the proposed pipeline follows a much larger
21 power line transmission facility also owned by PSNH.
22 The existing easements vary somewhat, but generally
23 range from 200 to 220 feet across." Do you want to
24 see that, Mr. Morgan?

- 1 A No. That's correct.
- 2 Q That's not what it says here, is it? (Referring to
3 another document.)
- 4 A No, it doesn't.
- 5 Q So this is not very accurate, is it?
- 6 A It's accurate down to the Groveton portion.
- 7 Q But from Groveton to Shelburne we might as well just
8 throw it in the trash?
- 9 A The existing utility right-of-way portion is
10 incorrect.
- 11 Q And because the existing utility portion is incorrect
12 we can also assume that the other portions are
13 incorrect because they're in fact, many of them are
14 less than 200 or 220 feet as indicated in this data
15 request?
- 16 A Yeah, there are other portions that are going to be --
17 the existing utility corridor is incorrect, the
18 combined temporary easement width is incorrect, the
19 permanent easement width is incorrect. The other
20 portions are correct.
- 21 Q Did you check this before you gave it to the Public
22 Counsel and the Committee?
- 23 A I guess I didn't check it good enough.
- 24 Q Did you check it?

1 A Yes, I recall working with the engineers on this, yes.

2 Q But now, testifying here today, you recognize that
3 that easement is a 200 to 220 foot easement?

4 A Yes, I know that to be a fact, yes.

5 Q Now, you responded to some recommendations that Ark
6 Engineering made regarding the placement of your
7 pipeline within the existing easement, is that
8 correct?

9 A Along the Portland Pipeline and Granite State, yes.

10 Q Now, what kind of data did you consider when you made
11 a determination to work on the inboard or outboard
12 side of an easement, did you look at easement width?

13 A What type of data did I determine -- say that again,
14 please?

15 Q Well, there is an issue about the width of the
16 easement based on whether you work on the inboard side
17 or the outboard side, isn't that correct?

18 A No, the determination of inboard/outboard is along the
19 pipelines, you try to put the pipeline as close as
20 possible and then work outboard rather than work on
21 top of the pipelines. The alternative is to spread
22 the pipeline out a lot further and then work between,
23 but you want to have sufficient room for safety to not
24 impact the existing facilities. So in turn you end up

1 utilizing a much wider path to install your pipeline
2 as if you had done it the other way around.

3 Q Well, Mr. Morgan, I mean if you work on the inboard
4 side of the easement then that decreases the amount of
5 clearing you have to do. For example, if you have a
6 220 foot easement and you can work actually within the
7 easement then it reduces the amount of clearing you'll
8 have to do outside, isn't that correct?

9 A You mentioned two different issues that I did not
10 speak to. I did not speak to the Public Service of
11 New Hampshire power line issue with Ark Engineering.
12 I spoke to the Portland Pipeline and Granite State.
13 If you want to talk about Public Service, we can talk
14 about that.

15 Q So you don't disagree with our Arch's recommendations
16 relative to the Public Service pipeline? (Reporter -
17 Pipeline?)

18 A I guess I'd have to see their exact recommendation, I
19 don't recall that.

20 Q Why don't you take a look at it and tell the Committee
21 whether you disagree with any of their
22 recommendations.

23 A Okay. I've got a copy, if you can tell me where it's
24 at in their proposal.

1 Q Well, it's right on the first, the first and second
2 page and there are some recommendations on page 3 and
3 4.

4 A Page 3 and 4?

5 Q Right.

6 MR. PFUNDSTEIN: Excuse me, Mr.
7 Chairman, at the calculated risk of absolutely confirming
8 that I'm the skunk at this party, I would just like to
9 enter on the record once again our expectation that the
10 objection of a continuing nature that was granted yesterday
11 continues and remains in place. Thank you, Mr. Chairman.

12 CHAIRMAN VARNEY: That's correct.

13 MR. IACOPINO: Well --

14 THE WITNESS:

15 A I guess on page 3, the first, correct me if I am
16 wrong, the first --

17 MR. IACOPINO: May I interrupt to
18 respond to that? I mean we've been, the last day or two
19 we've been hearing this objection continuously, which seems
20 to be indicating some sort of allegation that this
21 Committee doesn't have jurisdiction. And I thought that
22 that was well settled in the beginning of this proceeding.
23 So, I'm beginning now to question what the intent of that
24 objection is at this point. If I'm reading the objection

1 correctly, it's saying we reserve our position to contest
2 the jurisdiction of this Committee regarding these matters,
3 and if that's so I think we ought to meet that head on
4 right now and come to some decision regarding that.

5 MR. PFUNDSTEIN: I can respond to
6 that, Mr. Chairman. We filed all of our applications with
7 a reservation of rights under the federal law. In the area
8 of the authority to regulate the safety aspects of the
9 construction and operation of an interstate gas pipeline,
10 the Natural Gas Pipeline Safety Act, as enacted by Congress
11 and interpreted by the federal courts, has been determined
12 to rest exclusive jurisdiction on those areas within the
13 United States Department of Transportation.

14 With respect to other areas of the court's
15 review, frankly, I think the analysis is different and is
16 more akin to a conflict analysis with the effort on behalf
17 of the applicant to pursue conditions which are consistent
18 with those conditions handled by the FERC. So we're not --
19 we're interested in simply placing our position under the
20 federal law on the record. We do not mean to interfere
21 with the orderly conduct of these proceedings. We're not
22 meaning to suggest that the Committee cannot take testimony
23 from the witnesses that are prepared and have spent a lot
24 of time and have a lot of important information to share

1 with the Committee. And with that, I think that would
2 adequately describe exactly what it is that we've done
3 since day one. Thank you, Mr. Chairman.

4 MR. IACOPINO: Mr. Chairman, that
5 explanation was okay for the initial objection when it was
6 made, but the last question that was presented had nothing
7 to do with safety. It was a question that pertained to the
8 width of the alignment. So, I don't connect safety with
9 that. His continuing objection to safety has been well
10 noted. I don't think that objection was proper for the
11 last question.

12 MR. PFUNDSTEIN: As I indicated
13 yesterday, I certainly appreciate Mr. Iacopino's position
14 and his expertise, but we are concerned that when we're all
15 done that this issue never comes up again, and we are just
16 trying to go out of our way to be as candid as possible and
17 to identify -- some of Arch's recommendations I think may
18 very well go to safety and that's why I interjected at that
19 point. Those that do not, I would agree with Mr. Iacopino.

20 CHAIRMAN VARNEY: Okay.

21 BY MS. LUDTKE:

22 Q Mr. Morgan, let me go back to my last series of
23 questions, and I noticed you've been studying this
24 intentionally so maybe we can make some progress on

1 these questions. I asked you some questions about
2 working on the inboard and outboard side of the power
3 line and, in fact, that distinction is made in your
4 first set of data request responses, is it not? Well,
5 let me read you what it says, okay?

6 A Okay.

7 Q With respect to the 100 foot easement, the one that
8 goes from Stewartstown to Groveton this is what you
9 have to say. "Through this region, the pipeline
10 construction equipment will be required to work on the
11 outboard side of the pipeline, (opposite of pipeline
12 from power pole.)" Does that sound familiar?

13 A Yes, sounds familiar.

14 Q And then it goes on to say, "this will require 35 feet
15 of clearing outside the existing utility easement."

16 A That's approximately right.

17 Q Now it would be fair to assume that the reason why
18 you're working on the outboard side in that situation
19 is because of the 100 foot width of the easement does
20 not give you sufficient room to work on the inboard
21 side, is that correct?

22 A If I might, can I explain how we determine the
23 location of the pipeline on that?

24 Q Sure.

1 A On the easement from West Stewartstown to Groveton
2 it's a 100 foot easement for the single power pole
3 directly in the middle. In order to minimize the
4 permanent easement and increase, maximize the overlap,
5 what we did is we put the pipeline 15 feet on the
6 inboard inside the edge of the easement. So basically
7 you have, from the pole over to our pipeline is 35
8 feet, 25 of that will be permanent easement. Fifteen
9 feet more to the edge of the easement will be
10 permanent easement. That's -- 25 and 15 is 40 so only
11 10 feet more will be required for an expansion of the
12 existing easement.

13 MS. GEIGER: I'm sorry to
14 interrupt, but could I get some clarification as to why you
15 selected the distance of 35 feet from the utility pole for
16 the pipeline?

17 THE WITNESS:

18 A The 15 feet -- 15 inside and 35 feet outside, came
19 from the fact that we have to try to find the middle
20 ground for the Public Service as well as for the
21 abutting landowners. To put in the, to take in solely
22 the consideration of Public Service at some point in
23 the future to install a, a small distribution pole or
24 something like that, that 35 feet allows for that. If

1 we put it closer it would, it would probably not allow
2 that. To go entirely with Public Service they'd like
3 us to be on the edge, if not outside, with our
4 permanent easement, paralleling to allow them full
5 capability of an easement right that they've already
6 procured and that we're encumbering. So to try to
7 find a middle ground, we feel that 15 feet is the
8 best, 15 inside or 35 feet from the pole is the best
9 of both worlds. We feel we can still work with Public
10 Service and allow them the installation of a single
11 pole for distribution, probably not another 115 pole
12 or anything like that, but a small 33 or even less
13 distribution pole could be put in still between our
14 line and their existing pole, albeit smaller in size
15 and that it only requires an additional 10 feet of
16 permanent easement expansion on that side of the
17 landowner. So if the pipeline goes out further it
18 just increases the permanent easement outboard. So,
19 we feel that was a good compromise to take into
20 account both --

21 BY CHAIRMAN VARNEY:

22 Q What would they do if it was 115?

23 A They'd have to put it on the other side.

24 Q On the other side of the pipeline?

1 A Probably. The other side of their pole. They still
2 have 50 feet on the other side of the pole. They'd
3 have to put it on the other side of their pole, that's
4 correct. And, you know, in so doing we also try to
5 work with them to remain on one side for as long as
6 possible. We do have areas, several areas where we
7 cross their power line back and forth and the vast
8 majority of those times is because of homes along the
9 route to try to get distance. So, that's how we came
10 up with the 35 foot offset pole. So, if you look at
11 the right-of-way configuration, the way we've proposed
12 it is the least impact to adjacent landowners that we
13 can possibly do and still reserve some right of the
14 underlying rights of Public Service.

15 BY MS. LUDTKE:

16 Q Now, Mr. Morgan, going back to the inboard/out- board
17 issue, let me read what you had to say about working
18 on the inboard side of in the "B" section and that was
19 from Groveton to Shelburne. You write, "however, the
20 main difference between this area and the area north
21 of Groveton is that there is sufficient room to locate
22 the pipeline near the outer edge of the existing
23 easement, (15 feet inside) and utilize the area
24 between the pipeline and power line for the

1 construction equipment," and then you go on to say,
2 "in conclusion, in other words, the pipeline's
3 permanent easement would be entirely contained within
4 the existing PSNH easement." So that's a different
5 situation, correct, than the one you just described?

6 A Yes, that's because Public Service has a much wider
7 area already available and our pipeline is still --
8 it's the same scenario, still only 15 feet inside
9 their existing easement so that's right.

10 Q So, if this Committee were to give you a certificate
11 to put your pipeline in those corridors, would they
12 have any idea, based on the information that you
13 provided in attachment 2-a about how wide that
14 easement would be? Should they go by narrative here
15 or should they go by your chart or is there a third
16 document that they should go by that hasn't been
17 produced yet?

18 A As I've stated here, the chart is in error from
19 Groveton to Shelburne and we will get that supplied
20 immediately. I know there is another document, I've
21 seen it. I don't know why this one is supplied in
22 this document. We'll supply another document. I
23 don't know where this one came from. So the alignment
24 sheets show the width of the easement we're going to

1 do from a total easement standpoint, the description
2 you just described is correct.

3 Q And when you supply that other document are you also
4 going to check on the combined easement, permanent
5 easement width figures that you have and to determine
6 the accuracy of these figures, and I'll call your
7 attention specifically to the one that is listed at
8 mile post 10.58, which shows a combined easement width
9 of 705 feet, is that correct, Mr. Morgan?

10 A I guess we'll have to check that too.

11 Q Are you going to check them all and provide the
12 Committee and the Public Counsel with accurate
13 information so that someone will know how wide the
14 proposed right-of-way will actually be?

15 A Yes.

16 CHAIRMAN VARNEY: How soon we can
17 expect that, given the fact that the applicant's in a big
18 rush?

19 MR. MORGAN: Yes, sir, I
20 understand. If I can get it to you tomorrow I will,
21 tomorrow or Friday. Friday, I'll try Friday so I can
22 review it.

23 BY MS. LUDTKE:

24 Q And you're going to check all those numbers with your

1 field surveys to determine if they're accurate before
2 you give it to the Committee, Mr. Morgan?

3 A I'm going to verify the numbers the best I can to meet
4 both the needs of the Committee and, and the accuracy.

5 Q And will that be a document that we can rely on?

6 A Yes.

7 Q Now, yesterday you talked about some other
8 recommendations that Ark Engineering made, do you
9 recall that, regarding the Granite State line?

10 A Yes.

11 Q And I believe in the recommendation you said you
12 disagreed with those recommendations because you
13 wanted 30 feet on the outboard side of that line, is
14 that correct?

15 A That's right.

16 Q And I think the reason you gave for wanting 30 feet on
17 the outboard line is because, the outboard area, is
18 because of the congestion in southern New Hampshire to
19 keep people away from your right-of-way, do you recall
20 saying that?

21 A It's from a protection standpoint of our pipeline,
22 that's correct.

23 Q So the rationale would be because this is a heavily
24 congested area the right-of-way width actually has to

1 be wider, is that the rationale?

2 A The overall right-of-way width is not wider. The area
3 of protection of where we feel most impact could come
4 from, we have sufficient buffer on that side, yes.

5 Q So instead of having a 15 foot width you would have a
6 30 foot width because of the congestion, that would be
7 a wider permanent right-of-way, correct?

8 A Congestion is not the correct word I'd use.

9 Q Well, that was the word you used yesterday, do you
10 want to change the word?

11 A Because of the increase in population density, and the
12 increase of possibility of third party intervention
13 and proximity to our pipeline is the reason we would
14 want a 30 foot buffer on that side, that's correct.

15 Q Now, Mr. Morgan, didn't you, in response to some of
16 the Public Counsel's earlier data requests and at the
17 public hearings that were held in Exeter make a point
18 of removing or indicating that you were going to
19 remove this 6 inch Granite State line in order to make
20 the right-of-way in the southern portion as narrow as
21 possible because of the congestion in that area,
22 wasn't that your, weren't those your statements at
23 that time?

24 A When it was an individual PNGTS line I made those

1 statements, yes.

2 Q And so at that point your goal was to make the
3 right-of-way narrow in southern New Hampshire because
4 of the congestion instead of wide because of the
5 congestion?

6 A No, we still proposed a buffer on the outside of our
7 pipeline the same as we're proposing now.

8 Q Well, let me read what you said in your data request
9 because that may help you recall what your position
10 was at that time.

11 MR. KRUSE: Do you have an extra
12 copy of that so he can follow along?

13 MS. LUDTKE: It's the first set.
14 It's contained in the February 20th response.

15 BY MS. LUDTKE:

16 Q Why don't we start up at the second full paragraph and
17 let me read it to you, Mr. Morgan, you can follow
18 along in there.

19 MR. KRUSE: Could you give me a
20 page number again?

21 MS. LUDTKE: Page 25.

22 MR. KRUSE: Granite State Pipeline
23 easement?

24 MS. LUDTKE: That's correct.

1 MR. MORGAN: Okay.

2 BY MS. LUDTKE:

3 Q I'll start in the second full paragraph. "There are
4 two main reasons for the close proximity of the
5 proposed PNGTS line to the existing 10 inch pipeline.
6 First is the PNGTS line -- 20 inch is installed, the 6
7 inch will be abandoned in place and prepared for
8 removal during the construction of the PNGTS pipeline.
9 As the trench is excavated to install the new
10 pipeline, the centerline will be only 5 to 7 feet away
11 from the 6 inch pipe and will expose it during
12 trenching. This will allow for relatively easy
13 removal during construction. Secondly, by remaining
14 only 15 feet away from the 10 inch pipeline, PNGTS's
15 pipeline will, for the majority of the route, stay
16 within the existing 35 easement. This is very
17 important due to the high population density in the
18 southern New Hampshire area and in order to minimize
19 impact to existing landowners." Do you see that, Mr.
20 Morgan?

21 A I see it.

22 Q And since then you've changed your plans regarding the
23 removal of the 6 inch pipeline, haven't you?

24 A That's correct.

1 Q And in fact you changed your plans with regard to the
2 width of the easement, haven't you?

3 A No, we have not.

4 Q Your plans are identical with regard to the width of
5 easement as they were in this?

6 A Well, this doesn't explain the width of the easement.
7 This explains the location of the pipeline to be
8 within the 35 foot easement.

9 Q And if the pipeline were located within the 35 foot
10 easement and there were a 15 foot buffer zone, which
11 would be sufficient to protect integrity of the pipe,
12 the easement would not be expanded to the extent that
13 it would be were the pipeline actually located outside
14 the easement, which is your current plan, isn't that
15 correct?

16 A No, you're not correct. I never said anything about a
17 15 foot buffer zone on the outside.

18 Q Well, you have a 30 foot buffer zone right now, don't
19 you?

20 A That's correct.

21 Q And your installation of the pipeline is on the
22 outside of the Granite State easement, is that
23 correct?

24 A The offset now to the Granite State easement is 20

1 feet and many times it's probably outside it, yes, on
2 the 10 inch.

3 Q And it's your testimony--

4 A Some times it might be inside, depending on the
5 location of the 10 inch.

6 Q So it's your testimony to this Committee that that
7 doesn't affect the width of the easement whether you
8 would be installing the pipeline on the inside of the
9 easement at the location of the 6 inch pipeline or
10 close to the location of the 6 inch pipeline, for
11 example, 14 feet in on the easement versus installing
12 it on the outside of the easement, the affect would be
13 identical, is that your testimony?

14 A That's correct.

15 Q Can I explain?

16 MR. KRUSE: Yes you can.

17 THE WITNESS:

18 A The proposed 20 inch pipeline was 15 feet away from
19 the 10 inch pipeline existing. Our permanent easement
20 at that time then would have been the 15 feet between
21 the two pipelines and 35 feet outside the pipeline,
22 total of 50 feet from the 10 inch. With the change
23 from 20 inch to 30 inch we shifted the location of the
24 pipeline only. The pipeline is now 20 feet from the

1 10 inch and the outboard side protection, instead of
2 35, is now 30. The total impact is the same from the
3 10 inch, 50 feet.

4 BY MS. LUDTKE:

5 Q Mr. Morgan, did you ever tell the Committee or Public
6 Counsel at the time you were representing that you
7 were going to be installing this pipeline within the
8 easement to minimize the width of the easement that
9 you actually intended to have a 35 foot protected area
10 on the outboard side, isn't that a lot?

11 A No, that's not a lot.

12 Q Well, Mr. Allen says it's a lot, doesn't he?

13 A He and Allen is Ark Engineering. You know, people
14 have their opinions of operating a pipeline.

15 Q In terms of integrity of the pipeline, there is no
16 reason why you need 35 feet, is there?

17 A Yes, there is. There is protection and operating
18 maintenance of the pipeline. We feel the fact that
19 we're only 15 feet away from the existing Granite
20 State, we wanted a 50 foot permanent easement for the
21 PNGTS line. Therefore, requiring 35 feet on the
22 outboard side.

23 Q Well, you don't have 35 feet on the outboard side
24 along the Public Service area, do you, you have 15

1 feet?

2 A That's because the development possibilities along the
3 PSNH easement in northern New Hampshire, if that's
4 where you're speaking of, does have the same
5 probability as it does in the southern New Hampshire
6 area.

7 Q So we get back to the issue of congestion again, isn't
8 that correct?

9 A Yes.

10 Q So because of the population density in southern New
11 Hampshire you're asking this Committee to approve an
12 easement that is a wider easement?

13 A That's incorrect. I am proposing a 50 foot easement
14 in northern New Hampshire too. I just have the
15 ability to put it all within an existing easement in
16 northern New Hampshire. I do not have that ability in
17 southern New Hampshire. I'm proposing 50 feet in both
18 locations to operate and maintain our pipeline.

19 Q Mr. Morgan, on the outboard side on the northern New
20 Hampshire section, you have 15 feet of the easement
21 away from the pipeline, isn't that correct?

22 A Outboard in pertaining to the power line, that's
23 correct.

24 Q Right, and in southern New Hampshire you're talking

1 about 30 feet on the outboard side for protection,
2 isn't that correct?

3 A That's correct.

4 Q So my question to you is, is there any reason, apart
5 from the population issue, putting that aside, for
6 pipeline integrity, any physical conditions,
7 topographical conditions, any other conditions in
8 southern New Hampshire that make it necessary for you
9 to have 30 feet in southern New Hampshire and only 15
10 feet in northern New Hampshire on the outboard side?

11 A Yes, there is.

12 Q And what are those reasons?

13 A Those reasons are in northern New Hampshire I have an
14 existing cleared area where my 35 feet in northern New
15 Hampshire I can work between the power lines and the
16 pipeline. There I have an area that I can work with
17 my maintenance and operation. In southern New
18 Hampshire, being only 20 feet away from the existing
19 pipeline, I can not maintain our pipeline on the
20 inboard side. I have to have the room on the outboard
21 side. So it's a maintenance and operation reason as
22 well. I have to have room -- in northern New
23 Hampshire I have that ability between the power poles
24 and the installation of the pipeline to maintain it.

1 I don't need it on the outboard side. In southern New
2 Hampshire I need, because I don't have the ability, I
3 do not want to maintain and operate a pipeline running
4 up and down over the top of Granite State's line.

5 Q Well, Mr. Morgan, it doesn't matter if you run up and
6 down on top of the 6 inch line, does it, because that
7 6 inch line is abandoned?

8 A I believe the plans of Northern Utilities or Granite
9 State is that that pipeline will be abandoned, that's
10 my understanding, yes.

11 Q So it wouldn't matter if you ran your equipment up and
12 down on that line, would it?

13 A No.

14 Q So that would give you, that would give you 25 -- 20,
15 between 20 and 25 feet to run your equipment up and
16 down the right-of-way, within the right-of-way?

17 A No, we're proposing to be 20 feet from centerline to
18 centerline away from the 10 inch. The 10 inch will not
19 be abandoned.

20 Q So it gives you 20 feet to run your equipment up and
21 down?

22 A 20 feet from centerline to centerline. I wouldn't say
23 that I'd want to use that entire 20 feet to run my
24 equipment.

1 Q So it's your testimony that 20 feet is not sufficient
2 to give you access to operate and maintain that
3 pipeline?

4 A I guess I'd like to, in my opinion, that's no. The
5 operators of this pipeline are going to be Maritimes
6 and Northeast. He can answer that for himself, but in
7 my opinion with Tennessee Gas is no, that's not
8 sufficient space for a 30 inch pipeline.

9 Q Now, in looking at that chart we had out on 2-a--

10 A Yes.

11 Q Are you going to check the numbers on the southern
12 section too to make sure those are accurate?

13 A Yes, I will.

14 Q Now, Mr. Morgan, did you attend a meeting in Newton,
15 New Hampshire with FERC?

16 A Yes, I probably did.

17 Q And do you recall mention of this plan to abandon this
18 6 inch line in the FERC materials?

19 A Do I, can you restate that?

20 Q The DIS that was issued on the joint pipeline, did
21 that mention the abandonment of the 6 inch line?

22 A I guess I'd have to look and see exactly what it says.

23 Q Do you recall if that issue came up during--

24 A It did come up in the meeting, yes, I can speak to

1 that.

2 Q And it would be fair to say that at the time it came
3 up in May, FERC still understood that those 6 inch
4 lines would be abandoned, is that correct?

5 A Yes.

6 Q Have you made a correction to FERC on that?

7 A To my knowledge the 6 inch pipeline is still to be
8 abandoned.

9 Q Well, they assumed it would be removed as well?

10 A Possibly.

11 Q And it's fair to say that there are numerous
12 representations made to this Committee in the public
13 hearings that that 6 inch line would be abandoned and
14 removed for the purpose of minimizing the impact by
15 the expansion of the right-of-way in southern New
16 Hampshire, isn't that correct?

17 MR. KRUSE: Representations by
18 whom?

19 MS. LUDTKE: By Mr. Flumerfelt and
20 Mr. Morgan. If you want me to get out the transcripts of
21 the hearing I will.

22 THE WITNESS:

23 A I can speak to it. The purpose of removing the 6 inch
24 was not only to minimize the right-of-way, but it was

1 also from a safety standpoint of installing our
2 pipeline. The 15 foot offset that we had for the 20
3 inch pipeline would undoubtedly -- the 6 inch is going
4 to fall in the ditch. It's going to be in our
5 excavation. It made perfect sense not to try, since
6 it's going to be abandoned, to take the 6 inch out
7 along with that excavation of our trench line. The
8 fact that a 30 inch pipeline, 10 inches in diameter,
9 15 feet is too close to put it to an active 10 inch
10 pipeline. The ditch spread is too great. In the
11 joint agreement between Maritimes and Northeast and
12 Portland Natural Gas, we moved it out 5 feet. In so
13 doing in many cases now it probably would not expose
14 the 6 inch. I believe the position is that the recent
15 position, and this is a Northern Utilities and Granite
16 State issue from the point of abandonment of their
17 pipeline, but I believe the position is if we do
18 expose the 6 inch pipe during installation, we will
19 take it out. The thought is that it will probably not
20 expose it near as much as we would have if we had only
21 been 15 feet off our 20 inch pipeline. The fact that
22 we're further away we'll probably not expose it much.
23 We will remove it if it becomes an issue of falling in
24 our ditch line and we will remove it, but for the

1 majority of the time it's anticipated that the
2 pipeline, the 6 inch will not be impacted during our
3 construction. To go in and excavate specifically for
4 that is just a greater impact and an issue, you know,
5 we'd just end up having to work closer again to the 10
6 inch than we feel we need to and that will be active
7 line during construction.

8 Q Now, Mr. Morgan, you heard a lot of testimony about
9 the multiple uses allowed by your easement deed, do
10 you recall hearing that type of testimony?

11 A Yes, sure do.

12 Q Was that a consideration in deciding not to remove the
13 6 inch line and having this 30 foot outboard space?

14 A Not at all.

15 Q Let me turn to the Piscataqua, can you answer
16 questions about the Piscataqua?

17 A Yes, I guess I can. Yes.

18 Q And are you familiar with a document that was very
19 recently filed with the Public Counsel regarding a
20 contingency plan for an open cut?

21 A Yes, I'm familiar with that.

22 Q And that plan also dealt with some of the failure
23 criteria for the directional drill, did it not?

24 A Yes, it did.

1 Q Now, Mr. Morgan, do you understand that in order to
2 have an open cut that there has to be permit
3 applications filed for that?

4 A I understand.

5 Q Do you intend by filing that plan to substitute that
6 plan for the permitting application that this
7 Committee and the Wetlands Bureau would have to look
8 at?

9 A I guess I don't understand, could you say that again?

10 Q Well, do you intend by filing this contingency plan
11 with the Public Counsel, and I don't know if it was
12 provided to the Committee or not, to substitute that
13 for the permit application that would normally have to
14 be filed for the open cut of the Piscataqua?

15 A No, I do not propose that to be a supplement for a
16 filing, no.

17 Q So it's your understanding that you're testifying here
18 today that if PNGTS were to do an open cut of the
19 Piscataqua that it would have to file a separate
20 permit application with this Committee and the
21 Wetlands Bureau?

22 A Can I defer to my lawyer a minute? (Conferring with
23 Mr. Kruse.) Yes, I understand that to be the case.

24 Q Let me go back to some of the safety issues that we

1 were discussing yesterday. You recall the testimony
2 about those issues? I asked you whether those
3 standards, the U.S. DOT standards were performance
4 standards, do you recall that question?

5 A Yes.

6 Q And I believe your testimony was in some people's
7 opinion they might be?

8 A I believe that's what I said, yes.

9 Q And are they in your opinion?

10 A Are they in my opinion --

11 Q Performance standards?

12 A In several areas they could be, yes.

13 Q What areas would they be performance standards?

14 A I don't know specifically, I'd have to read them all.

15 Q Well, I asked you about toughness yesterday, would
16 that be a performance standard?

17 A In what specific aspect of toughness are you speaking
18 of?

19 Q Well, I'll refer you to Mr. Marini's testimony.

20 External loads, would that be a performance standard
21 to size the pipe and make sure the pipe is
22 sufficiently tough to withstand external loads?

23 A I guess my interpretation of the toughness standards
24 means that the applicant is required to ensure that

1 the surrounding environment of the pipeline area be
2 sufficiently, that the pipeline be sufficiently
3 designed to meet the existing uses of the area and
4 whether it's rock or, you know, or water or whatever
5 it happens to be, it can withstand that environment.

6 Q Is that a performance standard?

7 A I guess I'll just stay with that. Whether it's a
8 performance standard or not, I guess I don't know,
9 really know exactly what you mean by performance.
10 Could you explain what you mean by performance?

11 Q Well, what I mean by performance is that the sizing of
12 the pipeline or the materials used are based upon site
13 specific conditions. In other words, the regulation
14 does not set a minimum criteria for compliance, it
15 refers to site specific conditions, and meeting
16 certain performance criteria with respect to those
17 site specific conditions. Does that help you?

18 A And I stated that yes, we would design the pipeline to
19 meet site specific conditions, yes.

20 Q In other words, it's not a cookbook approach that one
21 can just check off and say we've met the U.S. DOT
22 standards, one would need underlying data and
23 information to make a determination regarding the
24 validity of judgments made in meeting those standards,

1 that's what I mean by performance standard. Does that
2 agree with your view of performance standard?

3 A That's a fair assessment, yes.

4 Q So I'll ask the question again, is a toughness
5 standard a performance standard in your opinion?

6 A Yes.

7 Q And because it's a performance standard, one would
8 need the underlying data and documentation to
9 determine if the standard has been met, correct?

10 A In industry practice, yes.

11 Q And that underlying data and documentation has not
12 been provided to the Public Counsel and has not been
13 provided to this Committee, correct?

14 A Can I confer with my panel? (Conferring with Mr.
15 Evans and Mr. Auriemma.) From the standpoint of the
16 environment the pipeline is going to be placed in,
17 obviously it could be placed in rock areas, wetland
18 areas, which could obviously, or wet and water we have
19 the buoyancy information. We provided the wetland
20 areas where they need to be. We've provided a
21 construction conditions report that shows the
22 anticipated rock areas, and the pipeline will be
23 designed with those things in mind.

24 Q That's all been provided to the Committee?

1 A To my knowledge it has been.

2 Q And there has been no design provided so one could
3 look at that information and see how the design took
4 that information into account, isn't that correct?

5 A No, the design has not been complete, that's correct.

6 Q Based on the information that the Committee has and
7 the Public Counsel has, is there any way in which the
8 Committee or the Public Counsel could make a
9 determination as to whether you've met the U.S. DOT
10 standards?

11 A We stated in our Resource Report 11 liability and
12 safety in our FERC application as well as in exhibit
13 "C" to our New Hampshire application of May 1996, we
14 go through all the issues I talked of yesterday of
15 clearing, grading -- in the installation of our
16 pipeline there is extensive language in there
17 concerning exactly what I talked about yesterday.
18 There's also in there that it states that we will file
19 a U.S. DOT 192 standard.

20 Q And in fact you've made that representation before,
21 haven't you, in public hearings that you would follow
22 those standards, do you recall doing that?

23 A I do.

24 Q And let me read to you what you said in Exeter at the

1 March 5, 1997 hearing. You were asked whether you
2 would go beyond any of the U.S. DOT codes and
3 regulations, do you recall that question?

4 A I don't recall it, but I'm sure I've been asked that
5 before.

6 Q And you said, "unless we see site specific areas that
7 would need that, but right now no," do you want to see
8 that?

9 A Well, is that a question? That's fine.

10 Q Now, since this March 5th hearing have you ever, have
11 you seen any site specific areas that might go -- need
12 design or construction or safety factors beyond the
13 U.S. DOT regulations?

14 A Yes, inherent in our design, what we do that we feel
15 is not required, first off, I might go to my panel
16 here for some more, but off the top of my head, we
17 x-ray to 100 percent all welds which is not a
18 requirement of DOT standards. We install concrete
19 coating over every railroad and road crossing, which
20 is not a DOT standard for protection of third party
21 interventions along the edges. We install from the
22 standpoint of classification, we look into the areas
23 of the probability of increase in population for
24 classification, we have incorporated that into our

1 classification study. The coating requirements, the
2 fusion bond and coating is above the standards that
3 are required. So, there are several areas that we
4 exceed the minimum requirements.

5 Q Well, Mr. Morgan, if one wanted to look and make a
6 judgment about whether you had exceeded the DOT
7 regulations or whether you've met the DOT regulations,
8 where would one go to find that information that
9 you've just talked about?

10 A We have not completed our design.

11 Q No information to that effect has been provided, has
12 it?

13 A Not -- I guess I'd have to look in exhibit "C" that we
14 provided in New Hampshire and see if any of those
15 issues are in there.

16 Q Well, why don't you take a look at that?

17 MR. KRUSE: Just identify the
18 exhibit you're looking at.

19 MR. MORGAN: This is the May 1996
20 filing application to Energy Facilities.

21 MR. KRUSE: And the exhibit
22 number?

23 MR. MORGAN: Exhibit 1.

24 THE WITNESS:

1 A First off, I believe in our ECP we state that we will
2 100 percent x-ray all welds so that's stated there.
3 We speak of fusion bond type coating in exhibit "C",
4 and the process of the installation of that.

5 BY MS. LUDTKE:

6 Q Now, that exhibit "C" you're referring to was
7 developed when, May 1996?

8 A That's correct.

9 Q And then that was before you did your site specific
10 work or a good amount of your site specific work,
11 isn't that correct?

12 A May 1996?

13 Q Yes, you hadn't done a lot of geotechnical
14 investigations, had you?

15 A No, we had not.

16 Q And done borings?

17 A No.

18 Q And done a lot of your field surveys?

19 A We had done that, yes.

20 Q So your information at that point was sketchy at best
21 in terms of site specific conditions, correct?

22 A No.

23 Q Why don't you tell us exactly what information you had
24 on a site specific geotechnical basis in May 1996 that

1 allowed you to make judgments about performance
2 standards for the design of your pipeline?

3 MR. KRUSE: Can we distinguish
4 between site specific and geotech? I think you've combined
5 the two and there has already been an answer in part to
6 that. You're welcome to inquire, but I just think that
7 question is confusing him.

8 MS. LUDTKE: Well, I think the
9 witness can understand if there is a difference between
10 them and make the distinction in his answer.

11 MR. KRUSE: All I'm asking you to
12 do is ask one question at a time.

13 MS. LUDTKE: If he doesn't
14 understand the question he can ask me for clarification.
15 Do you understand the question, Mr. Morgan?

16 MR. MORGAN: I guess now you need
17 to repeat.

18 BY MS. LUDTKE:

19 Q Mr. Morgan, as of May 1996, what geotechnical, let's
20 start with geotechnical, what geotechnical information
21 did you have that allowed you to make site specific
22 judgments about the design of the pipeline? Bearing
23 in mind your testimony in March of 1997 that you had
24 not observed any site specific conditions at that time

1 that warranted any particular or special requirements
2 to deal with the U.S. DOT regulations?

3 A And what I'm stating here today is we had standard
4 practices that we incorporated into the filing that we
5 always do and that's what we referenced here and
6 pertain to. When I spoke at that hearing I did not
7 have every issue at my fingertips. We provided the
8 information that we will do. We have told the
9 Committee that we will do fusion bond coating. We
10 have told the Committee that we will do 100 percent
11 x-ray and from a geotech standpoint or a geotech
12 program was not done, our field surveys were done,
13 which are visual inspections of the topography. We
14 can make assumptions in that regard, but the issues
15 that we provided here are standard practices that we
16 do.

17 Q And it would be fair to say that that was basically an
18 off the shelf discussion of your design process in the
19 1996 application, isn't that correct?

20 A That's our standard practices that we've done, yes.

21 Q And it would go in any application you made, it's not
22 specific to this application, is it?

23 A Not necessarily, no.

24 Q Well, I need clarification on your last answer. Is

1 what you included that you referred to as exhibit "C"
2 on your May 1996 application, off the shelf material
3 or is it specific to this application?

4 A I guess I can't say it's off the shelf because we
5 don't use it on every project. We don't use fusion
6 bond coating on every project we do. We don't, you
7 know, so for the most part it's our standard practices
8 that we do and in this type of pipeline project, that
9 was our initial proposal to do this and we still stand
10 by that.

11 Q You didn't develop, develop it specifically for this
12 project?

13 A Not in May 1996, that's correct.

14 Q Now, Mr. Morgan, there are a number of residences in
15 the southern portion of this project that are located
16 very close to the pipeline, are there not?

17 A Yes, there are.

18 Q And I think you referred to some residential site
19 specific drawings that will be done with respect to
20 those residences?

21 A That's correct.

22 Q And they haven't been done yet, have they?

23 A They're not compete, no.

24 Q And in fact there has not been one residential site

1 specific drawing that's been provided to this
2 Committee or Public Counsel for the southern portion
3 of the pipeline, has there?

4 A That's correct.

5 Q And recently, in response to a FERC data request dated
6 June 4, 1997 regarding residential details, there are
7 a number of residences listed that were very close to
8 the pipeline, were there not?

9 A Well, I'd have to look at the data request, but there
10 are several residences close to pipeline, yes.

11 Q Well, maybe if you could get a copy of that we could
12 run down through it because I have approximate
13 distances of those residences and you can tell me
14 whether you agree with the approximate distances of
15 those residences from the pipeline.

16 MR. KRUSE: I don't have a
17 complete set of FERC data requests. Do you have a copy
18 that he can look at?

19 MS. LUDTKE: No, I only have my
20 own. It's June 4, 1997.

21 MR. KRUSE: If you want to go up
22 and share it with witness and sit next to him that's fine
23 with us.

24 BY MS. LUDTKE:

1 Q Well, all right. Let me run down through the list
2 here, Mr. Morgan, for you. I have a residence, and
3 you're fairly familiar with the pipeline and the
4 alignment and the residences that are close to it?

5 A There is no way that I can to every residence that's
6 along this pipeline.

7 MR. KRUSE: Excuse me, Mr.
8 Chairman, perhaps Mr. Morgan can move over to Ms. Ludtke's
9 table with the mike and he can look over her shoulder.

10 THE WITNESS:

11 A Let me preface this, if you're going to ask me is this
12 house 30 feet from our pipeline, I can't answer that
13 question without going out to the site. You know,
14 those are representatives that we feel confident that
15 they're correct, and if you're going to ask me
16 individual housing issues, I can't answer that off the
17 top of my head.

18 BY MS. LUDTKE:

19 Q Well, let me just represent to you that according to
20 our calculations there are probably a half dozen if
21 not more that are 10 feet from the temporary work
22 space area, would that concur?

23 A That -- if you want to represent that, that's fine
24 without me looking at it.

1 Q So there is a number of residences that are very close
2 to either the temporary work space or the pipeline, is
3 that not correct?

4 A That's correct.

5 Q What assurance can you provide those residences based
6 on the material that you provided to the Public
7 Counsel and the Committee that their safety will not
8 be compromised by the installation of the pipeline
9 right next to their house?

10 A The fact that we will comply with DOT 192 standards
11 and the fact that what we've provided as our
12 installation procedure in exhibit "C" will be
13 followed.

14 Q And if anybody asked, if a resident in those areas
15 asked the Committee what assurance do you have that
16 they would actually comply with the standards what
17 should that Committee member show them?

18 A Our application.

19 Q And there is enough in the application to provide
20 assurance to that Committee member that you have
21 actually met the performance standards of the U.S. DOT
22 regulations?

23 A Yes.

24 Q That's your testimony?

1 A Yes.

2 MS. LUDTKE: Do you want to take a
3 break or do you want me to continue?

4 CHAIRMAN VARNEY: Well, how much
5 more do you have?

6 MS. LUDTKE: Well, I can keep
7 going. It probably won't be too much longer.

8 BY MS. LUDTKE:

9 Q Mr. Morgan, we had some questions raised yesterday
10 regarding temporary work spaces, do you recall?

11 A Yes, I do.

12 Q And do you recall looking at an alignment sheet at Mr.
13 Cannata's request and saying in fact you had not
14 actually placed the temporary work spaces on the
15 alignment sheets in terms of physical locations?

16 A We did not put it in the photo band where the
17 information, with the exception of the tax map
18 information, but where the information is, is correct
19 to scale.

20 Q Well, I understood your testimony to be that in fact
21 the temporary work spaces were just drawn in areas
22 where you felt like you would need them and that they
23 hadn't actually been located in the field, is that
24 correct? Did I misunderstand what you said?

1 A What I said was many times the survey crews did not
2 have, the engineering survey crews did not have chains
3 to be able to get the exact length so sometimes there
4 is a structure in close proximity and they say it's 25
5 by 100, it may only be 80 feet to the structure or
6 some different number, and when you actually put it
7 into the photo band it actually overlays on top of a
8 structure or other item.

9 Q Mr. Morgan, have you actually located the temporary
10 work space areas in the field?

11 A Yes, we have.

12 Q And have you advised the residences as to exactly
13 where those temporary work spaces will be located?

14 A During the negotiations they are informed of exactly
15 where the information is.

16 Q Now, based on the information this Committee has in
17 front of it, is there any way the Committee can
18 determine the actual locations of those temporary work
19 spaces?

20 A Yes, they can.

21 Q And how could they go about doing that?

22 A In many cases they can look at the photo, the work
23 room band and it states offsets from the centerline of
24 the stream, 50 feet back is the work space or up to

1 the edge of the road.

2 Q But yesterday you said those were just drawn in, that
3 they actually weren't located in the field?

4 A What I said was many times they may have to be reduced
5 because of the, of a structure that -- in, in a very,
6 very few cases it may be that they have to be reduced
7 for a structure.

8 Q Well, who put those temporary work spaces in, were
9 they just drawn in around areas that you would
10 normally have temporary work spaces or was there
11 consideration given to the topography or field
12 conditions?

13 A Definite consideration given, that's exactly why
14 they're put in the field books. When the, when the
15 survey crew goes through, as I stated, they have
16 electronic data that they collect from their different
17 shots, what distances and bearings. They also do a
18 field book. The field book information in its
19 entirety is not put on preliminary alignment sheets.
20 The final construction alignment sheets will identify
21 exactly the start and stop points via station number
22 of where -- so it can be staked accordingly in the
23 field. As I stated, at times there may be that the
24 preliminary estimate of work space needed does not fit

1 exactly with the situation out there and those are
2 adjusted and we find out normally during our
3 negotiations with the landowners. We take those
4 field, the reason we do the field books is because
5 copies of those field books are made every day or
6 every other day, they're passed back to the
7 environmental and archeology and threatened and
8 endangered species crew so they know exactly limits of
9 the boundaries. So when they go out there and see an
10 additional work space of 25 by 100, they know they've
11 got to look not only on the 75 foot corridor, but an
12 additional 25 by 100 area and in our survey we have a
13 survey chief out in field who not only oversees the
14 engineering, but also backs up and ensures that the
15 environmental and archeological crews all know where
16 the, that they've got all the correct information in
17 their hands to ensure that they survey the correct
18 areas.

19 Q Will any of the temporary work spaces be reduced to
20 address concerns of the Wetlands Bureau?

21 A I believe we filed some information in data requests
22 that stated the, where this, I'm not sure of the data
23 request, where the additional temporary work space was
24 in wetlands and the reasons for it. I guess I'd have

1 to refer to Roger to give it exactly, but we possibly
2 could. If there is a specific area that the Wetlands
3 Bureau wants to discuss that they have an issue with,
4 we can possibly look at it. You have to be on site
5 specific locations to see if we could possibly
6 construct the pipeline without the additional
7 temporary work space. Many times they're at road
8 crossings and railroad crossings where you need
9 additional temporary work space out and above the 95
10 to prepare your drag sections for the crossings and
11 bore head excavations for borings, you need the room
12 to put spill somewhere. So many times they are
13 needed. So possibly we could reduce it if we look at
14 site specific areas.

15 MS. LUDTKE: Nothing further.

16 CHAIRMAN VARNEY: Thank you. Why
17 don't we take a quick break, 5 minute break and then we
18 will continue.

19 (Brief recess.)

20 (Resumed.)

21 CHAIRMAN VARNEY: Would the Town
22 of Shelburne like to ask some questions?

23 MR. RICHARDSON: Mr. Chairman,
24 with your permission I have two questions on behalf of a

1 member of the public for Mr. Morgan.

2 CHAIRMAN VARNEY: Fine.

3 BY MR. RICHARDSON:

4 Q The first question concerns pipeline coating and I
5 guess testimony yesterday was that pipeline coating is
6 often covered with hydrocarbons or oil to prevent rust
7 and corrosion, and what impact would this have on
8 contamination of groundwater or aquifers?

9 A First off, the anticipated coating will be a fusion
10 bond epoxy costing which is a nontoxic coating. And
11 there will be no contamination. Also in an aquifer
12 area, a 24 inch pipeline, you're probably looking at 3
13 inches plus of concrete coating around it to keep it
14 adhered to the pipeline. So there will be no
15 possibility for contamination of the line.

16 Q And the second question is, it was also stated in
17 testimony to watch out for boulders and rocks in areas
18 where there is drilling or trench construction, and
19 what impact will this have on terraced areas or areas
20 of significant slopes and is there a risk with
21 landslides and erosion or collapse?

22 A Obviously, in areas that have slope, stability
23 problems, we have to return it to a stable condition.
24 We're not going to leave the sloped area in any

1 fashion that has a stability problem because all it
2 does is, if there is a stability problem it affects
3 our pipeline, and if there is any kind of stability
4 problem we're going to do what's required for
5 stability to protect our pipeline as well as the
6 surrounding land area. So, we will, in our
7 restoration program, ensure that the stability of the
8 slopes from the affected construction are stable.

9 Q What about during construction?

10 A I guess, I guess the same thing applies. In steep
11 slope areas what we can do sometimes is what's called
12 a two tone approach. Basically, we bench in for one
13 section of the construction right-of-way, we elevate
14 the level and bench in again to create as level as
15 possible working area for our equipment so we're not
16 working on a slide slope. So we have approaches for
17 side hill construction that creates a safe working
18 environment for the equipment and the personnel.

19 CHAIRMAN VARNEY: Town of
20 Shelburne.

21 BY MR. CARPENTER:

22 Q Mr. Morgan, the temporary work space on Hogan Road,
23 you talked about it yesterday, you indicated that you
24 would restrict it further than what was shown on the,

1 or to the drawings that you have presented in the
2 mitigation plan?

3 A Yes, the proposed drawings in the mitigation plan --
4 the cross section drawings you're referring to?

5 Q Yes.

6 A Yes, the width will be restricted to that along Hogan
7 Road, that's correct.

8 Q Does it apply to the entire length of Hogan Road or
9 are we talking about just specific areas that are
10 indicated on those drawings?

11 A On those drawings, in fact, I came up with a word,
12 we've got the mustard line and now we've got the
13 ketchup line. (Referring to yellow and red lines.)
14 Those construction techniques are for those areas of
15 construction along the other portion that have not
16 changed the route, you know, we're going to utilize --
17 if it's further back, you know, we're going to utilize
18 the drawings that show the construction work area.
19 But basically what we proposed here is the entire way
20 along Hogan Road is, from approximately mile post 69
21 all the way to the North Road is the new mitigation
22 plan.

23 Q I understand that. I guess our concern is should that
24 route be adopted in the final outcome, we don't want

1 to be in a continuous battle as to what applies to
2 what section, or every tenth of a mile we're looking
3 at a new construction plan.

4 A Yes, one moment.

5 MR. KRUSE: Why don't we, just for
6 the record, make clear that the markings that we put on
7 these exhibits, which weren't done earlier, the mounted map
8 has been marked up in the right hand corner as 21-a-1, is
9 that right Mike?

10 MR. MORGAN: That's correct,
11 21-a-1.

12 MR. KRUSE: And that's where we
13 have the mustard line and the mitigation plan designations?

14 THE WITNESS:

15 A Yes. Okay, according to the mitigation plan, from
16 mile post 69.74 to just about mile post 70.1, just
17 before that where the red line begins, that will be
18 the typical 75 foot construction, but that is not
19 along Hogan Road and so from there on out any time it
20 falls within one construction. Now there is an area
21 where it is red that doesn't say cross section number,
22 and that's where we're kicking out for the gravel mine
23 and then the rest of the mustard line is where we're
24 going around that bog so that's not along Hogan Road

1 either. So, to answer your question, where we're
2 along Hogan Road we will utilize one of the cross
3 sections that you have in front of you, yes, sir.

4 Q Thank you. Residential drawings, are they complete
5 for the northern route?

6 A Residential drawings we're required to show any
7 residence within 25 feet of the work space, and to my
8 knowledge they're complete.

9 Q There are no such residences in Shelburne then?

10 A I guess I'd have to look specifically to see if there
11 are any residences within 25 feet of the work space.

12 Q Because we received no drawings so I'm assuming based
13 on that that there are none that fall into that--

14 A That was the criteria that we used, that's correct.
15 We're required by FERC, any residence within 25 feet
16 of the work space.

17 Q You have reviewed or PNGTS has submitted two
18 applications to FERC using two alternate routes
19 through Shelburne. Can we infer from that that you
20 determined both routes were permittable at one point
21 in time and since they were permittable there are no
22 safety issues on those routes?

23 A You're speaking of the routes--

24 Q I'm talking --

1 A Gorham South--

2 Q Talking basically Gorham South--

3 A Okay.

4 Q And your proposed, your current revision?

5 A Those two routes.

6 Q Those two routes.

7 A As far as safety issues?

8 Q Yes.

9 A No, they could be constructed in those areas from a
10 safety standpoint.

11 Q Thank you. Do you have a construction manual that's
12 going to be available for the communities along the
13 right-of-way to examine?

14 A Construction manual?

15 Q Do you have a construction manual that you would be
16 giving to your field crews such that the appropriate
17 authorities in the towns along the right-of-way could
18 review that construction manual?

19 A As far as construction technique, basically as I've
20 stated, in exhibit "C" you have something right now
21 that explains in text the process we go through and
22 the steps we take for clearing, grading, pipe laying,
23 welding, coating, it's all outlined, all the stages of
24 construction. From a standpoint of a construction

1 manual, we will have pipeline construction
2 specifications that will be supplied to our contractor
3 and he will incorporate that into his final
4 construction plan for installation of the pipeline on
5 final design and with the construction drawings and
6 the whole package. And that will be filed with OPR.
7 From the standpoint of that package we can make that
8 available to the Committee as well. I don't know
9 that, I guess I'd have to ask what specifically you
10 would like from that. It's a pretty large document
11 that they'll be utilizing.

12 Q I guess the question would be is if we go to your
13 field office during construction and there is a
14 question that, "are you doing what you said you were
15 going to do in these hearings or in the FERC
16 hearings," can we verify it from the information that
17 will be available at the field offices?

18 A That's correct. The permits will be in the field
19 offices for those specific areas as well as the
20 construction drawings as well as the specifications
21 that we're building to, yes, they will be there.

22 BY MR. JUDGE:

23 Q Mr. Morgan, back in our meeting on March 26th at
24 Shelburne you had indicated at a portion of the

1 proposed route that you would be using the Hogan Road
2 portion of the proposed route as a haul road for
3 blasted rock and stumps.

4 A That's correct.

5 Q And then further you said due to the nature of the
6 proposed new route through Shelburne, this is a
7 revision, there will be a very heavy amount of
8 blasting and removal of debris. The question was
9 asked of you as to what will be done with the spoils
10 of blasting debris and stumps. We were told that you
11 would have to go to a "approved," site. No site could
12 be specified when we asked the question. I guess I'm
13 wondering since that time can you tell us how much
14 blasting material would come out and where an approved
15 site would be?

16 A We have a construction conditions report that
17 identifies, to the greatest extent practicable from
18 our geotech firm, from their level of experience and
19 from their visual. I don't know if they did any
20 ground work as well -- they did, to determine the
21 extent of blast rock and spoil backfill requirements.
22 So I guess we have that. I don't know specific
23 details of how much. We can get to the document and
24 you can review that. So that gives a level of

1 probability of blast rock anticipated, that
2 construction conditions report.

3 Q Can you tell me in some easily understood quantitative
4 words as to where we are in some scale as to how much
5 blast rock would be coming out maybe?

6 A From the standpoint of a percentage along the route?

7 Q Well, volume, some measure that we can know, is it
8 small or big or minimum?

9 A Can I ask a question and see if I can get you an
10 answer? (Conferring.) Yeah, the construction
11 conditions report, what it gives you is a percentage
12 along that route of areas that will require blasting,
13 and you basically can take the area of the ditch, what
14 we're going to require to install it, to try to come
15 up with an approximate volume number over that length.
16 I guess I'd like to emphasize the fact that that was
17 anticipated with a 50 feet offset off Hogan Road with
18 our line. Now with the fact that in many of the up
19 slope areas where we're trying to minimize the visual
20 impact, we're 5 feet off the road and only proposing
21 either 25 or 15 feet depending on the exact location.
22 So the trenching actually is going to be 5 feet off
23 the edge of the road, the volume of rock is going to
24 be much less than it would have been if we remained on

1 the mustard line so to speak. So we feel with our
2 mitigation plan along Hogan Road in the areas that do
3 have the up slope where they could be visible, we're
4 going to minimize the volume of rock considerably.

5 Q As you, our discussion, of course, as I stated,
6 concerned the pipeline right-of-way in Shelburne.
7 Would you, if you ran into blast rock and stumps, etc.
8 beyond the Shelburne/Gorham town line into the Gorham
9 portion of the line, which is also accessible to the
10 Hogan Road, would you be hauling Gorham rock out
11 through Shelburne?

12 A I guess it would have to be, I guess just to clarify,
13 so we're looking back in the area of mile post 69 and
14 farther up?

15 Q Correct, west of 69.35.

16 A It's going to probably depend on exactly where the
17 haul, the site of disposal turns out to be. Those
18 aren't completely identified yet for exactly where
19 they're going to go. So if it turns out that a lot of
20 the haul, the rock excavation between Berlin and
21 Gorham, which is going to be a heavy rock area as well
22 as you know, it may be more advantageous just to go
23 north with it. I guess it's going to depend on
24 exactly where it happens. If it happens right near

1 the border it's probably more, more readily to exit
2 out in the Hogan Road area. I can tell you though the
3 fact that we reduced the work space down to having to
4 use the road in its entirety we're probably going to
5 have to take as much as we can the other way just
6 because we squeezed ourselves on this end. I'm not
7 going to have the ability as I had before to pass my
8 construction activity. So, with that you can probably
9 assume that much of it will not be able to be removed.

10 Q Relative to the red lines and mustard line on the
11 mitigation, looking at your cross sections of 1, 2 and
12 3 on the mitigation plan, and as I add up the eventual
13 opening right-of-way it would vary between 40 to 60
14 feet in some of those red line sections. As I add it
15 up in cross section 1, the permanent right-of-way
16 would be 40 feet, construction would be 60 feet, and
17 on cross section 2, the permanent right-of-way opening
18 would be 60 feet including Hogan Road?

19 A I guess I'll make a clarification to start with. cross
20 section 1, the construction right-of-way there, we
21 have, we show the 10 feet on the opposite side of the
22 road. We state that the reason we're putting that in
23 is to, in areas where it's available, we will not
24 clear large select trees, we will not clear those

1 trees out. We will only, in some areas there are
2 trees right there and we're able to use 5 or 10 feet
3 off the edge of the road. So, we would like to be
4 able to use that if it doesn't require a major
5 clearing operation. So that's, that's in selected
6 areas there, that 10 feet on that south side. So the
7 construction path, if it's available, it uses that 10
8 feet. Otherwise it's the 20 plus the 30 so you end up
9 with a 50 foot construction and then the final is 40
10 including the road. So that's cross section 1.

11 Q But on section 2 we end up with a 60 foot permanent
12 right-of-way where, where that cross section applies?

13 A That's correct.

14 Q Not a 40 foot?

15 A That's correct.

16 Q And on section 3 you do end up with a permanent 40
17 foot?

18 A Right.

19 Q Going back to section 1, I assume that you -- at mile
20 post 71.5, looking at the actual conditions in the
21 field, that's across from the viewpoint almost of
22 Reflection Pond and Rt. 2?

23 A That's correct.

24 Q That's obviously one of our major concerns, the visual

1 effects that the road at that point is about 30 feet
2 above the water level of Reflection Pond but it
3 doesn't show here. I guess the point I'm getting at
4 is has an analysis been done of that critical area
5 with clear shot across Reflection Pond, the elevation
6 of the road above Reflection Pond, the hardwood
7 screen, which is right on the edge of the road and
8 very thin, only about 35 to 50 feet at that point, and
9 a 30 percent slope up hill starting directly on to
10 North Road. It just seems to me that this section
11 doesn't really bring out all of those representations,
12 and I was wondering if you could comment as to whether
13 or not this presentation would really shield that
14 section if we had that mitigation in that area?

15 A So the specific area is 71.5 to 71.62, is that --

16 Q Correct. You're pinned in at that point I guess is
17 the problem between the edge of the Reflection Pond
18 and the 30 percent slope.

19 A Let me ask a question about it. (Conferring.) I
20 guess the first comment I'd make is on the side of the
21 road between Hogan Road and the river we state that
22 only select trees would be needed, no large trees, so
23 that we definitely would keep the buffer in that area.
24 So, you know, and we say that the entire way so it's

1 not just this specific, I'm not trying to say that
2 we're going to do something different here than the
3 other two sections.

4 We're going to keep select large buffering
5 trees there where they are on the south side. So that
6 will support that. The fact that we're only 5 feet
7 off the edge of the road with our centerline, and
8 basically putting that piece by piece in there, we
9 don't feel that the incline up is sufficient distance
10 to create a visual impact from Reflection Pond. If we
11 were to remain at the 25 or the 50 foot offset you
12 know, then it would have been more of an impact, but
13 in this case, the mitigation here, the fact that we're
14 only 5 feet, we don't feel we hit the more extreme
15 portion of the slope.

16 Q On your projections of the visual impact there do you
17 consider the 12 months out of the year or only the
18 fact that there are essentially all hardwoods along
19 that bank which, from September to June in north
20 country or late September or until early June, are
21 devoid of foliage and under the present condition that
22 we have it's readily visible from Rt. 2 and I'm
23 wondering what, if you've made projections to what
24 happens through that section when the changes are

1 made?

2 A I think our feeling is that the fact that the
3 buffering between the road and the river are
4 sufficient stands of trees, that if you're standing on
5 Rt. 2 looking across and you look at the top of those
6 trees that are between the road and the river, project
7 those straight into the opposite side of the road, you
8 will be looking right into the trees on the other side
9 as well.

10 In the winter time when the, as you said,
11 when the leaves are gone, you probably, you will be
12 able to see traffic travel along Hogan Road just as
13 you do now at times. We don't feel that the fact that
14 when the leaves are gone that you're going to,
15 standing on Reflection Pond, you're going to be able
16 to see some wide corridor over there. We don't feel
17 that.

18 Q You don't feel that. Again, on our meeting back, I
19 believe, in our meeting on March 13th, again we sort
20 of left that meeting with 3 items. One was the
21 resulting in your revision, your revised scaling of
22 the routes, etc., the discussion on the eastern end of
23 the revision, and the third item was our, we had
24 expressed, there was concern about the problems of

1 visibility and alignment on the North Road from the
2 intersection of the Hogan Road and the North Road to
3 where intersects the existing pipeline, particularly
4 where it crosses Lead Mine and crosses the North Road,
5 and when we left that PNGTS agreed to do an analysis
6 and we've never really seen an analysis on that
7 section, which again, I do not know how the contours
8 show up, but obviously that line, after crossing Lead
9 Mine almost crosses it at a 40 percent slope vertical
10 with the profile contours.

11 A Just to help me clarify where you're talking about, as
12 we exit Hogan Road and we go up around and we kind of
13 parallel North Road for a ways and cross Lead Mine
14 Road and then one more road --

15 Q Correct.

16 A And then we come back over the hill and down across
17 North Road, is that--

18 Q That's correct, that's the area.

19 A And I guess what we've stated is that in our
20 mitigation plan is those areas we can, we can install
21 a buffering across the top of our trees, across the
22 top of our pipeline. Obviously with appropriate
23 covering that won't impact the pipeline underneath.
24 We can put a screening there as best as possible. We

1 can also jag the route to some extent to, so as not
2 to, when you're sitting on North Road to be able to
3 look for a long distance along our corridor and see
4 it, a slight jag in it, any straight on view looks
5 right into the trees. There will be an opening there,
6 but you won't be able to see down along the corridor.

7 Q At that point the opening will be at a fairly, that is
8 the North Road and the opening going up the hill, will
9 be at some relatively small angle, 30 degrees may be
10 or--

11 A The angle of slope?

12 Q Yes.

13 A Yes, sir.

14 Q And that, I believe, one if the criteria the other day
15 was one of the kind of siting situations that should
16 be avoided if possible by some specs we heard the
17 other day?

18 A From the standpoint of construction and installation
19 along the slope?

20 Q Correct.

21 A I guess -- could I look at the alignment sheet a
22 second-- well, the answer to your question is yes, we
23 would try to avoid that if possible, those steep areas
24 if we can, yes.

1 Q But I have at the other, you know, I commend you for
2 the effort you put into the work in the Hogan Road and
3 the efforts that doesn't meet -- we'll get into that
4 later, again, in our discussions at the two meetings
5 that we had, we had talked about an attempt on your
6 part to mitigate that situation by going on the south
7 side of the North Road and we have never seen any
8 studies to show the limitations of that.

9 A So you're speaking after you come out the Hogan Road
10 and North Road intersects going down into that gravel
11 pit area?

12 Q Correct.

13 A And then staying to the south side. I think initially
14 the problem with that is the, what we looked at is the
15 slope on that side. If you got way down in the, more
16 closer to the river, the real tight area comes as you
17 come out of that gravel pit to where the river and
18 North Road get real tight together there, and it's,
19 you know, a place if possible, you know, Lead Mine
20 Brook intersects with the river at that point or a
21 brad of the river so to speak. It's a very difficult
22 place to get through as well as the -- I don't have
23 specific information about the gravel pit right now
24 with me, but I can go back and talk with my guy out

1 there who looked at that and get you more information.
2 I don't have that here with me right now as to the
3 problems there.

4 Q I only have one last question and it's sort of a
5 repeat that John asked you. On going back to the
6 Hogan Road section, as I understand it, there would be
7 sections on the right-of-way as proposed and a
8 mitigation effort that would be 75 foot construction
9 width and 50 foot right-of-way along the mustard, and
10 the red would vary from 40 to 60 feet depending on
11 the, where we were?

12 A That's correct.

13 Q And I guess this is the last last question. As you
14 know, some cutting was done along the proposed routing
15 of the revision through Shelburne and some of the
16 existing mustard line appears to be at a higher
17 elevation and has any observation been done as to
18 whether the, to the degree that the new right-of-way,
19 the mustard right-of-way that would remain, would be
20 visible or not visible from Rt. 2?

21 A I guess the quick, if I understand the question
22 correctly, I guess the quick answer is no, no
23 discussion, or no visual impact analysis has been
24 looked at --

1 Q That's the question.

2 A From the standpoint of what's taken place out there
3 recently, no visual impact has been looked at.

4 MR. JUDGE: Thank you.

5 BY MR. CARPENTER:

6 Q One further question. In your pre-filed testimony you
7 state, this is question 6, page 3, line 16 and 17 --
8 basically you're going through and you say following
9 the guidelines of numerous agencies, FERC, U.S. Army
10 Corps, proposed routing through New Hampshire to the
11 greatest extent practicable follows existing utility
12 corridors. I guess we have been and still are
13 questioning what the word practicable means in your
14 definition.

15 A I guess in my definition it means practicable in
16 taking into all considerations of routing and those
17 being all land use impacts, all engineering impacts,
18 all environmental impacts, taking into consideration
19 all the aspects of the routing, we will try to stay
20 within an existing utility corridor if possible. If
21 constraints exceed the, if constraints along the way
22 exceed the benefit of staying on existing corridor,
23 then another option is looked to be preferred from the
24 overall picture of impact.

1 Q These are land use constraints?

2 A Yes -- well, land use, land topography, those things,
3 they kind of fall into the engineering, but yes.

4 MR. CARPENTER: Thank you.

5 MR. JUDGE: Mr. Chairman, I have
6 just two questions.

7 CHAIRMAN VARNEY: Sure.

8 BY MR. JUDGE:

9 Q On land use issues, does that consider issues such as
10 town master plans and/or --

11 A In the final analysis, yes, it tries to include, you
12 know, in discussions with towns and that. On initial
13 routing, if my guys out in the field, they're looking
14 at from the standpoint of land uses, is there a school
15 there, is there a hospital there, is it an "AG" field,
16 is it a playground, is it a park, all those different,
17 you know, from the standpoint of the initial routing,
18 we may not have all the information from a town's
19 master plan, but if it becomes an issue and we start
20 talking with them, then that's incorporated into the
21 decision of the final route. The routing that we
22 propose initially is to our best estimate at that time
23 and it's an iterative process we've said and it's fine
24 tuned, we're taking in more and more information as we

1 proceed. So, yes, we try to incorporate that if
2 possible.

3 Q I guess, for instance, our objection from November on
4 has been on the basis of the land use issues as we
5 perceive them and find them in Shelburne and I guess
6 my question is really directed as to whether or not
7 the Portland Natural Gas Transmission System studied
8 or reviewed our master plan relative to its goals and
9 intentions etc.?

10 A Let me ask one of my panel members. (Conferring.)
11 Yes, we're aware of the, I guess, from our standpoint,
12 the fact that the master plan includes continuing a
13 rural visual and use of the, of the area. And,
14 however, taking into all considerations we feel that
15 our, our plan is consistent with that, with that
16 master plan as well.

17 MR. JUDGE: Thank you.

18 BY MR. IACOPINO:

19 Q Mr. Chairman, all of the discussion has been on the
20 Hogan Road mitigation. My question is on the
21 Shelburne route where it would cross from the north
22 side of the river to and through the golf course. Has
23 that geotech work been done?

24 A No, sir.

1 Q Do you see anything in that, making that crossing that
2 would be a major obstacle to building that pipeline?

3 A I guess from the standpoint of the visual of the area,
4 obviously you have some open space and it's going to
5 be wet over in this area along the edge of the river
6 and you're crossing the Peabody River as well as, or a
7 branch of it depending on how you define exactly the
8 location of the Peabody River, whether it's a branch
9 of the Androscoggin, you're still going to need
10 considerable work space for your pipeline sections and
11 whether you, even if you string it out on this side
12 you're going to have considerable clearing along the
13 entrance point. I don't know exactly what the, the
14 slope is at that crossing location, but I'm not saying
15 it couldn't be completed, no, it can be completed.

16 Q There are no greater difficulties with that crossing
17 than there is with the other major river crossings, is
18 there?

19 A I guess all I can say is it could be completed. The
20 complexity of it compared to the other ones would be
21 difficult. The other ones are difficult just from the
22 standpoint of pipeline construction, but I'm not
23 saying it couldn't be completed, it could be.

24 Q Once you came across you would go back into the

1 existing Portland easement, is that correct?

2 A If that was, if that was the route we'd try to get on
3 the southernly side of the Portland Pipeline because
4 as the Portland Pipeline traverses east it becomes
5 pinched with a camp site as well as, well it's shown
6 here as shallow pool, I don't know the exact name of
7 it, but it squeezes in closer and closer to Rt. 2. We
8 would have to get on the southernly side. So, as we
9 cross the golf course we have to cross the railroad,
10 have to cross Rt. 2, we'd have to go through the white
11 birches east of the Town and Country and then cross
12 back.

13 Q I'm not trying to compare them. What I'm basically
14 saying is you would then be back in the original route
15 that you had planned?

16 A That's correct.

17 Q The original application, which you deemed to be an
18 approved route and doable.

19 A Yes, sir, we would be back in, from this point on, we
20 would back in the original proposed route, that's
21 correct.

22 MR. IACOPINO: That's all.

23 CHAIRMAN VARNEY: Doug?

24 BY MR. PATCH:

1 Q If I understand correctly the position of the Town of
2 Shelburne, they have a concern as well about the
3 portion of the route that the company is proposing
4 that is near the Maine border. As I understand it,
5 you know, somewhere around Evans Island --

6 A That's correct.

7 Q You're proposing to vary from the existing
8 right-of-way?

9 A That's correct.

10 Q And to go a more northerly route from there, and from
11 my recollection of the site visit, the town couldn't
12 understand quite why you wanted to do that. Maybe you
13 could explain to us a little bit about your reasons
14 for doing that and, you know, what the problems, if
15 there are problems, would be with going over the
16 existing right-of-way?

17 A We did put together a proposal for Shelburne, an
18 evaluation of the two routes, I don't know if it's an
19 exhibit.

20 MR. KRUSE: There is a piece in
21 21-a on Evans Island.

22 THE WITNESS:

23 A I can speak to some of it off the top of my head but
24 if I had that I could be more thorough. Yes, it is in

1 exhibit 21-a. There is alternative analysis
2 available, Evans Island diversion. It's a description
3 of the alternative and the issues along, coming along,
4 actually staying along on the existing Portland
5 Pipeline route.

6 To summarize, initially if you remain along
7 the Portland Pipeline route the first thing you get
8 into is around Evans Island where there's a
9 significant drop off down into, kind of a, I don't
10 know whether you could call it an oxbow or an area of
11 the river that comes in and around and there is the
12 Evans Island area and it's, it's a considerable drop
13 off down in there and it would possibly be an area of
14 future erosion, could be a maintenance problem to
15 continue and monitor to maintain your cover. It's
16 just an area, an erosive area that could, over time,
17 could change the topography there considerably. So
18 that would be a problem from monitoring and
19 maintaining the right-of-way.

20 Q Has that been a problem with the current pipeline
21 through there?

22 A I guess I don't know the answer to that. The next,
23 after you get through there, it actually, the problem
24 is we would have to be, well, first off we'd have to

1 be on one side or the other and as we're coming along
2 Portland Pipeline through Shelburne, after we get back
3 on Portland Pipeline, we're on the northerly side. As
4 you get past Evans Island the Portland Pipeline gets
5 real close to North Road and it pinches together,
6 there's a cemetery between North Road and the pipeline
7 corridors. There's also a similar cemetery, I believe
8 it's actually in Maine though. Yes, there is another
9 cemetery so we would have to cross the south side. If
10 we didn't cross to the south side there's slope there.
11 If we stayed to the north side we'd have to cross
12 North Road and go between some houses. We'd end up in
13 a diversion mode anyway cutting between to houses
14 there.

15 Basically what it says here, after crossing
16 Evans Island the pipeline would climb a steep hill,
17 cross over the Portland Pipeline to avoid a cemetery.
18 The route would traverse along the south side of the
19 Portland Pipeline corridor to a point -- it crosses
20 North Road, where the pipeline would again cross
21 Portland Pipeline to the north side due to
22 construction constraints along North Road. I guess
23 I'd have to look at the map to see exactly what those
24 constraints are. There are houses along this road

1 there though. Upon entering Maine the route would
2 encounter another cemetery along the north side of the
3 road thus requiring an additional cross over to the
4 south side of Portland Pipeline. So basically we
5 would have to cross back and forth over Portland 2 or
6 3 times at least there to meander through.

7 The disadvantage, the primary disadvantage
8 of this route is that it will involve clearing for
9 approximately 3 miles -- oh, that's the route going
10 around. The advantage of our route, the primary
11 advantage of this route is related to avoidance of
12 numerous construction, engineering, environmental
13 constraints associated with the Androscoggin River
14 flood plain.

15 As I say, there are homes and cemeteries and
16 those issues along the way there. And I'll continue,
17 the disadvantage of our proposed route is the clearing
18 aspect going north. That would be a new corridor
19 cleared north. (Reporter requesting page number of
20 document.) Alternative analysis, it's actually, it
21 doesn't have a tab. It's not labeled. It's in the
22 back of exhibit 21-a.

23 MR. KRUSE: I've also put in front
24 of Mr. Morgan exhibit 20, which is the quad sheets if you

1 need to refer to them. You might describe what they are if
2 they're useful in answering these questions.

3 THE WITNESS:

4 A I guess to summarize for you, the main, from my
5 knowledge, there are residential areas along that
6 route, the corridor along the Portland Pipeline would
7 have to be cleared right next to the road. There
8 would be significant visual impact along the existing
9 route as well. There are constraints with the
10 cemetery, North Road, pinching with the Portland
11 Pipeline and we're going to have to cross the road
12 back and forth as well as the Evans Island issue.

13 BY MR. PATCH:

14 Q I have a couple of questions in another area and that
15 is with regard to existing right-of-ways and the
16 extent of the easements that you would be taking
17 advantage of, you know, I mean take PSNH as an
18 example, is the existing easement that PSNH has broad
19 enough to include the installation of a natural gas
20 pipeline over that easement or do you have to go back
21 to the original landowners?

22 A If it's an existing easement we're always going to go
23 back to the original landowners regardless of whether
24 we can construct it entirely within our right-of-way

1 or not. It varies, as I said with the errors that we
2 found this morning, our overlap plan from, along PSNH
3 from Stewartstown to Groveton it's the 100 feet with a
4 pole right in the middle. There's not sufficient room
5 to build the entire thing within it.

6 Q I'm not worried so much about the width now as I am
7 about the language of the easement, is the language
8 broad enough so that you -- do you deal with just PSNH
9 or do you deal with the original landowner?

10 A No, we go to the original landowner and PSNH. PSNH
11 has rights under their easement. The landowner has
12 underground rights as well.

13 Q So the PSNH easement isn't broad enough to allow you
14 to just to go to them, you have to go back to the
15 landowner and the payments that you make are to the
16 landowner, not to PSNH?

17 A That's correct.

18 Q And what about in the case of Granite State?

19 A That's the same situation.

20 Q Same situation, the payments are to the landowner?

21 A That's correct. The only thing I can say is that in
22 some instances Granite State may own or PSNH may own
23 some tracts in fee and if they own it in fee and have
24 all reserved rights, then we deal only with the

1 landowner, I mean PSNH.

2 Q And then your payments are to PSNH.

3 A That's correct.

4 Q And is it the same with Granite State, there are some
5 tracts that they own in fee?

6 A I don't know that they have any in New Hampshire, I
7 think they do own some in Maine, but they don't own
8 any in New Hampshire. Unless they have their pumping
9 stations or whatever, they have one in Plaistow there.

10 Q Have there been any issues come up with landowners
11 there or have all the landowners essentially been okay
12 of expanding the easement to include natural gas?

13 A There meaning in Maine? You say there, meaning in
14 southern New Hampshire or Maine?

15 Q In New Hampshire, all I care about really is New
16 Hampshire.

17 A Have there been issues with landowners from the
18 standpoint of expanding easements?

19 Q Yes.

20 A Yes, I'm sure you've heard some issues today, the last
21 couple of days, but I would think over the vast
22 majority people understand the issues involved here in
23 the expansion of the easement for the pipeline.

24 MR. PATCH: Okay.

1 BY MR. IACOPINO:

2 Q Just as a matter of curiosity, is there any payment to
3 Public Service for the relinquishment of any of their
4 rights, easement rights?

5 A That's a good question, and that's, in our
6 negotiations with PSNH as well as our other utilities
7 like C & P in Maine. When they have easement only
8 many times our experience is we just develop a joint
9 agreement and we share cost of maintenance and things
10 like that. The payment for their rights that they now
11 basically are giving up for the building of our
12 encumbrment is a negotiated issue and --

13 Q So you don't know?

14 A I can't say right now whether it is or not.

15 Q You don't know if you're going to pay any money for
16 that or not?

17 A That's correct.

18 BY MR. PATCH:

19 Q Just one more question, and this is unrelated to that,
20 but I want to make sure I understand the company's
21 position with regard to the retail sale of gas off of
22 that line to customers. You know, we talked about the
23 lateral, I think Mr. Iacopino asked you a question
24 about the company's position with regard to the

1 lateral, and intrastate jurisdiction. Is it the
2 company's position that, say in the case of Wausau
3 Papers, they don't need any approvals from the state
4 in order to purchase at retail the gas that they're
5 going to use in order to, in order to serve their
6 plant?

7 A I --

8 MR. PFUNDSTEIN: Do you know, Mr.
9 Morgan?

10 THE WITNESS:

11 A I can speak to what I thought the jurisdiction to be.
12 As far as the retail sale, and you know, I'm not an
13 expert in the pipeline rates and how those things are
14 identified. I know in the 636 environment of
15 pipelines we, our laterals many times are incorporated
16 into our main line, it's an interstate facility.
17 People are allowed to attach to that accordingly under
18 the 636 guidelines of FERC. Whether the exact process
19 of how they make their payments and things, I'm sorry,
20 Mr. Flumerfelt probably has a better handle on that
21 issue.

22 CHAIRMAN VARNEY: Susan?

23 BY MS. GEIGER:

24 Q Mr. Morgan, could you describe the manner in which the

1 pipeline location will be marked after it's installed?

2 A Yes, at every road crossing you put markers on each
3 side of the road.

4 Q Could you describe for me what those markers would
5 look like?

6 A It's basically like a plastic tube that comes out of
7 the ground, rounded off, it will have a sticker on it
8 and hopefully it will say PNGTS with a phone number,
9 and you know, any problems, and identification of the
10 company and the pipeline and along several points
11 along the way it will be identified as well.

12 Q How long along the way will it be identified and by
13 what means?

14 A The means will be the same, the stakes, the PVC pipe
15 sticking out of the ground with a sticker on it. The
16 exact location varies. Some times if it's going over
17 the top of a hill they may put one at the top of the
18 hill. Some times it's line of sight, some times it
19 could go for a long ways when you can see, and if the
20 pipeline doesn't deviate very much then it's you know,
21 it's not marked for a ways, but it's always at
22 crossings and things, it's always there.

23 Q If the pipeline were situated across the golf course
24 in Gorham, what means of marking would you employ?

1 A I'm sure some people would take some pretty big divits
2 out there --

3 Q As a golfer I'm kind of concerned.

4 A We probably, we'd probably put a few marks along the
5 way just to let people where they are. I'm not saying
6 we're going to put one across every cart path. We
7 would identify definitely on the exit and entry points
8 into the golf course and maybe some intermediate. We
9 could work with the golf course for their comfort
10 level.

11 Q The other question I have relates to marking of the
12 rights-of-way, would those be marked in any way?

13 A That's not normally the case as far as the boundary of
14 the permanent easements, no, normally that's not
15 delineated. It's in the deeds and the documents as in
16 any property line so to speak or the easement
17 agreement.

18 MS. GEIGER: Okay, thank you.

19 CHAIRMAN VARNEY: Ed.

20 BY DR. SCHMIDT:

21 Q I have a few questions in two different areas. First
22 of all, relative to the hydrostatic test for the
23 pipeline, I'd like to confirm one thing that I think
24 you said yesterday, but I'd like to be sure. That the

1 discharge sites will be the same as the intake sites?
2 In other words, the water will be returned to where it
3 came from?

4 A Yes, sir.

5 Q Okay, thank you. Now, you may recall in our proposed
6 conditions basically we said no discharge of
7 withdrawal would be allowed in New Hampshire because
8 we haven't seen the details of it yet, and so I'm
9 interested in knowing when we will see the details of
10 what you're proposing to do.

11 A If I might take a moment, the exhibit that has the
12 hydrostatic test plans in it again --

13 MS. PATTERSON: 30.

14 THE WITNESS:

15 A What I'm trying to determine is what we provided so
16 far exactly and I think the latest, the latest we
17 provided from a, is the, is the spread breakdown with
18 the, with the velocities, the fill and spill duration,
19 the fill and spill rates, gallons of water along the
20 proposed pipeline spreads with mile posts. I guess it
21 also has the beginning and ending mile posts with the
22 lengths of the spreads and the volumes of water to be
23 used. So that's what has been provided to date.

24 Q I have that information, and perhaps I should define

1 better what I mean by detail and maybe you can tell me
2 when we'll see it. Yesterday you described two
3 methods of dissipating the energy when you're
4 discharging the water, one of which was an over land
5 kind of a discharge where there is discharge to the
6 ground and it flows across the ground to the river,
7 and the other was a device that would be above the
8 river and would basically spray the water out. The
9 detail, or one of the details I'm interested in is
10 where will those, which of those two will be applied
11 at each site, and specifically when you're talking
12 about this over land flow of water, what configuration
13 will you be using relative to the slope of the land,
14 the kind of conditions, the vegetation, the size of
15 distribution, the system that will spread the water
16 across the land surface, when will we see those kinds
17 of details?

18 A I guess some of the discussion we've had to date is
19 that based on the draft conditions that we've seen is
20 that we're going to propose these as approved methods,
21 both the coral that I talked about yesterday as well
22 as the spraying over, and I guess what ends up
23 happening is, it's very difficult to determine the
24 exact location to return it for the spill, the exact

1 location of the actual spill. It may be more
2 advantageous to spill it slightly away from the same,
3 even though the drainage is going to be -- let's take
4 the Upper Ammonoosuc as a fill point near Groveton.
5 It's going to fill there and it will be spilled such
6 that it will all drain back in the same spot. It may
7 not be spilled right next to the river. It may be
8 more advantageous from an erosion standpoint and from
9 a dissipating standpoint to do it farther upstream or
10 downstream -- well not downstream, but farther
11 upstream so it will actually flow into the river. The
12 exact location, if we have sufficient, good vegetated
13 area that we can do that in, you know, as we get out
14 there, I guess we're looking at being able to do
15 what's best in the field determined. That would be
16 our advantage there and have methods, proved methods
17 that can be utilized, you know, as far as -- I
18 understand your concern about which one we use, you
19 don't have power right now to be able to do that. I
20 guess, you know, we can incorporate the third party
21 inspector in that process to help us determine which
22 is the best and most appropriate method. If there is
23 just absolutely no place to spill it on the ground,
24 you would worry about erosion, we can't control it,

1 then maybe the best thing is to just spill it over the
2 top of the river and spray it that way. I'm not sure
3 that I can provide you now detailed spill sites with
4 the exact configuration. What we want to show you is
5 is if we do have a vegetated area that would drain,
6 disburse it and drain it sufficiently, this is the
7 type, the coral, the haybales, the silk fence and the
8 dispersion devise and I think we're provided the
9 typical energy dissipater drawing with rear (sic)
10 plates in it. We haven't provided you with the coral
11 to my knowledge. So, I think that's what we're going
12 to be looking for and I anticipated talking about this
13 more tomorrow.

14 Q I think what you're telling me is that we actually
15 will never see the design, what we'll see is what the
16 inspector sees out in the field, is that essentially
17 what you're saying?

18 A Well, I think you will see proposed methods and we
19 will incorporate one of those methods, what best fits
20 the area. So I'm not saying that we're going, you
21 know, we're not going to propose that we just lay the
22 pipe on the ground and have a point discharge. It
23 will be dissipated with one of these methods. And
24 exactly the type that's used will be determined on the

1 exact, you know, the area configurations at the time.

2 BY CHAIRMAN VARNEY:

3 Q The clarification there is that you would be using the
4 method that would have the minimum impact?

5 A That's correct, yes, sir.

6 MR. KRUSE: Dr. Schmidt, one of
7 the panelists has indicated that there may be some
8 additional information responsive to your inquiry, however
9 you would like to proceed.

10 DR. SCHMIDT: Do you mean the
11 sketch that was included in the exhibit?

12 MR. MORGAN: If I could confer --

13 CHAIRMAN VARNEY: Go ahead,
14 quickly.

15 THE WITNESS:

16 A He makes a good point. We could try to go out and
17 identify these sites as much as possible up front and
18 select some areas. We'll try to work with you on that
19 and try to see some areas and if we can pick some
20 areas that look now beneficial we can try to lock
21 those in as best as probable. We'll try to work with
22 you on that.

23 BY DR. SCHMIDT:

24 Q Well, we would certainly appreciate as much

1 information as we can get so that we know what we're
2 dealing with. If I could talk a little bit now about
3 the withdrawal issue. I don't know exactly what kind
4 of a configuration you're intending to use for the
5 withdrawal of water, but we will want some detail on
6 that. An additional factor that we will be interested
7 in on the withdrawal is the timing of the withdrawal.
8 I don't know what season of the year, but I have a
9 suspicion it may occur in the summer time based on the
10 general construction that I think you're going to be
11 using, and there are issues related to low flows in
12 some of these rivers that could be impacted by some of
13 the rather large withdrawals. I mean we're talking in
14 the Ammonoosuc 4,000 gallons per minute for an entire
15 day, which could have a significant impact on
16 conditions in that river. Do you know when those
17 withdrawals will take place?

18 A The anticipated time is normally, with an in-service
19 date of November 1, commissioning normally takes --
20 you've got to back it up, you're probably talking the
21 end of September, first of October time frame.

22 You know, we recognize the requirements, and
23 Roger can speak to this more readily about the
24 minimization of flow in there to sustain the fishery

1 issues and things like that. We recognize that and if
2 there are issues with the Upper Ammonoosuc at that
3 time, you know, we have proposed in here I believe
4 maybe the Connecticut as a back-up if those issues
5 happen, and obviously the spills, you know, the thing
6 is broken into so many sections, we can separate the
7 water from the Connecticut and spill it back into the
8 Connecticut and separate it so that the Upper
9 Ammonoosuc spills back.

10 So right now the primary is the Upper
11 Ammonoosuc on that section to handle all of it, but if
12 there are issues out there from the standpoint of low
13 flow -- I think what we've taken into account so far
14 to date is based on flow measurements that we have,
15 flow data from the river that we feel it will not be
16 an impact to the water quantity.

17 Q Let me ask a question related to criteria for low
18 flow, and I'll preface it by asking, are you familiar
19 with something called the aquatic base flow that's
20 used by the Fish and Wildlife Service?

21 A No, I'm not familiar.

22 Q This is a flow criteria that Fish and Wildlife Service
23 would like to see maintained in rivers to avoid the
24 kinds of impacts that we're concerned about, the

1 impact on fisheries in the rivers, and apparently you
2 won't have an answer to this, but I'd like to leave
3 this question with you. Whether these withdrawals
4 will cause the river flows to drop below the aquatic
5 base flow level, and I'd appreciate it if you would
6 get back to me with that.

7 A (Witness conferring.) What they stated was that the
8 calculations that were done to determine the river
9 sites for fill were based on USGS flow characteristics
10 data, and the 4,000 gpm fill rate would be way above
11 the minimum base flow that you speak of. The
12 reduction he spoke of is in the area of 1 percent.
13 So, we don't anticipate it to be a problem at all.

14 BY CHAIRMAN VARNEY:

15 Q So you're predicting that there won't be any droughts
16 and that you already know that in advance, and that
17 the flows are already that percentage without knowing
18 what those future conditions would be, or is this
19 based on historical average data?

20 A The latter.

21 MR. TRETTEL: It's based on USGS
22 data over -- my name is Roger Trettel. The flow data that
23 we had provided is based on USGS records over a period of,
24 depending on the report, over a period of several years.

1 So, it's average flows. And as Mr. Morgan said, the 4,000
2 gallon per minute withdrawal rate, I believe he meant to
3 say is way below the amount that the river would be flowing
4 at, and in most cases amounts to about 1 percent of the
5 flow of the river. A very small amount of the actual flow
6 of the river would be withdrawn.

7 BY DR. SCHMIDT:

8 A I have some data that I could, I could mention to you
9 that you may want to confirm. This is also USGS data.
10 That the 7 Q-10, I don't know if you're familiar with
11 that term, for the Upper Ammonoosuc River is 49 cubic
12 feet per second, and the flow that you're talking
13 about is on the order of 8 cubic feet per second. So
14 approximately one sixth of the 7 Q-10. You may want
15 to look into that and confirm whether that's in fact
16 the case. Something considerably more than 1 percent
17 of the 7 Q-10, which is the flow that occurs once
18 every 10 years on the average for an entire 7 day
19 period.

20 I think you've given me the information that
21 I need. We will be setting some kind of a condition,
22 a final condition on what these flows can be during
23 the withdrawal process.

24 MR. MORGAN: Okay.

1 BY DR. SCHMIDT:

2 Q If I could move into another area, it has to do with
3 the environmental construction plan, and the most
4 recent copy of the plan that we have is one that was
5 provided in response to a data request, and it's dated
6 April 30, 1997.

7 And in particular, if I haven't lost my page
8 here, in particular on the issue on the independent
9 environmental inspector, what's proposed in this
10 document, and I'll read from it, "In connection with
11 its review of the project, the DES has required that
12 the applicants retain the services of an independent
13 third party inspector."

14 Now, the actual wording of the draft
15 condition that we established on this, and this is
16 after this data request, this is May 16th, was that
17 the applicants agreed to provide funding for the
18 hiring of such number of environmental inspectors as
19 are required to monitor. And I'm curious whether
20 there is a difference here between who will hire this
21 inspector. In other words, the way you phrased it,
22 you indicate the applicant, yourselves will retain the
23 services, and our request was that you provide funding
24 for the hiring of that person. Do you see those as

1 being compatible, or is there a conflict there?

2 A I guess our anticipation was that we would work
3 together on the hiring of the person. Our funding is,
4 yes, we intend to fund the hiring of a third party
5 inspector. You know, the number of them is to be
6 determined sufficiently to meet the needs of his
7 responsibilities. But I guess I'd like, could you
8 tell me where you were reading? I have the same April
9 30th document here.

10 Q This is entitled Third Party Independent Inspection
11 Program, and it's the first page of that.

12 A This is my own copy of it, maybe I don't have it.

13 Q About that far through the document. (Indicating.)

14 MR. KRUSE: I think what you have,
15 Mike, is just the environmental construction plan without
16 that proposed third party program.

17 BY DR. SCHMIDT:

18 Q Maybe I could simplify this by just asking you the
19 point that I'm trying to get down to. Would this or
20 these individuals be employees of the company or
21 contractors to the company, or would they be working
22 for DES, or for the Site Evaluation Committee?

23 A I guess my anticipation is that they would,
24 contractors, contracted company working for the

1 Department of Environmental Services funded by the
2 project.

3 Q Okay, good. Oh, yeah, the one other issue that we had
4 raised in our draft conditions regards the issue of
5 the authority of this inspector. In the document that
6 you presented to us it says quite a bit about the
7 responsibilities of the inspector, but virtually
8 nothing about the authority of the inspector, and what
9 I'm interested in is let's say the inspector is out in
10 the field and observes some rare and endangered
11 species along the right-of-way and the clearing crew
12 is about to come moving through and he says stop.
13 Will the clearing crew stop? Does he have the
14 authority to prevent environmental damage if he, he or
15 she sees it about to occur?

16 A I guess our anticipation of the third party inspector
17 was that he would not have overall stop work authority
18 of the contractor.

19 However, in the scenario you stated, if he
20 starts screaming there's an endangered species here,
21 or whatever species is out there, you know, and he
22 tells, he says stop, I mean the guy is not going to
23 run him over.

24 It's hard for me to give --

1 Q Reassuring.

2 WITNESS TRETTEL:

3 A The way we anticipate that to transpire, in the event
4 that the third party inspector would identify
5 something like that, their first contact would be with
6 the PNGTS environmental inspector who would have the
7 stop work authority and access the situation and
8 determine the necessity of stopping work. The third
9 party inspector would be working directly with the
10 project environmental inspector.

11 WITNESS MORGAN:

12 A I guess I understood that to be the same. I guess the
13 reason I hesitated or didn't answer you very clearly
14 is that you talked more of an emergency situation, and
15 I think in the case of an emergency situation, and I
16 consider what your example to be, you know, feels he
17 sees something, the environmental inspector is back in
18 at the trailer or whatever, I mean, you know, I think
19 we should have a good enough working relationship out
20 there to make that, to make that possible to happen.
21 I don't know how I could give you a comfort level
22 given that, like I said, we didn't anticipate that the
23 third party inspector would have overall stop work
24 authority.

1 Q That might be something we'll want to discuss further.
2 It reminded me, I had one other area that I wanted to
3 ask you about, and it's in the qualifications for this
4 independent inspector.

5 As you proposed it, there is a condition
6 here that the qualifications would include substantial
7 interstate natural gas pipeline construction,
8 environmental inspection experience, and a working
9 knowledge of pipeline construction and practical
10 environmental mitigation techniques.

11 The part about environmental techniques I
12 don't really have a problem with, but I'm curious, why
13 would you expect that someone who is basically
14 concerned about environmental conditions would have to
15 have natural gas pipeline construction experience?

16 A The construction experience that we would like him to
17 have is the fact that he's worked in the capacity of
18 an environmental inspection or environmental
19 mitigation with the activity of pipeline installation
20 going on.

21 If he's an environmental knowledgeable
22 person with species or whatever who has never seen the
23 installation of a pipeline, you know, who knows how he
24 will react to the fact of clearing and grading and

1 exposed right-of-way and things like that?

2 We just wanted the fact that his person has
3 environmental knowledge, he's had the combination of
4 seeing pipeline installation as well as opposed to
5 someone who has never seen that activity even though
6 they understand what threatened and endangered species
7 are, they can identify them or they understand the
8 identification of archeology concerns, but to put the
9 two together, and there are people out there that can
10 meet both of those requirements.

11 Q What about someone who had experience, for example, in
12 highway construction as an environmental inspector?

13 A I guess we'd have to look at the qualifications and
14 talk with the person. As I said, we hope to work with
15 the DES on this to develop a reasonably qualified
16 person that we both agree with. So if that came to it
17 and we felt comfortable with the person then, you
18 know, we would agree if we felt comfortable with his
19 knowledge.

20 Q The issue I'm concerned about is we not establish
21 these requirements so narrowly that the field of
22 candidates would be extremely limited, particularly in
23 New Hampshire where there hasn't been a whole lot of
24 interstate natural gas pipeline construction work, and

1 we would eliminate a lot of people who are very
2 familiar with environmental conditions in New
3 Hampshire with this condition.

4 A I think what we anticipated was that we would go to
5 somewhat of a local contractor who has personnel that
6 have experience, whether it be, even if he is someone
7 out of New England somewhere that had experience maybe
8 in New Hampshire or familiar with New Hampshire rules,
9 or if you think he can come up to speed based on his
10 qualifications of New Hampshire rules, you know, it
11 would be a company that has personnel -- it wouldn't
12 necessarily be us going out and find an individual.
13 We might start with trying to utilize some companies
14 that provide this type of service and there are
15 companies that do that.

16 Q Just another concept that I'll throw out is that there
17 are many people who have experience with installation
18 of sewer lines and water lines in the state that are
19 also knowledgeable in environmental issues in the
20 state that might be well qualified for this kind of
21 work.

22 A I agree with that.

23 Q Okay, that's essentially my questions on those. I
24 have just one other question that I think is a fairly

1 straight forward one. One of the speakers earlier
2 today had expressed concern about the possible impact
3 of blasting on wells, and it is an occurrence that
4 happens occasionally that ground water flow patterns
5 are disrupted or materials, iron and manganese in the
6 ground are made available to a well that hadn't been
7 present before or faults would be opened up that would
8 allow exchange of materials that was different from
9 what had occurred before the blasting, and I'm
10 interested in what the company policy is if there is
11 damage to someone's well or if there is contamination
12 of a well that results from construction activities,
13 what would you do about that?

14 A Yes, sir, the policy we have right now is that any
15 well within 200 feet of a proposed blast site, the
16 landowner can request a blast or a well survey, and we
17 would do a pre and post blast survey of that well of
18 flow rates and any contaminants that would be in the
19 well, and we would verify that the well had not been
20 impacted by the blast, we will perform that.

21 In the case if something is changed,
22 something has happened, we will do everything we can
23 to make it right up to drilling a new well for the
24 landowner if required.

1 DR. SCHMIDT: Okay, thank you very
2 much.

3 BY CHAIRMAN VARNEY:

4 Q Clarification, will that survey include conditions of
5 the seal in the well if it has a seal?

6 A Yes, any problems, any existing condition of the well,
7 if --

8 Q Because that's a much different type of survey. If
9 you have a jazwell (sic) seal, for example, and you
10 have blasting activity that somehow affects that a
11 creates a leak in the seal which then can contribute
12 to contamination, but it may be much further down the
13 line before you actually experience that, but the
14 cracking or damage could occur to the seal in the well
15 itself in terms of well construction.

16 A I guess I'll apologize, I'm not familiar with it.
17 Maybe Brent --

18 Q There's been concern about that, for example, when
19 people have hydrofracked wells and been concern that
20 that may in fact affect a seal in a neighboring well
21 or may have contributed to a problem with it.

22 A Yes, if it turns out to be a problem, I know after the
23 fact, and those things might not be seen further down
24 the line, those are, you know, negotiated with the

1 company after the fact.

2 It's sometimes difficult, I don't know
3 what's involved in the preliminary survey, if that
4 situation arises, if we can do that to ensure, you
5 know, look at the inspection of that seal, however
6 that's done, like I say, I'm not familiar with it. if
7 we can do that then we will.

8 BY MS. GEIGER:

9 Q Mr. Morgan, I think you said that customers or
10 residences within 200 feet of the blasting zone will
11 have the right to request a pre and post blasting
12 survey of their wells, is that correct?

13 A That's correct.

14 Q And by what means will the project notify these folks
15 of that right?

16 A That's the notification I spoke of that's typically
17 one or two days when we realize that we need the
18 blasting requirement. We have land agents out that
19 are just like any other inspector out on the job, we
20 have agents out there as well that communicate with
21 landowners and they will be notified.

22 Q Will they be notified in writing or verbally?

23 A I guess I would say the normal case is that we
24 verbally go to them and tell them.

1 Q And if for some reason a resident is not personally
2 informed of their right to a pre blasting inspection
3 of their well, and they believe that as a result of
4 the blasting that their well has been damaged in some
5 fashion, what would the company do in that instance?

6 A I think we could commit to say that if we did not
7 allow the landowner the right to request a pre and
8 post blast survey, then we are responsible. If they
9 can somehow show us that, I mean it's not to say that
10 we wouldn't look into past, try to look into any past
11 flow characteristics or anything about the well or the
12 area, but if they can show us that they believe that
13 we incurred the problem, then we would make it right.

14 MS. GEIGER: Okay, thank you.

15 BY CHAIRMAN VARNEY:

16 Q If I could just follow up quickly. As it relates to
17 the notification again, there are many people in this
18 room, for example, who are going to be on vacation
19 this summer, and it's not unusual for people to maybe
20 even try to get a full week occasionally, although
21 that's oftentimes impossible for commissioner and
22 director level people, but they try to do that, and
23 it's also somewhat common for people to even take a
24 two week vacation if they have that opportunity.

1 What about these people that, that may be
2 away for business reasons, for personal reasons where
3 they could be gone for a week at a time, two weeks at
4 a time, shouldn't those people have some way of being
5 notified in advance that we're coming, we may be doing
6 some blasting in your area and maybe they would want
7 to come back, maybe they'd want to be at their cottage
8 somewhere in the seacoast, maybe they live in the
9 northern part of the state and they want to drive back
10 for that inspection, but they don't happen to be at
11 the home when the person is knocking on the door the
12 day before your blast. What do you say about that
13 kind of situation?

14 A The beginning of a construction process, as I talked
15 about yesterday, that we go out out front and stake
16 the line in its entirety, all the work space and
17 everything.

18 At the same time that's happening we're
19 notifying landowners that we're coming. I mean that
20 notification is going on.

21 Q Verbally?

22 A That's correct, verbally. We knock on doors with our
23 agents. That's not to say we won't send letters too,
24 but we will verbally try to go through the landowners,

1 knock on doors. Obviously some people don't live on
2 the land we cross so we have to write letters or try
3 to make phone calls if we can.

4 So at that time, and what we could do is,
5 and we will have a list of wells that we anticipate to
6 be within 200 feet of the pipeline. We have a list
7 now. Further negotiations with landowners will
8 probably create a longer list. If a well right now is
9 195 feet away from the proposed centerline we might
10 not have picked it up on our survey. We were, you
11 know, staying within our work space and any additional
12 temporary work space we weren't necessarily going away
13 200 feet to see if there was a well out there. That
14 normally comes with our communications with the
15 landowner.

16 So if we have a list of areas we will notify
17 the people when we're coming, we'll keep them abreast
18 of when the construction activity will come through,
19 and if they have a well then, you know, they can see
20 when this activity will come and we can let them know,
21 you know, if there is a possibility of blasting, and I
22 think we know, we could probably know up front through
23 our walk throughs whether there is a possibility of
24 blasting and that they have a well, we can tell them

1 and they can request it right then. People can
2 request it, they can request it when they sign their
3 easement agreement, they can say I want it right now.
4 If you have to blast I want it. So we can do that
5 through our easement negotiations. We can try to
6 cover it in several different methods to inform them
7 as much as possible.

8 I guess if the situation arises and happens
9 the way you depicted it, and they just were not
10 informed and they came back and felt it was different,
11 then it kind of falls into the scenario where we
12 didn't, we were unable to inform them and we'll work
13 with them to try to make it right as best as possible.

14 You know, if we find out they've always had
15 problems with their well and it hadn't been doing good
16 from talking with other people and things like that,
17 you know, I'm not saying we won't do our own research,
18 but we will do everything we can and it is my intent
19 to try and notify them either on one method or
20 another.

21 CHAIRMAN VARNEY: Bruce or Jeff?

22 BY MR. TAYLOR:

23 Q Mr. Morgan, I'd like to return for a moment to the
24 status of the project in the summer of 1996. We've

1 heard various characterizations about the iterative
2 process and it's been labeled the initial routing
3 decision and we've had discussions about levels 1-A
4 and B and 2 and 3 in terms of investigation.

5 I guess the overall conclusion of the
6 company in May was that the Gorham South route was a
7 permissible route, is that correct?

8 A That's correct.

9 Q And there was certainly at the hearing in Gorham, the
10 first hearing, a great deal of enthusiasm for that by
11 many people in the north country, particularly some
12 who viewed themselves as potential consumers.

13 I know there was discussion about Gilman
14 Paper in Vermont and I believe by the time of the
15 hearing in Gorham that Wausau Paper had an agreement
16 with you, or had a letter of intent to have an
17 agreement with you to use the natural gas, and also
18 discussion with Crown Vantage in Berlin.

19 Is it fair to assume that as you entered
20 into those conversations with those companies that you
21 had at least concluded from the initial routing
22 decision that there was, that there was a high
23 likelihood of a permissible route reaching those
24 facilities?

1 A That's correct, we anticipated building laterals to
2 Wausau from the Lancaster area up Rt. 3 and then also
3 from the Gorham area we would somehow get over to Rt.
4 2 and 16 together and somehow get up to -- well, there
5 was a possibility of going around the power line which
6 is now part of the Gorham South route to get over to
7 Rt. 16 and get on up to Berlin. So, yes, we had
8 preliminary plans for laterals to feed those mills,
9 yes.

10 Q I guess I'm wondering if you could give us some more
11 specifics as to what you felt was a permissible route
12 to get from Gorham South up to Crown Vantage in Berlin
13 and what level of detail you had given that?

14 A Well, the level of thought we looked at from that
15 standpoint was we actually had two areas. One was to
16 begin where, which was west of Gorham, where the power
17 line intersects the Portland Pipeline, which would go
18 west of Gorham, it would go due north and it had a
19 hard 90 degree angle going due east and going over to
20 basically across Rt. 2 and go over to Rt. 16. Then
21 with the expansion in the wide areas along Rt. 16 all
22 the way up to the bridge before you get to the mill,
23 it was going to be off the road various distances with
24 roadside type construction, either an 8 or 10 inch

1 line, whatever would be required to support the load,
2 and then cross the bridge, it was actually anticipated
3 to hang on the bridge, the 10 inch pipeline, the 8 or
4 10 inch pipeline was anticipated to, at that time, to
5 possibly hang on the bridge built underneath it.

6 Q I'm sorry, which bridge is that?

7 A Well, it's the, maybe it's on the quad sheets.

8 Q In Berlin you're talking?

9 A Yes, in Berlin just as you get up near the mill.

10 Q Cleveland Bridge?

11 A Excuse me?

12 Q Cleveland Bridge?

13 A Possibly, I don't know the exact name, I'm sorry.

14 Q Mason Street Bridge --

15 A I'm sorry, I don't know the name. I can look here and
16 point it to you if I can see it on the map. Yes, if I
17 can come over and show you, show you what bridge it
18 is -- (Witness indicating the bridge to Mr. Taylor.)

19 Q The bridge indicated is the Cleveland Bridge south of
20 the down town of Berlin. Am I correct that the first
21 two legs you've described are the ones that are
22 actually components of the Gorham/Shelburne proposal
23 at this point?

24 A That's correct.

1 MR. TAYLOR: Thank you.

2 BY MR. ELLSWORTH:

3 Q Mr. Morgan, I have some questions about construction
4 operation and maintenance. I guess in view of the
5 uncertainty of some of the answers from earlier
6 questioning, let me explain why I'm asking some of
7 these questions and make a couple of acknowledgements
8 to you.

9 First, for Mr. Pfundstein's benefit, let me
10 acknowledge for the purpose of my questions that OPS
11 at the federal level does have the authority to
12 enforce your safety regulations, and the provisions of
13 Part 192 of the code.

14 I don't think though that that prohibits us
15 from asking you to vary from the minimum federal
16 safety standards that they might require. It doesn't
17 prevent you from establishing your own more stringent
18 requirements on the construction and operations, and
19 doesn't prevent you from acknowledging or acquiescing
20 voluntarily to any that we might ask you to include,
21 and I'm sure you have in mind that I have one specific
22 one to ask further about regarding the distance from
23 the buildings.

24 Second, regarding the need for more, more

1 specificity in the specifications that have been given
2 to us, let me offer first before I ask those questions
3 that my own experience in dealing with some of the
4 member-companies that are a part of your organization
5 lead me to conclude without any question that your
6 company is capable of providing and operating and
7 constructing as safe a pipeline as has been
8 constructed in this country. I don't have any doubt
9 that you're capable of doing that.

10 I do question though whether this record
11 confirms that you will use those standards that have
12 been used successfully by your contributors in
13 building and operating this pipeline, and it's for
14 that reason, and for a few more that I think it's
15 necessary that we explore them further.

16 Even though the feds have the specific
17 responsibility for safety, we have a responsibility to
18 our residents to assure them that we know what you're
19 doing, and I think we can only know that by this
20 record.

21 Specifically, our Commission, pursuant to
22 RSA 374:4 has an obligation to be informed as to what
23 its utilities do and don't do. And for the purposes
24 of this argument I'll suggest that you are a public

1 utility pursuant to RSA 362:2.

2 Secondly, if an incident does occur, and I
3 suspect strongly that it won't occur, but if an
4 incident does occur, it's not going to be the federal
5 authorities that our residents turn to for responses,
6 they're going to be returning first to you and then to
7 us, either to our Commission or to members of the Site
8 Committee and ask whether we knew what you were doing
9 when you did it.

10 And third, as one of you have acknowledged
11 already, OPS, in exercising its own jurisdiction over
12 your construction, does often turn to the states for
13 assistance in providing inspection, and we may be
14 asked for that inspection assistance.

15 So for those reasons, I would like to pursue
16 with you the level of detail that you intend to
17 provide both to the feds and to us. And I'd ask first
18 if you'd look at section 192.303, I won't ask you to
19 read it, but I'd just remind you that it's that
20 section of the code that requires that you construct
21 your transmission line in accordance with
22 comprehensive written specification and standards that
23 are consistent with Part 192. And ask whether or not
24 those specifications and standards have yet been

1 completed?

2 MR. CANNATA: Commissioner
3 Ellsworth, could I interrupt you for a moment?

4 MR. ELLSWORTH: Sure.

5 MR. CANNATA: I would just like to
6 state for the record that you are speaking for me also in
7 this particular matter, and I don't know if other members
8 of the Committee would like to join in with you so the
9 applicant can at least value that when he answers.

10 BY MR. ELLSWORTH:

11 Q Are those specifications --

12 A The answer to your question is no, they have not been
13 completed. What we have is, is typical standards that
14 Tennessee Gas has used in the past that we have, I'm
15 not exactly sure, I believe that they were provided
16 maybe to Mr. Marini through Granite State, his
17 association with Granite State, there may have been
18 some typicals there that we used. It was the intent
19 of this project, of this consortium, there is an
20 energy and operations subcommittee, which has
21 components of all the different members of the
22 consortium, TransCanada, Tennessee and everyone else,
23 and they are to finalize those plans as well as the
24 operating and maintenance procedures that will be done

1 for the company, and the anticipated timing of those
2 details is before the bid process, which is to be
3 later this fall, but they would be definitely in time
4 to meet the requirements of the code before
5 construction and then the O & M before, before
6 in-service. They were not anticipated to be complete
7 in, in the time frame to meet the timing of the
8 procedural schedule that you guys have in front of
9 you. So no, they have not been completed.

10 Q At the time they are completed, will they be filed
11 with either the Department of Transportation or the
12 FERC?

13 A At the time they're completed they will be filed with
14 OPR. Part of our certificate, we fully anticipate, as
15 it has been with many other past certificates with the
16 FERC, is that they will require an implementation plan
17 to be filed with OPR and in that plan it will have, as
18 much as possible, all the final design requirements
19 and installation requirements along with how we're
20 going to, that's the whole point of the names, how
21 we're going to implement all these good things we
22 said, how we're going to make it happen with the
23 contractor, and that implementation plan is filed with
24 OPR for their approval before we begin construction,

1 and that, again, is anticipated to be this fall.

2 Q At what point in time will you be developing and
3 submitting to OPS or OPR an operating and maintenance
4 plan, recognizing that that's necessary on under Part
5 192.605 of the code?

6 A My anticipation, and as we stated before, Maritimes
7 and Northeast is the operators of the southern
8 section, but the northern section, you know, the
9 filing of that -- actually I don't know what the exact
10 code requirement, I think it states, someone can
11 correct me, Mr. Mohn, that we have a plan in place
12 that can be reviewed by OPS or OPR at its discretion.
13 I don't have any problems in the fact that once we get
14 that finalized we can provide a copy to the Committee.
15 I don't know that I anticipate it being complete
16 before the end of this year. It's probably something
17 that will be developed next year.

18 Q And the third written requirement that the code
19 requires is an emergency plan under 192.615. Do you
20 have a sense of when that will be ready and to whom
21 that will be submitted?

22 A That will probably be at the same time as the O & M
23 plan I would anticipate.

24 Q Can that be made available to the State of New

1 Hampshire?

2 A Yes, sir.

3 Q My dilemma is in being asked to approve the plan,
4 which I have every reason to believe is going to be in
5 conformance with industry standards with good general
6 engineering practices, without seeing any of it, and
7 with having to rely only on your commitment that the
8 plan, that the code will be, will be met, and that
9 certain standards would be followed.

10 It seems inappropriate to me that we, or
11 that OPS, or that the FERC, should be asked to approve
12 this plan in total without having seen at all the
13 construction specifications that you propose to
14 follow. How can you help us be satisfied as to what
15 standards will be used? I have one solution that
16 you're not going to like and that would be for us here
17 to go through the, the code in detail from 192.1 to
18 192.755 and ask which, ask the applicant, ask the
19 applicable questions so that we could get a sense of
20 the specificity of your design plans and construction
21 plans. I'm sure there is an alternative to that.

22 A That is one way.

23 MR. PFUNDSTEIN: Mr. Chairman, we
24 recognize the significance of, certainly the significance

1 to the Committee of Commissioner Ellsworth's questions.
2 Could we have an ability to respond directly to that
3 question after the lunch break so that it would be more
4 comprehensive so that our team can consult with Mr. Morgan
5 as well?

6 MR. ELLSWORTH: I'll suggest, Mr.
7 Chairman, that maybe this is an appropriate time for that
8 break and I would welcome their opportunity to consider
9 that.

10 CHAIRMAN VARNEY: I would agree.
11 Why don't we take a half hour lunch break and we will
12 return at 1:30.

13 (Lunch recess.)

14 (Resumed.)

15 CHAIRMAN VARNEY: Just
16 administratively I just want to announce that we anticipate
17 continuing the hearing into the evening. The Town of
18 Shelburne would very much like to finish the proceedings if
19 possible today. They've been driving down each day from
20 the north country, and we also have scheduling problems
21 with other major participants in this proceeding. So, it's
22 very important for us to continue into the evening. We
23 regret if it's inconvenient for anyone and apologize for
24 that, but I, after looking at all the alternatives I don't

1 think we have much of a choice.

2 We also will try to rearrange our order of
3 witnesses to accommodate again some of our out of town
4 guests and others who have driven a distance to testify
5 here today who were originally scheduled to testify today.
6 And so we'll try to accommodate those needs as well.

7 You may recall we were in the midst of
8 Committee questions to our witness and I believe
9 Commissioner Ellsworth was in the midst of questioning so
10 why don't we pick up where we left off?

11 MR. ELLSWORTH: Let me ask counsel
12 whether there's been an opportunity for the applicant to
13 discuss our alternatives?

14 MR. PFUNDSTEIN: There has been,
15 Commissioner Ellsworth, and I believe the witness will
16 address that at this point if that pleases the Committee.

17 MR. ELLSWORTH: I'm sorry, I
18 missed--

19 MR. PFUNDSTEIN: We have had an
20 opportunity to confer, Commissioner Ellsworth, and the
21 witness is prepared to address that point right now.

22 MR. ELLSWORTH: Okay, please.

23 THE WITNESS:

24 A We discussed the fact that we would accept that the,

1 that the Committee condition their permit to require
2 the applicant to provide the appropriate plans that
3 you've gone through, the construction plan
4 requirement, the operating and maintenance plan, as
5 well as the emergency plan requirements, conditioned
6 that they be supplied when they are completed to the
7 federally designated authority for the state
8 authority, which we understand probably to be the PUC.
9 We will provide that to you for your review to ensure
10 compliance to meet your needs. So we would say that
11 you condition our permit that we do that.

12 BY MR. ELLSWORTH:

13 Q Let's move forward then to how that is going to be
14 enforced and who is going to enforce it. Could you
15 summarize for us what inspection procedures and
16 process and team you will have in place to do that on
17 your own?

18 A Yeah, I talked a little bit in my direct testimony
19 about the different stages of construction and how
20 inspection oversees, the company will have inspection
21 personnel above what's required by the contractor. We
22 will have people out there to inspect the facilities
23 as they're installed so that as the contractor meets
24 the requirements of the construction documents -- the

1 construction contractor meets the requirements of the
2 drawings or the design plans and such.

3 So I guess I don't know exactly what detail
4 any more than we've talked about the other day of
5 different stages, but if there is something specific,
6 an area that you'd like to discuss, I can touch on it.

7 Q No, I'm interested specifically in number one, will
8 you have inspectors of your own on each project at all
9 times that construction is going on?

10 A Yes, sir.

11 Q Do you have an estimate as to how many inspectors will
12 be necessary on each project as construction proceeds?

13 A I guess I can speak to my experience in past
14 construction in projects where we've overseen, and I
15 anticipate them to be similar in this case.

16 The company normally has, depending on the
17 magnitude, from one inspector to, you know, a dozen
18 inspectors. I spoke of different stages along the way
19 where you will have someone overseeing bending,
20 someone overseeing trenching. It doesn't mean that
21 those activities are happening all at the same time.
22 Sometimes you can overlap the duties of an inspector.
23 But I would anticipate there to be, you know, from few
24 to a dozen different inspectors.

1 Q Let me be sure that the intent of my question is clear
2 because your answers will help us to determine, help
3 me to determine whether I should recommend to the Site
4 Committee whether we should ask that third party
5 inspectors represent the State of New Hampshire during
6 the construction phase, and I think pursuant to 162:10
7 we have that opportunity to do that.

8 So, I'm interested in your inspection team
9 for that purpose. I guess I'd follow up your answer
10 by asking what qualifications you will be expecting of
11 your inspector team members in order to ensure
12 compliance with your specifications?

13 A What I anticipate to be handled -- El Paso Energy is
14 going to be the project management coordinator for
15 PNGTS and Maritimes on the southern end to ensure
16 compliance with the construction guidelines.

17 We, you know, I anticipate that all
18 inspectors that will be obtained will be from an array
19 of available personnel that have come recently with
20 mergers and early retirements and things like that.
21 There is a very large data base that we have with
22 qualified pipeline experienced people out there that,
23 basically they could come from, the majority of them
24 will come from New England just because they like the

1 activity of being in New England, but they could come
2 from other areas along the existing Tennessee system
3 or the existing Maritimes Northeast systems of their
4 parent company.

5 So, you're going to have some retirees as
6 well as some active station personnel, pipeline
7 personnel so it will be a mix, but they will be
8 definitely qualified and have seen construction
9 before.

10 Q At what point in time between now and the beginning of
11 construction do you anticipate that the decision will
12 be finalized as to the number and qualifications for
13 your inspectors?

14 A Probably the anticipated plan right now would be the
15 first quarter of 1998.

16 Q Would you be willing to provide us with the results of
17 that decision?

18 A Yes, sir.

19 Q And by the way, who would make that decision? Who
20 will be responsible for--

21 A Making a decision on the number and the
22 qualifications?

23 Q Well, and for supervising those inspectors?

24 A My company, El Paso in consultation on the southern

1 end with Maritimes and Northeast.

2 MR. ELLSWORTH: Okay.

3 BY CHAIRMAN VARNEY:

4 Q Follow-up on that if I could. How many construction
5 crews will be out there at any one point in time?
6 Obviously, you have an in-service date that is
7 ambiguous, you have limited construction seasons where
8 things, especially in the north country get very
9 difficult very quickly, how many different crews do
10 you anticipate out there during the peak construction
11 season?

12 A That's a fair question. On the northern end we have
13 approximately 75 to 80 miles of pipeline construction
14 along there. The preliminary breakdown of the
15 construction spreads we call them is really about
16 down, mile post zero in Pittsburg down to Groveton,
17 maybe a little bit further, 45 to 50 miles is about
18 the first spread. The next one goes from that point
19 all the way into the Bethel area.

20 So northern New Hampshire right now is split
21 into two spreads. However, I fully anticipate the
22 contractor, when he gets out there, he has the
23 obligation to ensure that he gets it in and installed
24 in the time frame that we give him. I fully

1 anticipate that each spread will have two separate
2 crews so if one activity begins in one area with a
3 clearing crew, I would anticipate another clearing
4 operation beginning at some other point within the
5 spread.

6 So the process of clearing, grading,
7 trenching, stringing, welding, I would anticipate to
8 be two separate within those two. So, you could
9 probably see 3 to 4 in the northern region, separate
10 crews.

11 And in the southern region we have broken it
12 down into much smaller spreads. From the Piscataqua
13 River it only goes about 20 to 22 miles I believe and
14 then another 20 or so miles into Massachusetts is the
15 next spread before it finalizes through Massachusetts.

16 So, however, I would anticipate that to be
17 one crew moving through that area to complete those
18 shorter spreads. So, 3 to 4 up north and at least 2
19 in the south.

20 Q So there could be as many as 5 crews --

21 A Five to six, yes.

22 Q Five to six constructing at any one point in time, any
23 given day, okay.

24 BY MR. ELLSWORTH:

1 Q Let me turn now to the other leg of the stool that I
2 suggested this morning, and that is the opportunity
3 for you to exceed whatever minimum federal safety
4 standards might exist, and I'll refer you to my
5 request of Mr. Minkos the other day to establish a
6 company policy of assuring that the pipeline would not
7 be installed closer to a building than 40 feet. And I
8 want to be sure that you understand that I didn't say
9 closer to the work area, but closer to a building,
10 that the centerline of the pipe would not be closer
11 than 40 feet. And I use that number based on rules
12 and regulations that the Commission has in place, and
13 which I suggest have the effect of law.

14 Under Part PUC 506 we provide that, "Gas
15 pipelines which are to be operated at a pressure of
16 200 lbs. or more per square inch gage shall not,
17 except with the approval of the Commission -- " sorry,
18 Sam, I was reading too fast -- "pursuant to PUC 201.05
19 be installed within 40 feet of buildings intended for
20 human occupancy which were in existence prior to, or
21 were actually under construction at the time the pipe
22 was put in place."

23 I will ask you as I asked Mr. Minkos whether
24 that is a reasonable standard for you to accept?

1 A If I could make a proposal to you?

2 Q Yes.

3 A We have an existing table that outlines residences
4 within 50 feet of the construction work area. We
5 have, we will have very shortly site specific drawings
6 of residences within 25 feet of the work space, which
7 is exactly what I just said.

8 I guess my proposal is that I will go back
9 and I will look at all areas where a building, I guess
10 I'd like to -- is the possibility of keeping it to a
11 residence as opposed to a commercial building? I know
12 it states they're for human occupancy, which is
13 different than what I'm asking.

14 We have some areas around the Exeter lagoons
15 where we're getting close to, some of the agreements
16 we've recently made actually with landowners have
17 pushed us closer to the buildings than we were
18 previously. So, I guess I would request -- my request
19 would be is residences, that residences within, their
20 primary residence, not a shed or something like that,
21 is within 40 feet of the pipeline, we will look at
22 those areas and do everything we can to remain at
23 least 40 feet. If we cannot we will provide you
24 written description of why we cannot.

1 Q Since --

2 MR. IACOPINO: Doesn't the rule
3 provide for a waiver?

4 MR. ELLSWORTH: And since we're
5 negotiating that's where I was going next.

6 MR. MORGAN: I'm probably going to
7 lose.

8 BY MR. ELLSWORTH:

9 Q No, but let me explain why I was committed to that
10 beyond the fact that it is a Commission rule. It
11 seems to me that this is a unique project in New
12 Hampshire. And although I will say again, as I said
13 this morning, that I have absolute confidence that
14 your pipe will be absolutely integrated and integral
15 and properly constructed and maintained.

16 It would be understandable that some members
17 of the general public will not share my enthusiasm for
18 that pipe. And just to put on the record the size and
19 pressures of this pipe, could you tell us again the
20 size of the northern pipe and the pressure in that
21 pipe?

22 A Yes, sir. The size of the northern pipe is 24 inch
23 outside diameter and maximum allowable operating
24 pressure is 1,440 lbs.

1 Q And can you tell us the size and pressure of the
2 southern line?

3 A It would be 30 inch outside diameter with the same
4 1,440 lbs. design criteria.

5 Q And it strikes me that it would be understandable that
6 customers would have some sensitivity to having a 30
7 inch pipeline at 1,400 lbs. per square inch pressure
8 directly adjacent to their premises. And if we could
9 satisfy them that there was a distance, a known
10 distance based in some fact, that would, that would
11 give them some assurance of our concern for their
12 safety, just as I'm sure they are assured of your
13 concern for their safety.

14 It strikes me that that could be a policy,
15 subject to waiver as Mr. Iacopino points out, and that
16 rather than you telling us what you can't do, you ask
17 us if you may not do it in those cases where it's
18 impossible or unreasonable or unacceptable for that
19 standard to be met. Would that be acceptable to you?

20 A Just so I understand it, you're asking rather than me
21 explaining why I can't do it, me request a waiver?

22 Q Yes.

23 A In certain areas?

24 Q Yes, on a case by case basis.

1 A I guess I'm going to have to confer a little bit.

2 (Witness conferring.)

3 Q I understand that.

4 A I guess from our viewpoint we are already going to
5 have site specific drawings for any area that falls
6 into that -- well, actually again it's only going to
7 be residences now, your code exceeds to commercial
8 buildings or whatever so we may not have those.

9 I guess the consensus is that we would not
10 submit them for a waiver or approval, we would submit
11 them with, as I stated, with sufficient explanation of
12 why we felt it is not and we can explain all aspects
13 of, you know, rerouting and the impacts, you know, if
14 we can't, if we feel we have to stay here, if we do
15 deviate and go one way or the other to avoid it, you
16 know, sometimes we go right between two houses and
17 right along the pipeline, and to deviate from that is
18 a creation of new corridors. I mean it's not to say
19 that you wouldn't agree with us in the end, it's just
20 that we feel that, that we could not subject ourselves
21 to the possibility that you did disagree and caused a
22 major diversion in our pipeline route that might cause
23 for us not to be able in service to complete our
24 pipeline.

1 So we would provide that to you with
2 explanations of why we could not avoid it.

3 Q I understand your position. I'll just confirm to you
4 that my recommendation to the Committee will be
5 something different from your recommendation, and that
6 will be that this be requested as the standard,
7 subject to a waiver and I would hope that you would
8 understand that we're reasonable enough to understand
9 that waivers are necessary in some circumstances and
10 that they be expected to be approved.

11 A That's fair. I guess one thing I might add is that we
12 talked and we were trying to think of how many we
13 actually had, and we couldn't really think of any more
14 than maybe 6 to 10 at the most of where the pipeline
15 is actually within 40 feet.

16 Now there are some, we've always been
17 working with the residences and we haven't really been
18 that descriptive, I mean there are some other
19 commercial areas that might now come into play so we
20 will have to look at that.

21 CHAIRMAN VARNEY: Let me just say
22 that had this information been provided up front this would
23 be a moot issue because we could decide it as part of our
24 effort here, and so -- and the proposal that you're setting

1 forth is essentially giving yourselves the decision making
2 authority and if you decide that you're going to go closer
3 you just write an explanation of why you need to be closer
4 and submit it, and you have the decision making authority,
5 and as long as you can write up something that justifies
6 it, you're covered, and I sense that that would be a
7 problem for the Committee, and want to just let the
8 applicant know that that's likely to be an issue of
9 concern. Michael?

10 MR. CANNATA: I'd like to pursue
11 this a little further, Mr. Chairman. Commissioner
12 Ellsworth, in your request for an application of a waiver,
13 I think, you know, the concern that you voice is one of
14 safety with the 40 foot requirement?

15 MR. ELLSWORTH: In my opinion it's
16 not one of safety, it's one of the perception of safety,
17 and there is a distinction between the two.

18 MR. CANNATA: Okay. In terms of
19 being able to meet that perception of safety, if in fact
20 the applicant could provide a increased safety margin, is
21 that included in what you were just discussing rather than
22 a, a strict 40 foot adherence?

23 MR. ELLSWORTH: What do you have
24 in mind?

1 MR. CANNATA: Well, if the pipe
2 could be perceived to be safer, maybe it's made of a
3 tougher material in that area, or it's thicker, you know,
4 whatever the mitigation factors that the applicant could do
5 such that it increased the safety margin from an actual
6 standpoint, does that help to satisfy, you know, the
7 concerns that you're addressing?

8 MR. ELLSWORTH: Yes.

9 MR. CANNATA: Then I guess I'd ask
10 you, Mr. Morgan, does that alter your answer?

11 THE WITNESS:

12 A I guess it's something we could take under
13 consideration and look at the volume that we're
14 looking at. If I come up, you know, the number of
15 places and the length and things like that. I guess
16 we could look at that as a possibility.

17 Q I was thinking specifically of the dimension you
18 mentioned between two houses --

19 A Right.

20 Q That's really the rock and the hard place --

21 A That's right.

22 Q -- what do you do in that case, you know, I was trying
23 to think of something that could maybe solve that.

24 A Yes, sir, that's something we could look at.

1 CHAIRMAN VARNEY: And I would
2 just --

3 THE WITNESS:

4 Q I know you need an answer because this is something, I
5 don't know that even going back here we can get an
6 answer right now. I'd like to, like to pursue that at
7 least for the rest of, you know, into tomorrow maybe
8 and try to provide that tomorrow.

9 CHAIRMAN VARNEY: Sure.

10 BY MR. ELLSWORTH:

11 Q Mr. Morgan, I never asked what standard you intended
12 to use and what the basis was for your standard.
13 Could you help us with that, please for proximities to
14 buildings? There's been mention of 25 feet, and I
15 remember reading in the IES that the FERC acknowledged
16 that that was the policy that you were going to adhere
17 to, but I didn't read there that it was their policy
18 that you must adhere to. Could you help us with that,
19 please?

20 A Well, again, this comes under the standard of when my
21 people go out there to try to route this pipeline to
22 minimize all the impacts as much as possible.

23 Sometimes you get between a rock and the
24 hard place and just have to work your way through. It

1 makes more sense to go through a 400 foot or 500 foot
2 tight area than it does to deviate way around and
3 cause significant other types of impacts, whether it's
4 a new corridor or whatever and use different
5 construction techniques.

6 I've never told any of my survey chiefs or
7 anybody in routing that there is a specified standard
8 to try to stay away from.

9 Q I can confirm to you that there is no specified
10 standard in Part 192 of the DOT code. Can you confirm
11 to me whether or not the FERC has established a
12 minimum distance?

13 A I don't believe they do. I don't believe they do have
14 a minimum distance.

15 CHAIRMAN VARNEY: Not even a
16 recommended guideline?

17 THE WITNESS:

18 A From my experience recommended may be from the
19 standpoint of having gone to FERC seminars and things
20 like that and they talk about it, you know, their
21 recommendation is to try to stay as probably as far
22 away as you can practicable and still maintain all the
23 other requirements of routing a pipeline, which is
24 difficult when you get pinched against the wall so I

1 don't have a standard for it, I'm sorry, not to my
2 knowledge. I'd ask anybody else if they want to
3 comment. They're shaking their heads.

4 CHAIRMAN VARNEY: Just to finish
5 up on this topic, I would just again urge the applicant to
6 put yourself in the shoes of the people who own these
7 properties who would have an interstate pipeline running
8 very close to their residence and it's that perception
9 factor that is perceived, worst case scenario that they
10 would be concerned about with their families and or even
11 perhaps a perception that it would affect their property
12 value, the resale of their property, to have difficulty in
13 resale or whatever it may be. So, I would just urge you to
14 give extra weight to that issue and take those comments and
15 concerns very seriously in your response.

16 MR. MORGAN: And we will, we very
17 much will.

18 MR. ELLSWORTH: I have no other
19 questions, Mr. Chairman. Thank you very much, Mr. Morgan.

20 CHAIRMAN VARNEY: Ken?

21 BY MR. COLBURN:

22 Q Thank you, Mr. Chairman. Commissioner Varney's
23 remarks actually provided a pretty good segue for my
24 initial thoughts. I have 6 or 7 questions but first a

1 comment, which will perhaps save 30 other questions
2 and trying to banter with you, Mr. Morgan.

3 I am not convinced, as I hear descriptions
4 of the interactions with landowners, that I wouldn't
5 be well served if I was a landowner not to be
6 represented by counsel so that I knew my right,
7 because it's not clear to me that the company is
8 making me aware of things I should consider. Like
9 should I ask for a pre blasting inspection? Like
10 should I make it clear that I use that property and
11 log it every decade?

12 In my view, and I think typically in
13 citizens of New Hampshire's view, that burden should
14 rightfully be on the company, and I think that it is
15 shortsighted of the company to not pursue this for the
16 small incremental cost and risks of the public
17 dissatisfaction that arises from not say going to the
18 300 feet versus the 200 feet as recommended for
19 blasting inspection in the Haley and Aldrich report.
20 In not asking landowners, do you have any alternate
21 uses of your property that would require you to have
22 access across the pipeline so that we can take that
23 into account in building it as opposed to leaving that
24 burden on the landowners, and I would just suggest, as

1 I said, as a comment rather than as a series of
2 questions, that you contemplate in the two thirds or
3 so of the remaining landowner negotiations that you
4 have ahead of you, utilizing that approach.

5 That's the perspective of one who is an
6 admitted New Hampshire native. Natives have some
7 other liabilities as well, for example, they're easily
8 confused. Could you just give me sort of a 25 words
9 or less understanding of how El Paso is involved in
10 this?

11 A Yes, sir, sure can. First and foremost, El Paso is
12 one of the six equity partners and they have a certain
13 percentage, I think in the neighborhood of 17, 18
14 percent, somewhere on that order, one of six partners.

15 They also have been designated by the
16 consortium members, all six of them together, have
17 asked El Paso to provide the project management and
18 implementation of acquiring permits, of developing the
19 plans and going through construction.

20 So, it's kind of like all six top line
21 companies asked the engineering project management
22 group out of El Paso to go do what has to be done. So
23 that's where I came in. I'm trying to do what has to
24 be done to get the thing permitted and built in a

1 timely fashion. So that's where El Paso comes in.

2 Q Thanks, that helps explain. Commissioner Ellsworth
3 asked one of the questions I had about the diameter of
4 the pipelines. The FERC DEIS said 24 inches and you
5 just confirmed that in the northern route.

6 I note that the updated pre-filed had a
7 strike out of the 24 inches in reference to the north.
8 Was that an intentional strike? Do you have any
9 recollection of that? That was on page 4 of that
10 testimony.

11 A Of our pre-filed?

12 Q Yes. I don't object perhaps to a larger or another
13 pipeline I wouldn't be--

14 A I hope it's not saying from 24 inch --

15 Q Line 14 at the beginning of the line.

16 MR. KRUSE: Well, when I asked for
17 my own copy of the red lined I got one without page
18 numbers.

19 THE WITNESS:

20 A I can confirm from my standpoint, and I think
21 everyone's standpoint, is a 24 inch outside diameter
22 pipeline in the northern region.

23 BY MR. COLBURN:

24 Q Right, thank you. You will have several compressor

1 stations along the way?

2 A No, sir.

3 Q No, okay.

4 A None are contemplated, none are required to meet the
5 supply needs as set forth in our design.

6 Q Nowhere in the State of New Hampshire?

7 A No, sir.

8 Q Okay, thank you.

9 MR. CANNATA: Mr. Colburn, follow
10 up on that.

11 BY MR. CANNATA:

12 Q What about in the future, wouldn't compression
13 stations allow more gas to be moved at some time in
14 the future?

15 A That's correct.

16 Q And are there any locations that are being
17 contemplated perhaps maybe for future compression
18 stations?

19 A You know, what we're trying to do now is look at
20 different stages along the way of where -- if
21 increased flows did become a requirement, and one may
22 be into Maine along the Rumford to Jay lateral, or
23 down in the southern area.

24 It's more anticipated that these compression

1 station locations will probably be required around in
2 that area. So, we do some projections and what we try
3 to do maybe is look at the possibility of trying to
4 coincide our pipe yards if possible in purchasing of
5 land if that's a doable deal with a future possible
6 compression station.

7 We really haven't gotten that far. That's
8 something you can try to foresee but it's so variable
9 it doesn't, no one really knows where the actual
10 take-off is going to be and until you know really
11 where the, you know, whether a considerable vast more
12 quantity goes to Groveton Paperboard and Wausau and
13 they add a bunch more facilities there and much more
14 is taken off there then it would change the volumes.
15 The same thing could happen on the Rumford to Jay
16 lateral.

17 So I really don't have any anticipated
18 locations now. Normally they would not be needed near
19 the northern end because we will be supplied with
20 1,440 lbs. of pressure and it's not until you dump a
21 bunch of it until you need the compression. So it
22 would be farther down the line near the take-off
23 points, which is probably the Rumford/Jay lateral
24 area, which is in Maine.

1 BY MR. ELLSWORTH:

2 Q Can I have a follow up to that? Mr. Morgan, would
3 approval by the Site Committee of this application
4 provide you with authority to, in the future, install
5 compressor stations?

6 A Absolutely not.

7 MR. ELLSWORTH: Thank you.

8 BY MR. COLBURN:

9 Q Mr. Morgan, your comments about the 1,400 lbs. coming
10 in leads me to the Canadian question, and as
11 jurisdiction as we assert in this Committee we don't
12 even assert jurisdiction over that side of the border,
13 but we are curious obviously and have an interest in
14 getting gas flowing in the state as soon as possible.
15 How is the Canadian side coming, will that be ready
16 in a timely fashion?

17 A My understanding is yes, and John Flumerfelt can
18 probably speak to more of the specifics, he keeps up
19 on that kind of stuff. I know that they've filed
20 their applications and they're actually going through
21 some of the similar hearing process right now that we
22 are to obtain their permits.

23 The anticipated timing is to have
24 construction next year, in fact, they anticipate

1 having their approvals, much of it by the end of this
2 year and be able to do a lot of their clearing and
3 operation during the winter months, which would
4 facilitate doing, you know, less impact in the wet
5 areas and things like that, they try to do as much as
6 they can in that area.

7 If not they can still, they've got about 120
8 miles to build total I believe. I don't know what
9 that relates to kilometers but that's about 120 miles
10 what I remember, and they will be, you know,
11 connecting with us in the Pittsburgh area and as far as
12 I know it's still on schedule to be there.

13 Q Great. In previous testimony you've indicated that
14 where you have to narrow down the right-of-way such
15 that you don't have a passing lane and where there is
16 blasting involved and so forth it slows down the
17 construction process.

18 I don't expect you can answer with any
19 degree of specificity outside of a specific site, but
20 in general is like half again as fast or half again as
21 slow, 50 percent slower, twice as slow, can you give
22 us a frame of reference relative to how much those
23 kinds of construction constraints impede progress of
24 the construction process?

1 A I could probably say with the, let's use an example
2 I'm sure we're all familiar with, Hogan Road.

3 We had a 75 foot preliminary path with a 50
4 foot working area and the ability to use Hogan Road as
5 a haul road to get the rock out of there and have it
6 some place to go.

7 With the new proposal we've done, and I
8 guess the anticipated time frame of clearing and
9 installation, revegetation could have taken anywhere
10 from 3 to 4 months. I would think that I'm going to
11 be there the majority of 5 to 6 months now for sure, 6
12 months doing that area.

13 It's going to be very slow, everything is
14 going to have to be hauled out. I have no place to
15 put any spoil, any rock, we're going to have to be
16 meticulous in taking the stuff out.

17 Q So it would be fair to say where you have a clean
18 existing right-of-way versus tight construction
19 conditions and blasting that it might take twice as
20 long in the latter case as in the former?

21 A Maybe half to twice as long maybe, I think so, yes.

22 Q I guess then reflecting on the time constraints which
23 are of concern to us all, the fact that the matrix
24 between the Shelburne alternative and the Hogan Road

1 route were virtually a dead heat at 44 and 41, and
2 that's without weighting differently for permanent and
3 temporary aspects or criteria, that it's at least
4 conceivable that maybe the more expeditious route
5 would be the Shelburne alternative. I don't expect
6 you to respond necessarily favorably to that, but I
7 would ask that you take that into consideration in
8 terms of time and in terms of cost, and cost of
9 course, raises some other questions.

10 What in general is the cost of construction
11 of a mile of pipe or if you have project specific cost
12 I'd welcome them, but assuming that absent the design,
13 the finalized design, you don't have precise
14 construction estimates, can you give us some general
15 understanding of costs?

16 A Well, I think we know that the, from a budget
17 standpoint of the project we've heard about, a million
18 dollars a mile to do the project is probably, I would
19 say it's more like 1.2 - 1.3 really when it's all
20 done.

21 I would say that probably your construction
22 lay cost, once they give it to a contractor and say go
23 to work, you're probably looking at about \$600,000 a
24 mile.

1 Q So the million would be the full project cost
2 including, for example, the time and money we're
3 spending here?

4 A Yes, and if not, like I say, I would think it's even
5 more than that to be honest with you.

6 Q Okay. So the total cost of the project then would be
7 on the order of \$240 million?

8 A Actually I think we're in the, John Flumerfelt is
9 here, yeah, the laterals along the 43 miles in Maine,
10 I think the whole project is probably in the
11 neighborhood of \$300, our proposal for PNGTS. I don't
12 know if that incorporates Maritimes' costs.

13 Q That gives me a frame of reference. What does a
14 typical river crossing, a wet crossing cost of the
15 type you plan on on the Androscoggin north of Berlin?

16 A I guess if I could consult I could probably get you a
17 pretty good answer real quick. (Consulting.) The
18 Androscoggin, I mean obviously it depends on the
19 substrate, whether you can trench through it readily
20 or you're going to have to do any blasting if that's
21 required.

22 But you're probably talking, if you can
23 trench right through it and set up all your welding,
24 probably in the neighborhood of \$200,000 to anywhere

1 up to \$400,000 for a major crossing like that.

2 Q And blasting could take that to what, 5 or 6?

3 A No, I think blasting means you're on the higher end of
4 that. So you're probably in the neighborhood of \$200
5 if you can trench through it and if there is blasting
6 you're going to increase the cost.

7 Q So if I understand that, and I understand these are
8 generalities, the additional cost of the Shelburne
9 alternative would then run in the neighborhood of, you
10 have some road crossings as well which are not free,
11 but say less than \$2 million?

12 A I think we worked up a number there at one time. With
13 the railroad crossings and the Portland Pipeline
14 crossings and the road crossings is probably more on
15 the order of close to \$5, \$4 to \$5 million I think is
16 what we eventually came up with.

17 Q If you've worked that up in a fashion that's sharable
18 with the Committee I'd appreciate it.

19 A Okay, we can probably get our hands on that, sure.

20 MR. COLBURN: I don't have any
21 further questions, Mr. Chairman.

22 CHAIRMAN VARNEY: Thank you.

23 Michael?

24 BY MR. CANNATA:

1 Q Mr. Morgan, I have a series of questions. I'm going
2 to try to eliminate some of the questions that, you
3 know, Commissioner Ellsworth has kind of side stepped
4 at least for the time being, a lot of them are follow
5 ups to much of the cross that's been going on.

6 You mentioned the fact that the laterals
7 were part of the FERC submission. Now I may have read
8 this incorrectly, but I thought I read that the FERC
9 said they would not rule or approve the laterals, am I
10 incorrect?

11 A To my understanding, yes, you're incorrect. I think
12 the laterals are a part of it. (Reporter
13 clarification "incorrect.") He's incorrect, the FERC
14 will rule on the laterals, yes.

15 Q In the clearing that's done on property, you indicated
16 that lumber and logs would be hauled off. What
17 happens to the stumps?

18 A The stumps are also either ground up, you can ground
19 them up and spread on the, I think there are a few
20 options. We've ground them up, we've buried them on
21 our right-of-way, we've hauled them off if, you
22 basically have a waste disposal, solid waste disposal
23 requirement.

24 Q And when you were talking about the design and

1 installation of the pipe, I believe it was yesterday,
2 one of the things you talked about was coating
3 thickness as if that was a variable?

4 A I believe what we require is 14 mills, as long as it
5 meets the, our minimum specified thickness.

6 Q Is that an industry standard? Excuse me, I didn't let
7 you finish, I'm sorry.

8 A No, that's fine. Is it industry standard, I think it
9 meets the requirements of working with the coating
10 manufacturer to sufficiently protect the pipeline in
11 it's cathodic protection system. I don't know that
12 it's industry standard so to speak. From Tennessee
13 Gas's standpoint the 14 mills has met our requirement
14 to meet the cathodic protection requirements
15 protecting the pipeline.

16 Q And are there other pipeline entities that use more or
17 less?

18 A That's a fair statement probably, I don't know. We
19 can ask Maritimes right here what their experience is,
20 but I would say yeah, probably, they probably use more
21 or less.

22 Q Would it be possible to determine what range of
23 coating thickness has been used?

24 A (Conferring) Fourteen to sixteen is what he said and

1 that's probably true.

2 Q Again, getting back to the horse I've been trying to
3 beat to death over the last few days in terms of
4 representations in the informational hearings, in your
5 testimony you indicated that you were, that you had in
6 exhibit an exhibit which showed the pig interjection
7 points. We don't need the exhibit for my question.
8 In the informational proceedings it was my
9 understanding that the representation was made that a
10 Smart Pig would be used to map the pipe initially, and
11 I think you stated yesterday that you would use a
12 Smart Pig as necessary. Could you tell me what the
13 hesitation is?

14 A Yeah, I guess my reasoning there is that we feel first
15 off, and I'll get to the Smart Pig, we feel first off
16 that the caliber pig after construction requires the
17 necessary documentation to ensure that the pipeline
18 was installed correctly.

19 The caliber pig gives you the circumference
20 and inside diameter of the pipeline. I believe it is
21 in the codes, someone mentioned it to me at a break,
22 that anything over 2 percent is a required cut out.

23 So if there is a dent in the pipeline from
24 rock hitting it or it hits the bottom of the ditch or

1 the side of the ditch just being installed, any dents
2 over a certain percentage, 2 percent I think is what
3 it says, is required to be replaced.

4 So the caliber pig provides that. The
5 advantages of a Smart Pig are to inspect the decrease
6 in wall thickness due to whatever the problem is from
7 a thinning of the wall based on the flows and things
8 and the fact that we have a brand new pipeline it does
9 not supply us any real benefit to run a Smart Pig at
10 the very initial stage. It's something that we would
11 run after a period of operation to determine if we are
12 losing wall thickness during our operations.

13 Q Would not the Smart Pig need a reference case much
14 like a doctor gives you an EKG, he needs something to
15 compare it to?

16 A We have specifications from the mill stating the wall
17 thickness of the pipeline and what the thickness is in
18 the beginning so we feel we know what the initial
19 state of the pipeline is from our wall thickness
20 requirements.

21 Q So it would be an estimated, what you really would
22 have would be an estimated initial starting point, or
23 I'm assuming initial starting point?

24 A Well, we give a specification to the mill and that

1 would be our assumed, yes, sir.

2 Q I mentioned yesterday, I talked about the Iroquois
3 Pipeline and I think you also said you had experience
4 with the construction of pipelines in Connecticut?

5 A Yes, I've been involved with working on some different
6 phases of it.

7 Q And would that have been the Iroquois line also?

8 A No, sir.

9 Q On the Iroquois line it's my understanding, and you
10 know, correct me if I'm incorrect, that the company
11 voluntarily used a concrete coating throughout
12 Connecticut and used a toughness standard twice that
13 required by DOT. Do you have any knowledge of that?

14 A No, I do not, I'm sorry.

15 Q Would you have any thoughts as to why that was done?

16 A No, I really don't unless -- I don't even know who the
17 partners were really in Iroquois. I guess they took
18 it upon themselves to do that. I don't know why it
19 was done though.

20 Q If they took it upon themselves could part of that
21 have been the safety perception problem pursued by
22 Commissioner Ellsworth earlier?

23 A I guess that's possible, yes, sir.

24 Q You also talked about paralleling the PSNH

1 right-of-ways, you know, this may be some information
2 that may be valuable to you. You're aware that there
3 is a 450 Kv DC line that traverses the State of New
4 Hampshire up into Canada?

5 A Yes, sir.

6 Q And are you also aware that they had extreme problems
7 establishing ground electrodes such that they had to
8 install a metallic return?

9 A I'm not aware of that, no.

10 Q And the operating procedures on that line allow the
11 line to operate without that metallic return on earth
12 return mode for up 15 minutes. I would suggest that
13 you talk to Public Service of New Hampshire, their
14 parent company on that because that may have some
15 implications as to your protection that you supply to
16 your pipeline.

17 A Okay, appreciate that.

18 Q We talked about working times--

19 A I'm sorry, could I interrupt? Are you talking an
20 interference problem between the DC line and their
21 existing facilities?

22 Q Ground path.

23 MR. IACOPINO: Is the operator of
24 that line New England Power?

1 MR. CANNATA: It's the New England
2 Electric Transmission Company. However, the parent
3 company, Northeast Utilities was very much involved and
4 participated in a lot of the design studies and they could
5 direct the applicant to the proper place or you could go to
6 the New England Electric Transmission Company.

7 MR. MORGAN: Okay.

8 BY MR. CANNATA:

9 Q We talked about working times from 7 a.m. to 7 p.m.
10 Monday through Friday not being realistic. Do you have
11 any information as to what is normally used on
12 pipeline construction for normal working times in your
13 experience?

14 A Monday through Friday, that's pretty normal there, 7
15 to 6 or 7 to 7, but then it continues on Saturday the
16 same. It's a 6 day normal work week.

17 Q So that would you say would be industry standard would
18 be like a 6 day work week 7 to 7?

19 A Yes, sir. Normally my experience is about a 10 hour
20 work day so it could be 7 to 6 maybe with a lunch.

21 Q As I understand, the pipeline will be built, buried to
22 a depth of 3 feet. What kind of problems does that
23 cause with the landowner using their property? I look
24 at a road and I see a culvert, which is, you know,

1 corrugated culvert, very, very thin compared maybe to
2 the pipeline in terms of strength and I have equipment
3 of many tens of tons, could you describe a little bit
4 more the concern that the company has with regard to
5 its facilities when its on private property?

6 A First off, our concern is that we do not allow any
7 erosion situation along the top of our pipeline to
8 where something did travel over the top of it they'd
9 get down on top of the pipeline and basically come in
10 contact with it or expose our pipeline. That's the
11 first major issue for us, is not to have an erosive
12 situation or unstable, as we talked about, situation
13 on the top of our pipeline. We need that cover for
14 protection of any passage.

15 Q So, therefore, your problem with skidders because they
16 can sometimes trench things up pretty bad?

17 A Right, depending on the mud and things like that,
18 that's correct. In a dry situation where you have the
19 benefit of the soil there over the top of it, you can
20 run sufficient calculations to determine what wall
21 thickness or what depth to handle the live loads, be
22 it skidders or loaded tractor trailer rigs with timber
23 or whatever the case may be.

24 You can design accordingly to be able to

1 handle those loads, and many times it doesn't take too
2 much more, if anything, other than your standard
3 because a lot of the classifications, the design, if
4 we punch in the design requirements for a class 2 area
5 and it comes out a wall thickness of 40256, I mean
6 we're going to round it up to probably the nearest
7 standard wall we can get. We're not going to go out
8 to something that doesn't make any sense. You're
9 going to round it up and a lot of that already has
10 inherent in that design calculation a safety factor.

11 So we can design it accordingly to meet
12 landowner needs for whatever type of equipment. Our
13 main concern is losing that cover from a muddy area so
14 to allow someone just to travel literally up and down
15 our pipeline is a concern to us with large equipment.
16 You know, selected crossing locations are done all the
17 time and they can be designed accordingly.

18 Q You I think had stated at some point in time that you
19 yourself used mechanical mrollers to keep them clean,
20 which is a track vehicle?

21 A Yes, sir.

22 Q Let's talk a minute on pipeline moving around PDA.
23 You indicated that you were outside the fence but you
24 crossed a flight path on the Newington end and the PDA

1 had concerns and you were going to be working with
2 them on that.

3 A Well, I think the real concerns of that came from the
4 Town of Newington, is that correct? Yeah, it came in
5 the testimony that the Public Counsel provided from
6 Newington I think and their concern about crossing the
7 flight path I believe. I guess I stand corrected
8 there.

9 I know we are working and we have had
10 conversations with PDA and the Airport Authority there
11 to work up any specific construction mitigations. We
12 haven't finalized those yet on what we're going to do
13 there.

14 Q Are any of the PDA concerns concerned not with just
15 construction methodology but in terms of depth of
16 pipe, thickness of pipe, you know, those types of
17 safety measures?

18 A They haven't been to date, but the real issue has just
19 been they're worried about the possibility of leaving,
20 from my preliminary discussions, leaving an open
21 trench over night, not compacting it sufficiently in
22 our backfill operation, how much time we're going to
23 be in there, the hours of operations for their
24 schedule, and trying to work with their schedule of

1 airport traffic. So that's been their initial concern
2 to us.

3 Q Also yesterday you indicated that OPS could delegate
4 its inspection authority to the state, however, the
5 pipeline has made a decision that it would not fund
6 that, is that correct?

7 A That's been our experience in the past, that we do not
8 fund the operation, that is, OPS, in my experience has
9 delegated the inspection of the construction activity
10 through the state PUC's or equivalent agency and they
11 come out periodically and just witness stages of
12 construction. So, yes, that is correct.

13 Q And if the OPS were to perform that safety inspection
14 itself, would you be assessed for that function?

15 A Not to my knowledge, I don't believe so.

16 Q Piscataqua River crossing, there was a concern
17 expressed at one of the informational hearings that
18 the timing of construction could interfere with the
19 movement of fuel as it's barged or shipped up the
20 Piscataqua River and the representation was made at
21 that time that the applicant would work with those
22 people to ensure that fuel deliveries were not
23 interrupted, is that representation still valid?

24 A Yes, from the standpoint that we're planning on

1 directional drilling the river, that we don't feel
2 we'll impact river traffic. And if there is a
3 situation where we feel we need to, you know, to look
4 into that possibility, obviously we will work with
5 them, but we don't think we're going to have an impact
6 on traffic.

7 Q In discussion on the laterals, I've heard mention of
8 the Groveton lateral, the Newington lateral, and in
9 the revised testimony that was just passed out this
10 morning with Mr. Cheney's cover letter it indicated a
11 Haverhill lateral. Could you just indicate to this
12 Committee what the Haverhill lateral is?

13 A A new one -- no, it's a, in the original PNGTS
14 proposal the 20 inch pipeline went to Haverhill right
15 down the Granite State line to the Haverhill meter
16 station of Tennessee Gas.

17 With our joint agreement with Maritimes and
18 Northeast, the ending point for the joint agreement
19 became Dracut, which is a connection with Tennessee
20 Gas. However, we had existing shippers contracts that
21 required delivery points of Haverhill, Massachusetts
22 so we had to extend, we still have to get, PNGTS still
23 has to get to Haverhill so there is an extension of a
24 20 inch pipeline off that 30 down to Haverhill.

1 Q And in changing your construction technique by not
2 removing the 6 inch pipeline in the Granite State
3 right-of-way, is that pipeline going to be purged and
4 properly put to bed such that if it is exposed or
5 damaged it's not a problem?

6 A I've never personally gone through the process of
7 abandoning a pipeline. I know there are specific
8 procedures for that, filing criteria with FERC. You
9 have to file and tell them exactly where you're going
10 to abandon it and how you're going to do it and what
11 the application of abandoning that is. It can't just
12 be left. I'm sure there are applications for purging
13 and getting it cleaned out sufficiently, and I don't
14 know whether it requires capping. I'm sure there are
15 procedures for abandonment. I don't know those
16 specifically though.

17 BY MR. PATCH:

18 Q And it's your intention to follow those procedures,
19 whatever they are?

20 A Well, actually that will be, I can say yes to that,
21 but that will actually be Granite State on their own
22 as a separate entity to abandon their facilities.
23 They have filed with FERC a letter to abandon those
24 facilities. They own those facilities so they will

1 abandon them accordingly.

2 BY MS. GEIGER:

3 Q Can I follow up on that on the issue of abandonment?

4 In conducting the abandonment of the Granite State
5 pipe, do you anticipate that that process will in any
6 way impair the operation of your pipeline?

7 A No, I do not. One thing I might state is that, I did
8 state yesterday about the 6 inches, they're deliveries
9 directly off the 6 inch pipeline to existing customers
10 from Granite State, and they will have to keep, right
11 at the delivery points they might have to keep a
12 portion of the 6 inch, just a small section, where the
13 line comes off it, but they will cut it on both sides
14 and they can cross over into the 10 to get their
15 supply, but pieces may have to be, I don't say that
16 really to confuse you, but there will be a portion
17 that may remain in service to continue the deliveries
18 that they now have.

19 MS. GEIGER: Thank you.

20 BY MR. CANNATA:

21 Q As you haul out the materials that need to be hauled
22 off, be it spoil or stumpage, I believe you used the
23 phrase that you would have to bring that material to
24 approved sites?

1 A Yes, sir.

2 Q And are the dump sites that you would bring that
3 material to part of this application, or would you be
4 subject to eminent domain proceedings by the company?

5 A The dump sites normally are going to be to existing
6 landfills or existing places that are in operation
7 commercially normally to accept waste disposal.

8 It's not something, we're not proposing any
9 new sites for waste disposal. You know, some field
10 that's never had any stumps on it or never had any
11 rock on them, we're not taking it to those. It's
12 existing commercially operated landfills or rock
13 quarries or something of that nature.

14 Q So you do not anticipate to be using the power of
15 eminent domain for that purpose?

16 A No, sir.

17 Q While we're on eminent domain, it was also represented
18 during the informational hearings that you would be
19 utilizing eminent domain with regards to easement
20 acquisition, that it would be something that the
21 company would only want to do as a matter of last
22 resort. Is that a true statement?

23 A Yes, sir.

24 Q Didn't I hear the other day that we had approximately

1 600 easements left to do, you know, to complete the
2 line?

3 A I believe that's about the number, yes.

4 Q And how does that equate, how do you get 600 easements
5 done and in that time period, especially if you were
6 to get approval from FERC and this Committee, which I
7 believe also grants eminent domain powers? What is
8 the company going to do once it gets its eminent
9 domain powers from either the FERC or the SEC?

10 A I can give you the schedule, is that every single
11 landowner will be contacted and the term of, what is
12 it, Chris, negotiation -- we will have completed our
13 good faith negotiations before we receive our
14 certificate. All good faith negotiations with the
15 landowners, be it 2 or 3 times to go back and talk to
16 them to try to work up a deal will be done by the time
17 we receive our certificate.

18 So the 600 or so that Chris or you referred
19 to here as still remaining, you know, it's an on-going
20 process and he states that we still have 600 left to
21 sign, but it doesn't mean we, we've talked to many of
22 those already once and maybe twice and it's on-going.
23 We just haven't gotten agreements yet. Some of them
24 have not been talked to yet. It's just kind of a

1 manpower resource issue.

2 Q If we still have 600 when you receive your certificate
3 what does that mean to the process going on at that
4 time?

5 A I want to let Chris talk to that.

6 WITNESS WILBER:

7 A I'm sorry, I didn't hear the question. For the record
8 again, my name is Chris Wilber and I was sworn in
9 yesterday.

10 Q Yes, Mr. Wilber, my concern is while the land
11 acquisition process is going on, we're at a point
12 right now where we have approximately 600 parcels left
13 to be acquired for easement purposes. Once the power
14 of eminent domain is received by the company for the
15 project, what does the company intend to do with those
16 negotiations? Will those negotiations continue or
17 does it become an eminent domain proceeding at that
18 point in time?

19 WITNESS WILBER:

20 A No, it absolutely continues. What we will probably
21 do, and what we're hoping to do is by the time the
22 certificate is issued we will have most of the issues
23 worked out.

24 Now keep in mind, as Mike mentioned, on many

1 of these landowners, of that 600, we have, on a lot of
2 them we've got to the point where we know there are
3 specific routing issues or there are specific issues
4 that we have to deal with as far as damages and so
5 forth.

6 So even though it sounds like a very large
7 number, many of the issues have been identified and
8 now it's just a matter of working through them to some
9 type of resolution.

10 At the time that the certificate would be
11 issued I think that we would probably notify the
12 landowner of that fact, just a simple, keeping the
13 landowners up to speed with what the process is and
14 the status of our permitting.

15 I would anticipate that shortly after, I
16 believe it's OPR issues the final authorization, that
17 we would be sending out final offer letters to the
18 landowners.

19 CHAIRMAN VARNEY: Will Mr. Ford
20 continue to be involved in those?

21 MR. WILBER: I guess I would say
22 that's a personnel issue that we would like to address
23 within the company itself.

24 BY MR. CANNATA:

1 Q Mr. Wilber, at the point in time when you issue your
2 final offer, that you just indicated, at that point
3 those become eminent domain proceedings if the final
4 offer is not accepted?

5 A (Wilber) I believe the, prior to any eminent domain
6 proceedings there would have to be actual appraisals
7 of the property and offers would have to be made based
8 on the actual appraised value. I think that after
9 that point is when the proceedings would probably
10 start.

11 And I guess I would say that the company, as
12 a matter of policy, is open to the negotiation with
13 these landowners right up to the very last minute.

14 Q I have one final question. This gets back to the
15 well, pre and post monitoring of well conditions. You
16 indicated, Mr. Morgan that if the landowners had not
17 been allowed an opportunity for that survey that PNGTS
18 would more than be willing to step in and correct the
19 problem, is that a fair statement?

20 WITNESS MORGAN:

21 A Yes, there has to be some provision in there to allow
22 us to substantiate their claim to some extent. I
23 can't obviously make a statement all across the board.

24 Q And I believe you made that same caveat earlier. If

1 in fact this is a verbal transaction, how does the
2 landowner substantiate that he hadn't been allowed an
3 opportunity to participate? And I'm not asking you to
4 really answer that, I will just maybe reiterate
5 Director Colburn's suggestion of working with people
6 right up front to ensure that they have that
7 opportunity.

8 A Yes, thank you.

9 CHAIRMAN VARNEY: Other questions,
10 Phil?

11 BY MR. BRYCE:

12 Q Yeah, I'd like to follow-up on this crossing issue
13 because it's really important because even though you
14 said you'd work with landowners, I think, which I
15 think is great, a lot of landowners who own the land
16 now and land does turn over reasonably rapidly in the
17 state, may not even be thinking about timber
18 harvesting so I have to assume the situation where we
19 have a woodlot up there that has no access now, but
20 the best access is across the pipeline. And right now
21 I'm not sure exactly how that's going to happen and
22 how I feel comfortable that that's going to be able to
23 happen and what kind of liability the landowner will
24 have in terms of getting across it.

1 So, is it, is there anything that prohibits
2 the landowner from, from crossing the pipeline in the
3 agreements, or in the application or anywhere else?

4 A I don't believe there is any language in there for
5 crossing the pipeline, no. I guess if it's in a very
6 remote area, I mean if there is a, if we're going
7 under their driveway right now, I mean we would know
8 about it up front, we're crossing a road right now,
9 it's easily seen in the agreement that we're going to
10 make it so he can continue to use that road or
11 whatever as he was using it before.

12 If it's out in a remote area and someone
13 just owns a tract of land and we're going across it,
14 be it down the Public Service of New Hampshire power
15 line or we're off on our own for whatever reason
16 traversing through the woods, there's no reason why we
17 can not come to an agreement with the landowner to
18 allow him to harvest that land at a future date.
19 There's no problem for him to have access across it,
20 you know, I guess from the standpoint of him just
21 going out there without telling us anything and start
22 cutting timber and running all up and down and using
23 our right-of-way as a path to haul the stuff out and
24 things like that and not knowing and things like that,

1 that's part of our operation and maintenance
2 surveillance and having continued communications with
3 the landowners and, you know, it's on-going. I don't
4 think that would ever happen. I think they're going
5 to know what their, through their easement agreement
6 what their rights are over the top of our pipeline.
7 And if they come to us and say, you know, I want to
8 harvest this thing now, this wood and I want to be
9 able to have heavy equipment in here, you know, can I
10 do it, and the answer is yes, absolutely you can do
11 it.

12 Q What type of, I mean there is one case where you know
13 there's a crossing, let's say you're crossing a town
14 gravel road or something, would you change the
15 specifications of the installation on the basis of
16 that crossing?

17 A Yes, sir, I do. All improved roads for the pipeline,
18 whether it's class 1 or 2, are improved roads, used
19 roads are all class 3. They change the class at the
20 road site and that is above the FERC standards as
21 well -- I mean the DOT standard as well, all class 3.

22 On unimproved roads, somebody's dirt road or
23 something it's a minimum of class 2. So I'm out in
24 the middle of nowhere and I have class 1, when I get

1 to some dirt road, unimproved it goes to class 2
2 design.

3 So I already take into account, normally
4 that is more than sufficient to handle customary loads
5 across those roads.

6 Q Okay, what would be the, I don't know if you know the
7 answer to this question, but on sort of an average 3
8 foot deep installation on what you intend on just
9 putting through the woods on pipe on average ground,
10 or even a range, if you were to haul 100, 100 to
11 120,000 pound log truck over that, what would have to
12 be done there?

13 A We've done some preliminary looks at that, some people
14 have requested continued use across it and we're
15 looking at whether it needs to be upgraded in class,
16 and I think what normally would happen is that we
17 would want to go to at least a class 2 of that type of
18 activity, which is a .6 design factor.

19 Q Yeah, but you won't know this in advance, I'm talking
20 about the situation in the future where I am a
21 landowner who now wants to go and harvest --

22 A Right, and if I have an existing -- and there is no
23 road?

24 Q And there is no road there now.

1 A Normally what ends up happening, if it's all class 1,
2 I am going to berm it up, I'm going to put some
3 padding on it, and if he wants to keep it then we
4 will, you know, work with him to develop some padding
5 that stays continuously and create a crossing for him.

6 Q And that would be, that would be sufficient in your
7 terms and the expense of that would be borne by you?

8 A Well, I guess that would have to be negotiated out. I
9 can't say somewhere down the line, 10 years from now
10 someone wants to build a major road or something over
11 the top of us or whatever that we would incorporate
12 all the costs over the top of us, but we would work
13 with the landowner to ensure that it's you know, it's
14 sufficient to protect our pipeline.

15 Q Any idea of cost, just one lane road to haul a truck
16 load of wood out of?

17 A Well, I guess I would say the cost would be to bring
18 in sufficient gravel, you know, all I'm talking is
19 probably, you know, 6 inches, 4 inches, maybe a little
20 more of gravel spread over the top of it and that's
21 probably sufficient to protect the pipeline.

22 Q Okay, good, thank you. Can I ask a second question?

23 CHAIRMAN VARNEY: Sure.

24 BY MR. BRYCE:

1 Q Private utilities, how are you, how are you finding
2 out about those?

3 A We have done, as we were doing our survey we tried to
4 pick up as many as we can from markings and things
5 like that and they're located on it.

6 We will do Dig-Safe, you know, when we begin
7 our construction to ask for all of them to come out
8 and mark their lines accordingly during construction.
9 We try to pick up as many as we can up front. We try
10 to work with the local utilities in the area, try to
11 obtain as much information and mapping as we can, and
12 we're going to try to incorporate those into the
13 alignment sheets.

14 Many times as we're along roads and things
15 like that we have some laterals that are basically run
16 along the road the entire way and there is phone,
17 there is cable, there is other kind of stuff in there
18 so we try to do as much data base research as we can
19 and we will incorporate that into the final
20 construction alignment sheets, but mostly rely on the
21 Dig-Safe prior to construction.

22 Q Well lines, for example, private well lines sometimes
23 again go up through the woods and a lot of times their
24 location isn't going to be recorded in Dig-Safe or

1 anything like that, and some of them show up as
2 easements in the registry. Is that type of research
3 being done?

4 A Yeah, all the information from an easement standpoint
5 would go through Chris Wilber's title research and
6 deeds and so forth.

7 Q And what if they're unrecorded, is there a way of
8 notifying people -- now we're talking about not a
9 landowner, we're talking about a landowner who has his
10 line across somebody else's property, no easement and
11 they would have no reason to get notified about this
12 whole process. Is there a way for that person to get
13 tied into this whole process so we don't run into that
14 situation?

15 A That's a tough question for us to extrapolate out to
16 try to research. It's very difficult. I guess all I
17 can say is from the standpoint of if we run into
18 something along the way and we inadvertently cut a
19 water line or something then we have to repair it
20 immediately to bring it back into service and then we
21 work around it. But normally during the construction
22 operation it can be detected, but if you damage it, or
23 like I say, inadvertently cut it, then we repair it
24 immediately.

1 Q Do you have stuff on site to do the repair work?

2 A Yes, we will have it available, sure will. Maybe not
3 right there, but we will have sufficient materials to
4 handle drain tiles and water lines and things like
5 that, yes.

6 A (Witness Wilber) Just as a follow up to that, that is
7 something that the agents working out in the field are
8 instructed to inquire of the landowners, that is if
9 there are any water lines or anything like that
10 crossing the property that they know of, and many of
11 the landowners, you don't even have to ask, they let
12 you know that there are pipelines or there's water
13 lines out there as well as like Mike mentioned,
14 drainage tiles and so forth.

15 MR. BRYCE: Good, thank you.

16 Thank you, Mr. Morgan.

17 BY CHAIRMAN VARNEY:

18 Q Follow up to his questions about forest practices.
19 Would it be too much to expect that if, using as an
20 example, say if someone had some property running
21 along the edge of the field and they have woods beyond
22 there, a tract of woods beyond there, perhaps they're
23 not currently actively harvesting that stand, maybe
24 their thinking of doing it in 5 years, maybe they even

1 have a forest management plan in the works, but
2 haven't really done anything yet. There may be wood
3 roads that are there, they're not even improved dirt
4 roads, they're just wood roads, would the company
5 provide access to those parcels? In other words, what
6 I'm concerned about is a scenario where people have
7 areas that are future timber harvesting areas, they
8 may not even think to ask about the issue, but I think
9 it's reasonable to assume in New Hampshire at least
10 that those are future timber harvesting areas and Phil
11 and his people would be encouraging sound management
12 practices in those areas, but for them, further down
13 the line, have to go to you and say may I when it's
14 their land to begin with and it's their tract of
15 woodland that they're trying to access, is there some
16 way that in those instances, whether it's every so
17 many thousand feet or whatever it may be, that there
18 be access provided at least at a minimum and then if
19 they need more than that they could come in with the
20 "may I" later down the line?

21 A I guess it would be real tough to determine the
22 locations. I guess what we'd like to take away from
23 this hearing is that we will, and I know Chris is
24 hearing you, we will begin talking more with the

1 landowners inquiring, and he stated we're going to ask
2 them about water lines, we're going to ask them about
3 their wells and things like that and their septic
4 systems, you know, we can start asking this more so we
5 can start negotiating, getting into that question as
6 well and try to help jog people's thought process. I
7 don't guess I can commit to trying access points along
8 property that may be a long time that we're, like I
9 say, a gravel truck load of gravel can provide that at
10 a future date, which is, you know, relatively easy to
11 do.

12 So, I think I'd like to take away that I
13 hear your concern about trying to inform people as
14 much as possible, and you know, other than what I'm
15 saying here, we can take that away and tell our agents
16 to begin that process and hopefully you will hear some
17 results back that we're doing just that.

18 Q I think it's very important in terms of New Hampshire
19 and in terms of future land use that we're trying to
20 encourage active management of forest lands as an
21 alternative to development of those parcels. And
22 having access and guaranteed access essentially to
23 those parcels is extremely important.

24 A We're never going to deny any one access to their

1 property, never.

2 Q But on the other hand I don't know as they ought to be
3 paying you to have gravel brought in so they can now
4 access their woodlot because they want to cross your
5 pipeline 10 years from now. Doug?

6 BY MR. PATCH:

7 Q If I understood the answer to a question you gave
8 before, Mr. Morgan, it was that you didn't really,
9 there was nothing in the proposed easement that would
10 essentially prohibit them from doing that. If
11 anything, you don't want them to do it if it's going
12 to jeopardize the pipeline, but there is nothing
13 really that prevents them from doing that other than
14 if you were to say to them at some point, you know,
15 please, before you bring any heavy equipment across
16 that--

17 A Yeah, that's probably going to be our best, talk to
18 them and we're going to explain, we're going to try to
19 make these people knowledgeable through our public
20 awareness programs and things like that.

21 BY CHAIRMAN VARNEY:

22 Q Right, but what I'm trying to do, from a design
23 standpoint you don't want heavy log, fully loaded
24 logging trucks running across your pipeline without

1 some added protection.

2 A That's correct.

3 Q And so what I'm trying to do is to proactively address
4 the issue rather than rely on you trying to have
5 surveillance of logging trucks running back and forth
6 across the top of your pipeline.

7 A I understand.

8 Q To me, in terms of the long-term integrity of the
9 line, it would be more prudent to actively and
10 aggressively address it that way rather than hope you
11 catch them and hope they know enough to even ask,
12 which I wonder if they even will.

13 A (Witness Wilber) If I may on that one point, I can
14 say that there are very many cases where the
15 landowners have asked. We have specified in the
16 agreements that we will provide crossings.

17 This is a, and I certainly understand where
18 the Commission is coming from on this, but I just want
19 to emphasize, we have no intention of denying access
20 in any way, shape or form. Granite is currently
21 operating the 18 inch line in the north country on the
22 Portland Pipeline system and this is a fairly common
23 situation where these pipelines have to be crossed and
24 I don't think there is any case where an undo expense

1 has been incurred on the landowner from making a
2 crossing.

3 Typically, if they're constructing a new
4 road or something like that, they're going to have
5 equipment out there anyway, they can berm up over it.
6 It's usually not a big issue.

7 Q But are they asking you for the crossing or are you
8 asking them if they want a crossing? I think it's the
9 former.

10 A (Witness Wilber) In most cases, well --

11 Q I mean aren't they having to ask you for it? I would
12 guess your people, being prudent businessmen, are not
13 going to offer that up to them unless they ask for it,
14 correct?

15 A (Witness Morgan) I think what we do is that we tell
16 them the concerns about running heavy equipment on the
17 pipeline, and if they feel at that time in an
18 explanation that they want a place to cross we will
19 provide that for them. If they don't want a place,
20 they don't need that, they understand the concerns of
21 equipment, they understand their rights within our
22 easement, I think once we explain their rights and
23 what they can and can't do on our easement, they'll
24 understand that, you know, if they want -- they don't

1 need a road now but maybe 10 years from now I'll want
2 one, they have all this equipment out there, Chris is
3 right, I mean you can just push up a little dirt up on
4 top of it and as long as our operations guys are out
5 there with them looking at it, that's fine, go ahead
6 and that's normally the way it happens. As Chris
7 says, it's not a big expense to the landowner, not any
8 expense many times.

9 A (Witness Wilber) We can go on record I believe to
10 instruct our agents to inquire of the landowners if
11 that is an issue and make sure that we write the
12 agreements appropriately.

13 Q I think it's very important in New Hampshire. Thank
14 you. Mike?

15 BY MR. CANNATA:

16 Q You had expressed a concern about future logging
17 activities, you know, not being precluded. If in fact
18 the pipeline crosses property where there are existing
19 logging roads in an on-going forestry management
20 process is going on, are those logging roads bermed up
21 such as they would remain usable?

22 A (Witness Morgan) If it's an unimproved road, if it's
23 an existing road we're already designing it to class 2
24 area. If it's in a class 1 it will have sufficient

1 support to take care of these logging roads, yes.

2 Q So existing logging roads are not a problem?

3 A No, sir.

4 Q And I believe it was stated that you would be cranking
5 these types of things into your easements, could you
6 also go back to the 32 or 38 percent that have already
7 been done and make sure that you catch what you can
8 there also?

9 A (Witness Wilber) Yes.

10 MR. CANNATA: Thank you.

11 A (Witness Morgan) Yes, we can.

12 CHAIRMAN VARNEY: Jennifer?

13 BY MS. PATTERSON:

14 Q We had some discussion of what would be permitted
15 under the terms of the easement deed, and I'm just
16 looking at the easement deed that was submitted by the
17 applicant, and I wanted to point out what the language
18 was with respect to construction by the property
19 owner. And in the 5th paragraph, the second sentence,
20 it says, "grantor agrees that no excavation, change of
21 grade nor water impoundment will be made on, and not
22 trees, brush, structures, dwellings or other
23 obstructions will be placed or erected over, under, or
24 across the corridor without prior written consent of

1 the grantee."

2 And I guess the question would be a legal
3 one, an interpretation of the language of the deed
4 whether construction of a road over the pipeline would
5 fall under the category of excavation, change of grade
6 requiring prior written permission. Is that what your
7 testimony would be?

8 A (Witness Morgan) Yes, ma'am, it would be.

9 BY CHAIRMAN VARNEY:

10 Q And that's consistent with the way you testified I
11 believe, they would contact you and you would go out
12 to the site?

13 A We would need to work with them to ensure the
14 protection of the pipeline.

15 BY MS. PATTERSON:

16 Q I just had one other question. With respect to the
17 hydrostatic testing that Dr. Schmidt was asking you
18 about, could you give an indication of how many
19 specific locations there will be withdrawals and
20 discharges of water for the purposes of hydrostatic
21 testing?

22 A To the best of my knowledge, and these guys can help
23 me, the northern section has the Upper Ammonoosuc near
24 Groveton and the Androscoggin River north of Berlin as

1 water sources. I believe the Connecticut River is
2 also provided as back up support if needed in the
3 determination of flows and things. In the southern
4 end I believe we've determined the Squamscott to be
5 fresh water so we would be able to use the Squamscott.
6 Much of the anticipated volumes for hydro tests had
7 come from Crystal Lake, which is in Massachusetts so
8 we may actually come up north into the test sections.

9 Those are the three main ones, and like I
10 said, the Connecticut is a possibility.

11 Q How does the process work?

12 A From--

13 Q The hydrostatic testing, you put the water in some
14 place and you put it out some place, but I mean what
15 happens in between?

16 A We basically have all the test sections connected by
17 cross-overs. Basically, like the fill, many times
18 will be, either you can fill the entire water volume
19 at once, I mean the whole 30 or 40 miles you can fill
20 the whole thing. Many times it's probably done in
21 sections and you can transfer the water from one test
22 section to another.

23 Really from Groveton say to Pittsburg, like
24 I said, there are probably 20 different sections that

1 have to be tested separately because of the elevation
2 differences in the pipeline. We don't want to over
3 pressure something at a low elevation to meet the
4 requirement at a high elevation just because of the
5 head pressure so it gives you more pressure than you
6 need at the bottom when you're trying to meet a
7 minimum at the top. So you have to break it into
8 sections so you actually pump it full and test them
9 and either you transfer the water to the next one or
10 you fill the whole thing together and you test them
11 separately. It's all already backfilled, already
12 buried except for the areas, the bell holes where the
13 cross-overs are at and the brakes are, and then they
14 are cut out and the pipeline is connected back
15 together. So they're individual tests, 8 hour tests
16 to meet the minimum and maximum pressures.

17 Q And do you know whether the EPA will require you to
18 get NPDES permits in connection with the hydrostatic
19 testing?

20 A I'd like to defer that.

21 A (Witness Auriemma) For the record, John Auriemma. I
22 was sworn in yesterday. I've basically been
23 permitting pipelines up in this region for over 6
24 years now.

1 The EPA will require at least a notification
2 of the hydrostatic testing program. All we'll
3 typically have to supply are the locations of the fill
4 and spill site and they may send us a letter back,
5 they may not. Typically it will just depend on who
6 we're dealing with at the EPA, but normally they do
7 require a notification up front.

8 MS. PATTERSON: Thank you.

9 BY MR. IACOPINO:

10 Q Did I understand that wherever you took the water from
11 though you would replace it to the same source?

12 A (Witness Morgan) Yes, sir.

13 BY MS. PATTERSON:

14 Q So there won't be mixing of the water from the
15 different sources? That wasn't clear from your
16 description.

17 A (Witness Morgan) That's correct, there will not be
18 mixing from different watersheds.

19 CHAIRMAN VARNEY: Phil?

20 BY MR. BRYCE:

21 Q I'd just like to put this road thing to bed with one
22 suggestion to sort of capture the spirit of working
23 with the landowner that you described earlier, and
24 that would be to add on to the easement, I'd ask you

1 if it would be possible to add on to the easement
2 something along the lines that the consent that you're
3 requiring would not be unreasonably withheld to sort
4 of capture that spirit.

5 A (Witness Morgan) I think in many of our agreements as
6 Chris alluded to already, we're putting in language
7 that states just that, that the -- I don't know that
8 it's in the standard form, but many times we're
9 putting in, where people inquire about that, people
10 ask that. We actually have that exact language in
11 there that it will not be withheld.

12 Q As I said earlier, I'm not really concerned about the
13 people today who are thinking in terms of timber
14 harvesting, I'm worried about the person 8 years down
15 the line who, as land turns over, who now is stuck
16 with whatever that earlier landowner negotiated with
17 you, and looking at a broader scale, I'm asking if
18 that language could be used in all of the easements?

19 A (Witness Wilber) I guess in that regard, the
20 specifics of that language, I'd have to have our
21 general counsel take a look at, but as it specifically
22 pertains to crossings, I guess from a project
23 standpoint I don't see a big problem. If it is, if it
24 is in regards to any other excavation on the easement,

1 that would obviously be outside of that language. I'm
2 just not sure how we could write that.

3 Q Would you be willing to proceed with accounting for, I
4 understand and agree with your comments, certainly the
5 crossing is a dire impact as to some of the other
6 activities that might occur. You're willing to
7 proceed in dealing with this crossing issue in the
8 easement because really the intent that you said
9 today, and it's going into the record, when you've got
10 an easement sitting in the registry, you know, where
11 it's a different sort of time and scale, and that's
12 where it's really going to count, in the deed, would
13 you be willing to, to add something relative to
14 crossings specifically?

15 A (Witness Wilber) I just don't have the authority to
16 do that at this time. We will take it back and run it
17 by the Management Committee.

18 Q Can you get back to this Committee?

19 A (Witness Wilber) Absolutely.

20 MR. BRYCE: Thank you.

21 CHAIRMAN VARNEY: Leslie?

22 BY MS. LUDTKE:

23 Q Just a few quick follow up questions, Mr. Morgan. You
24 were asked about the estimate for the cost of river

1 crossings, do you recall that?

2 A Hm-mm.

3 Q And I think your estimate was between \$2 and \$400,000?

4 A Yes.

5 Q That was for the open cut?

6 A Yes.

7 Q And you recall providing that before in response to a
8 data request?

9 A Like I said, I think I had done that before, yes.

10 Q Let me show you a FERC data request that you answered
11 on February 3, 1997, and I refer you to, to the
12 estimate of cost on river crossings, and if you read
13 the estimate of costs on that -- what is that cost
14 for? Start on this line right here. (Indicating.)

15 A It talks about costs associated --

16 Q Do you see the line related to two major river
17 crossings?

18 A \$300,000 for two major river crossings, assuming an
19 open cut, approximately \$150,000 a piece.

20 Q So at that time your cost estimate -- strike that.
21 Since February your cost estimate has increased from
22 \$150,000 to an estimate of \$200,000 minimum cost?

23 A I said it was an estimate here in answer to the
24 Committee. It was approximately \$200,000 and it could

1 go higher if blasting was required.

2 Q But your estimate at that time in February was
3 \$150,000?

4 A I guess so, yes.

5 Q And have you obtained any additional information
6 relative to those river crossings since February that
7 would cause you to change your cost estimate?

8 A No.

9 Q Now, you also described some additional constraints
10 with regard to construction on your revision for the
11 Hogan Road alternative, is that correct?

12 A Are you talking about the mitigation plan?

13 Q Yes.

14 A Yes.

15 Q And I believe your estimate for the construction time
16 in that area was between 5 and 6 months?

17 A As planned now, it could take that long.

18 Q So if you were putting that particular proposal on
19 your rating matrix under engineering constraints, your
20 engineering constraints would probably increase
21 considerably, would they not?

22 A They would increase, yes.

23 Q And do you have any idea how much they would increase?

24 A No, I don't.

1 Q So I'll call your attention to the engineering
2 constraint rating on the 5/9/97 data request and if
3 you could give the total number in the engineering
4 constraints across the board for the revision Gorham
5 South, Gorham North and Shelburne?

6 A Subtotal engineering constraint, the revision says 14,
7 the Gorham South is 20, Gorham North is 20, Shelburne
8 has 19.

9 Q So at the time you did that your proposed revision
10 really was advantageous from an engineering
11 standpoint, in other words, it's 6 of the points of --
12 6 of the points that were attributed to Gorham South
13 came from engineering, 6 of the difference?

14 A That's the way it's shown here, yes.

15 Q So the points would become a lot closer?

16 A Probably not. The one big aspect of the requirement
17 here is rock blasting required, and the fact that
18 we're down 5 feet off the road with minimized rock
19 blasting. So it might increase some, but I can't
20 say -- just because of the timing constraint. I don't
21 know, I'd have to look at it again.

22 Q And you would agree that the total number of
23 engineering constraints isn't necessarily related to
24 the total engineering cost, isn't that correct?

1 A Say that again.

2 Q One cannot make a judgment about costs by counting up
3 the number of engineering constraints according to go
4 your rating matrix, isn't that correct, they're not
5 cost based, are they?

6 A No, they're not. They're basically from a standpoint
7 of construction and operating and maintenance and, you
8 know, difficulty in construction.

9 Q So there could be, for example, two different ratings,
10 one lower than another and the lower one might in fact
11 be more expensive to construct than the higher one?

12 A I guess it's possible.

13 Q Now, at the beginning of your testimony you referred
14 to a commitment that the Committee, that the applicant
15 was willing to make with regard to filing operation
16 and maintenance plan, did you also reference
17 construction specifications with this Committee as
18 well, I didn't catch that?

19 A Yes, that's part of it. All the things that Mr.
20 Ellsworth referred to we committed to filing.

21 Q So the Committee (applicant?) is willing to commit to
22 specifications related to operation, maintenance and
23 construction, is that correct?

24 A We agreed to file the construction, operation,

1 maintenance, and the emergency plans with the
2 federally designated state authority, which in our
3 impression is the PUC.

4 MS. LUDTKE: Okay, nothing
5 further.

6 CHAIRMAN VARNEY: Any other
7 questions?

8 BY MR. ELLSWORTH:

9 Q Just one last thing, Mr. Morgan. On direct
10 examination earlier in this section--

11 A A month ago?

12 Q Mr. Kruse directed your attention to some exhibits
13 that do have some of the information that's set forth
14 and required in the OPS standards. I remember
15 specifically you identified the class locations and
16 the valve locations according to class?

17 A Yes, sir.

18 Q It strikes me that you may have other exhibits in the
19 files that either were not, either have not been
20 brought to our attention or we just have not yet
21 reviewed. Could you, at a convenient time, develop
22 that information which corresponds to the requirements
23 of the Office of Pipeline Safety and submit it to us
24 so that we would have an easy review of that data?

1 A Basically saying anything that we have completed to
2 date if possible to supply it to the Committee?

3 Q Tell us where we can find it.

4 A Yes, I can tell you where you can find it or if I've
5 got something complete I can give you that you don't
6 have already I'll do that as well.

7 MR. ELLSWORTH: Thank you.

8 CHAIRMAN VARNEY: Mr. Kruse?

9 MR. KRUSE: Mr. Chairman, can I
10 just have Mr. Morgan identify one of these exhibits so I
11 can check it off my list?

12 CHAIRMAN VARNEY: Sure.

13 MR. KRUSE: We've pre-marked this
14 as exhibit 20.

15 MR. IACOPINO: What is it?

16 MR. KRUSE: It's the quad sheet.

17 MR. MORGAN: Basically the
18 northern and southern route of the USGS quad sheet, quad
19 excerpts. These are real nice to look at.

20 MR. KRUSE: What are they?

21 MR. MORGAN: Quad excerpts. Makes
22 it easy rather than having a big quad.

23 CHAIRMAN VARNEY: Exactly.

24 MR. MORGAN: For both the northern

1 and southern sections.

2 MR. KRUSE: Is that the current
3 sheet?

4 MR. MORGAN: Yes, sir.

5 MR. KRUSE: Can I also, for the
6 record keeping purposes, establish for the record some
7 numbering we've done with these photographs and the views
8 of the Shelburne explanation?

9 As I indicated earlier, I've marked the
10 board which has the mustard and red lined routing as
11 21-a-1. I also went back to the board that I believe
12 contains the photographs that Mr. Trettel first identified,
13 reflecting current logging adjacent to Hogan Road at the
14 top, and then the logging clear-cut visible from the golf
15 course at the bottom, we marked that 21-a-2. Third I
16 believe is the 3 photographs of Hogan Road undisturbed,
17 Hogan Road existing cleared shoulder, approximately 40 feet
18 wider, and lastly, example 40 foot wide additional
19 permanent right-of-way marked as 21-a-3.

20 The next board was, on the top, Hogan Road
21 existing condition; the next example existing additional
22 clearing 50 foot wide, and the one on the bottom was
23 digitally enhanced, example of additional clearing 20 foot
24 wide as proposed for permanent right-of-way, cross section

1 1. That's been marked as 21-a-4. And then finally, the
2 panoramic view across Reflection Pond, Shelburne, New
3 Hampshire, marked as 21-a-5. Thank you, Mr. Chairman.

4 CHAIRMAN VARNEY: Bruce?

5 BY MR. ELLSWORTH:

6 Q Mr. Morgan, I'm reminded that there was some
7 discussion earlier also about the location of
8 transmission line valves. You're well aware I'm sure
9 that Part 192.179 sets forth the requirements for the
10 location of those valves according to class?

11 A Yes, sir.

12 Q There have been some concerns that because of the
13 terrain it may be in your best interest and for the
14 interest of customer safety to vary somewhat and add
15 to your line additional valves. I would request that
16 you sit down with our staff and resolve those issues
17 and if it's, if it's in our common interest, that you
18 do install such valves, would you be willing to do
19 that?

20 A I'd be willing to work with your staff, absolutely.

21 MR. ELLSWORTH: Thank you.

22 BY MR. CARPENTER:

23 Q Mr. Morgan, just one quick question concerning the
24 Portland Pipeline line and right-of-way. Do you

1 permit normal agricultural activities on your
2 right-of-way?

3 A Yes, we do.

4 Q And how do the agricultural vehicles that you, that
5 would normally traverse that compare to the
6 construction vehicles as far as weight?

7 A I guess it can be either heavy or light. What we
8 typically do in agricultural fields, if there is
9 existing pipelines there we normally would go down to
10 the elevation, the top elevation of their pipelines,
11 but many times we go to either a 40 or 48 inch depth
12 as opposed to 36 inch to get additional covering in
13 agricultural fields to increase our protection.

14 Q Is the ground pressure of your equipment higher than a
15 typical farm tractor?

16 A You say our equipment, what do you mean?

17 Q Well, the equipment you use during construction.

18 A I guess I don't know really the answer to that, but
19 our equipment used during construction will not be
20 travelling over the top of the pipeline.

21 Q Is that a legal requirement that it can't travel over
22 the top?

23 A No, I think it's a safety factor. We would not want
24 to take the risk of working over the top of Portland

1 Pipeline's line.

2 MR. CARPENTER: I was just looking
3 at this, that if you could use some of that open space over
4 that line you could significantly reduce your right-of-way
5 requirements.

6 MR. KRUSE: May I identify two
7 more and only two more exhibits?

8 CHAIRMAN VARNEY: I'm sorry, I
9 thought you were done.

10 MR. KRUSE: I was, but I realized
11 I hadn't quite. What we've identified as applicant's
12 exhibit 1-b, correspondence from Donald Pfundstein to the
13 Chairman, February 26, 1997, regarding the pipeline size.

14 MR. MORGAN: It's a notification
15 of increase to 24 inch.

16 MR. KRUSE: For the northern
17 section?

18 MR. MORGAN: Yes, for the northern
19 section, Coos County, dated February 26, 1997.

20 MR. KRUSE: And then lastly what
21 we've identified as exhibit 2?

22 MR. MORGAN: The joint pipeline
23 amendment to application for the Energy Facilities
24 certificate dated February 1997.

1 MR. KRUSE: And is that the
2 application binder for the joint pipeline portion of this
3 project?

4 MR. MORGAN: Yes.

5 MR. KRUSE: Thank you, Mr.
6 Chairman.

7 CHAIRMAN VARNEY: Mr. Judge?

8 MR. JUDGE: I kind of promised
9 myself I wouldn't ask another question about Hogan.

10 CHAIRMAN VARNEY: You're going to
11 get home late tonight.

12 BY MR. JUDGE:

13 Q Mr. Morgan, on the mitigation plan that you submitted
14 for Shelburne on page 2, could you quantify what is
15 meant by heavy traffic on Hogan Road?

16 A Can you kind of direct me here?

17 Q Bottom of page 2, 5 lines up from the bottom.

18 A I guess that references to the fact that there is
19 logging activity and traffic along that, during the
20 logging operations along the road.

21 Q But can you quantify trucks per day, cars per day or
22 per week or hours?

23 A No, I cannot.

24 Q And just one other question, where it says currently,

1 does that mean during this particular period of time?

2 A No, I think it's an on-going operation. I've seen
3 trucks up there, I've been moved off the road from
4 logging trucks coming through there last year as well
5 as the year before.

6 Q It's a logging road.

7 A Yes, so it's been on-going. Whether it has more
8 frequent, higher use at certain times of the year, the
9 reference here is the fact that it was an existing
10 operation, used as logging road before.

11 Q So when you say heavy, you don't mean like 200 trucks
12 a day travelling through or 50?

13 A No, that's probably not meant to be that high.

14 Q Sort of semantics?

15 A Yes, sir.

16 CHAIRMAN VARNEY: Well, thank you,
17 Mr. Morgan. That's all for now. I think you have some
18 work to do in some of the responses so we'll let you get to
19 that. We'll now take a minute, true 5 minute break and
20 start with another witness.

21 (Brief recess.)

22 (Resumed.)

23 (Whereupon the panel of Kathy
24 Conway, Preston Gilbert, and

1 Dorothy Weinstein were duly sworn
2 and cautioned by Mr. Iacopino.)

3 MR. GILBERT/MS. CONWAY/MS. WEINSTEIN, SWORN

4 BY MR. RICHARDSON:

5 Q Could you state your names for the record, please?

6 A (Conway) My name is Kathy Conway.

7 A (Gilbert) Preston Gilbert.

8 A (Weinstein) Dorothy Weinstein.

9 Q I'd like you to start off, could you describe the
10 North Country Council and what experience and
11 qualifications you have?

12 A (Gilbert) Before I mention anything about the
13 Council, I guess I'd just like to express my, my
14 amazement and respect for this process. I was 26
15 years old and had a full head of hair when I came in
16 here about 6 hours ago, and you guys have been at this
17 for a couple of days. I respect you and your
18 commitment and your resolve.

19 The council is the Regional Planning
20 Commission for the northern third of the State of New
21 Hampshire. It was designated such by the legislature
22 in 1973. Our legislatively designated planning region
23 consist of everything from the towns of Haverhill,
24 Conway, and Plymouth to the Canadian border, exactly a

1 third of this state's land mass.

2 In that region, if you include all the towns
3 that have people, it's about one fifth of the state's
4 municipalities. If you include the 24 towns that have
5 no people, it's about one quarter of the state's
6 municipalities. Included in that list is New
7 Hampshire's fastest growing community, the town of
8 Hart's Location, population 36. Four people moved
9 into town in the last 10 years.

10 In addition to being a Regional Planning
11 Commission, the town council serves a role as a, a
12 regional transportation planning contractor or agent
13 for the New Hampshire Department of Transportation
14 under the directives of the Intermodal Surface
15 Transportation Efficiency Act of 1991.

16 In addition, since 1975 the council has been
17 designated as an economic development district by the
18 U.S. Department of Commerce. That designation was
19 granted in 1975 based on the extreme depressed
20 condition of our region. Putting that into
21 perspective, in 1997 it's just as depressed now as it
22 was in 1975, despite the fact that it represents one
23 third of the state's land mass and one fifth of this
24 state's municipalities, the total valuation for that

1 region doesn't barely equal the valuation for the City
2 of Nashua. So it is not a wealthy region by any
3 stretch, by any stretch of the imagination.

4 The council is the only Regional Planning
5 Commission and regional development organization in
6 the State of New Hampshire that is an incorporated,
7 nonprofit agency and serves the role of both economic
8 development resource as well as planning resource.
9 That balance is a very, very important part of the
10 philosophy of the organization and has been for 25
11 years.

12 As an organization our focus is a little bit
13 different than the average Regional Planning
14 Commission. Our focus is primarily community problem
15 solving, regulatory compliance, development planning,
16 design and engineering as well as traditional
17 community and regional planning.

18 In the recent last two years, we have spun
19 off a new venture, which is a community development
20 educational foundation, which does research,
21 demonstrations and educational programs. We have a
22 staff of 14 persons. Those 14 people routinely in the
23 course of a program year work with private sector,
24 with public sector, and with nonprofit organizations

1 addressing regional issues in various areas.

2 The staff of 14 consist of 3 landscape
3 architects, 2 licensed professional engineers, 2 solid
4 waste planners, 2 community planners, a transportation
5 planner, an economic development planner, a business
6 manager and 2 support staff. I'm personally very
7 proud of the fact that of all of the regional planning
8 commissions in the state, North Country Council has
9 the highest median age of any, of any of my peers.
10 This is, in all seriousness, a result of the
11 experience level of much of our staff and fact that it
12 is a very positive and open place to work and we
13 experience minimal turnover.

14 Over the last 25 years, the council has
15 completed over 100 environmental assessments. These
16 have been everything from bridge environmental
17 assessments, development project environmental
18 assessments, airport environmental assessments,
19 infrastructure, transportation, and historic cultural
20 projects.

21 We also routinely, over the last 20 years,
22 have done feasibility and design projects, industrial
23 development, down town improvement, highway planning,
24 water and sewer construction and design, solid waste

1 planning, recreation, and numerous other projects that
2 I probably couldn't even summarize for you.

3 In addition, over the last 25 years we have
4 been involved in several very large regional projects,
5 providing impact assessment assistance, as well as
6 technical support to municipalities and representing
7 municipality interests. Those projects have been the
8 Hydro-Quebec DC line in the 1980's, Sylvio Conte
9 National Wildlife Refuge on going at this present
10 time, the Northern Forest Land Study, presently the
11 Pontook -- I'm sorry, in the past the Pontook
12 Hydroelectric license in the early 80's, late 70's,
13 presently the 15-Mile Falls Hydro re-licensing
14 process, both Pontook and 15-Mile Falls were FERC
15 processes, State Rivers Management Program, routinely
16 over the last 25 years transportation projects such as
17 the Conway By-pass, the Route 115 Corridor Study and
18 others, and most recently the White Mountain National
19 Forest Feed Pilot Project, which we provided
20 assistance to the U.S. Forest Service on.

21 The council, in it's 25 years, has had its
22 hands in every single master plan in northern New
23 Hampshire. If there is a master plan in northern New
24 Hampshire, North Country Council either initially

1 wrote it, supported the town in writing it or
2 rewriting it, or is presently updating it.

3 In addition we have responsibility for
4 completing regional plans as per RSA 36. Probably one
5 of the most significant ones we're working on right
6 now, in keeping with our contract with DOT, to do
7 transportation planning under the department's
8 planning division.

9 Myself personally, I'm originally trained as
10 a landscape architect, 23 years experience in
11 development planning, 11 of that in private practice
12 as a consultant, 12 years in the public sector in
13 various positions including the one I presently hold
14 as Executive Director of the council.

15 My expertise is in the area of site
16 planning, economic and business development,
17 facilities planning, design, recreation, and have
18 worked in Maine, New Hampshire and Vermont since I
19 started this wonderful profession in 1984.

20 I guess I would like to pass this to Kathy
21 for her to talk a little bit about her skills.

22 A (Conway) My experience and background includes a BS
23 in civil engineering from UNH and I am a licensed
24 professional engineer in the State of New Hampshire.

1 My 13 years of work experience includes working for
2 New Hampshire DOT as a construction inspector during
3 the Franconia Notch Project. I also worked for a
4 consulting firm doing design and construction
5 inspection for utility projects, mostly water and
6 sewer, did a lot of site planning and drainage studies
7 also, and currently for North Country Council I do a
8 variety of work. My function could be considered
9 similar to that of a municipal engineer. Most of our
10 communities are small and that they don't have the
11 technical staff available. I also do a lot of
12 planning work and some economic development work.

13 A (Weinstein) I'm Dorothy Weinstein and take credit for
14 helping Preston keep that median age up there in our
15 office, and besides that I have a Master's Degree in
16 natural resource planning, and I have, in the past,
17 worked on the Northern Forest Land Study doing mapping
18 research and reporting on large blocks of forest land
19 and conservation land, both in the State of Vermont,
20 those two projects, and currently I am the office
21 point person on the 15-Mile Falls re-licensing
22 process. And so that's been my involvement with the
23 with FERC: I'm also the project manager for the
24 Connecticut River Scenic By-way Project, which goes

1 the entire length of our region from Haverhill to
2 Pittsburg, those 13 towns.

3 Q I have here a copy of some testimony and report that
4 you prepared. I'd like you to take a look at just
5 briefly and identify it as your testimony? For each
6 of you, is that a true and accurate -- is that a copy
7 of your report and is that a true and accurate
8 statement to the best of your knowledge?

9 A (Weinstein) Yes, this is the report and it is, it is
10 true.

11 A (Conway) Yes, I would also agree.

12 A (Gilbert) Yes.

13 Q Are there any changes or modifications that you'd like
14 to make to your report?

15 A (Gilbert) None that we know of.

16 Q In your testimony you discuss the information that's
17 contained in the application. Could you tell us
18 something about the level of detail and how the
19 information is presented?

20 A (Conway) First of all, there was a lot of information
21 to review, and I guess we found that a lot of the
22 information wasn't necessarily complete. For
23 instance, the initial application, a lot of
24 information that was taken from that was just put into

1 the revised application and no changes were really
2 made when there was a major route change, a major
3 revision route change up in the north country. That
4 was, I guess, sort of typical of our analysis. That's
5 just one example. I don't know if you need further
6 examples.

7 Q What about site specific construction in residential
8 areas, what was the type of information that was
9 included there for the north country?

10 A (Conway) Initially we had no site specific
11 residential plans. When we requested them through
12 your data request we got site specific plans through
13 mile post 58 I believe, and in field review it appears
14 that there are several homes in the Shelburne area,
15 for instance, that are in close proximity to the
16 pipeline, but I haven't seen any site specific or
17 plans for those areas.

18 Q Now, you also prepared some recommendations concerning
19 the construction and design proposal?

20 A (Conway) Yes.

21 Q One of those concerns is an independent inspector, I
22 believe that's recommendation number one. Could you
23 tell me what your recommendations were and how those
24 came about?

1 A (Conway) Would you like me to go through all of the
2 recommendations or--

3 Q I think to save time I'll probably just concentrate on
4 a few of them?

5 A (Conway) Basically, I have, I felt that an
6 independent inspector who was concerned with the
7 landowner issues in terms of how their property would
8 be left, in terms of how their water system or septic
9 system would be impacted, was something that hadn't
10 been addressed, and the typical resident doesn't
11 really understand all the construction plans and
12 understand all the technical jargon and know what's
13 going to happen to their property.

14 So, we came up with this first
15 recommendation that an independent inspector be
16 available to protect the interests of that resident.
17 Personally, I've been an inspector on a lot of sewer
18 and water installations where residents are involved
19 and you spend a lot of time doing damage control, and
20 in this process there didn't seem to be that person to
21 handle those issue for the residents.

22 Q Now you also had a recommendation, I believe number 3,
23 concerning pre-construction tests and procedures?

24 A (Conway) Hm-mm.

1 Q Could you describe that for me, please?

2 A (Conway) In reviewing the information that was
3 available, I didn't find anywhere where landowners
4 knew what they could ask for. They had no knowledge
5 that they could ask for a pre-blast survey, or that
6 they could ask to have the top soil segregated or any
7 number of those types of things. I couldn't find
8 anywhere that that the applicant was notified of those
9 special procedures that could be done.

10 So this recommendation is that a written
11 notice be filed, or be available to each of those
12 landowners so they know what impacts may affect there
13 land and what they can do about it.

14 Q In your experience in other construction projects, is
15 it common for landowners to be unaware of what rights
16 they may have to these types of procedures?

17 A (Conway) My experience has been yes, they don't
18 really understand the whole process.

19 Q Now, I'd like to jump to recommendation number 6
20 concerning field adjustment of temporary work space.
21 Could you give me your recommendation with respect to
22 that aspect of the application?

23 A (Conway) Basically, the way I read the application
24 was that the applicant had the ability to increase

1 work space wherever they deemed necessary without
2 going back to the FERC or to this Committee for that
3 approval. And that just didn't seem reasonable, that
4 seemed to be something that the Committee should have
5 a say on as to where this, with the right-of-way or
6 additional temporary work space might be so that's
7 where we came up with that recommendation.

8 I mean basically the pipeline was requesting
9 that FERC and the Site Evaluation Committee waive the
10 requirement that work space not exceed the amounts
11 shown in the application, waive the requirement that
12 it exceed the impacts identified only in limited
13 areas, and waive the requirement that the construction
14 right-of-way not exceed a total width of 100 feet
15 without prior written approval, and didn't feel that
16 that was reasonable.

17 Q Now, in your recommendation is that something that the
18 independent inspector could play a role in?

19 A (Conway) Certainly that's possible.

20 Q Now, the final recommendation, number 11, concerned
21 residential areas, and what was that recommendation?

22 A (Conway) Well, the thing that concerned me about
23 construction and residential areas was that the ECP
24 stated that where feasible the route shall be adjusted

1 to achieve as much separation from residential areas
2 as possible. Smaller equipment may be used whenever
3 possible. Drag section construction may also be used,
4 stove pipe construction may be used in very sensitive
5 areas. There is no definition of smaller equipment,
6 residential areas, or the conditions under which some
7 of these techniques may or may not be possible. So
8 from the information we have we don't know if there is
9 going to be a lesser impact on some of these
10 residential areas because we don't know what type of
11 construction is going to be utilized. So that's why
12 we came up with this particular recommendation to
13 address those issues.

14 Q Thank you. I'd like to turn now to the sections of
15 your application that deal with the -- sections of
16 your report, thank you, that deal with the impacts to
17 orderly development and the environment, and you
18 discuss some, the reasons why following existing
19 right-of-ways are important. Could you tell me more
20 about that?

21 A (Gilbert) Well I guess from an economic development
22 and community and regional development standpoint I
23 guess I'll kick it off. If either of my fellow
24 council staff people here have some comments they'll

1 be glad to throw them in I'm sure.

2 As said I before, the council is an economic
3 development district designated by the Department of
4 Commerce. As a designated economic development
5 district the rationale behind that, when that was done
6 20 some odd years ago, was a recognition that this
7 indeed is a depressed area, that getting investment
8 into a depressed area is difficult, and that when that
9 investment comes in it needs to be targeted as
10 effectively as possible to achieve maximum impact for
11 dollar invested.

12 That's really at the heart of the economic
13 development district process. Our goal or function is
14 to guide federal and state investment in this region
15 to assure that it does extract maximum impact.

16 The document that we used to do that is
17 something called an OEDP, an Overall Economic
18 Development Program. It is a document that we're
19 required to file annually with the U.S. Department of
20 Commerce. It does just that, it tells us where things
21 should be occurring in the region every program year.

22 One of the consistent themes of the OEDP for
23 the last 22 years has been the concept of growth
24 centers and target areas. There are 14 or 7 growth

1 centers and 7 development target areas in the north
2 country. These are identified, a growth center is a
3 community or a group of communities, as is in the case
4 in Berlin/Gorham, it's a group of communities, where
5 the full capacity for economic development exists.
6 The economic infrastructure is there, the physical
7 infrastructure is there, the political infrastructure,
8 the land use controls, all the services, everything is
9 in place. There are 7 of those in the region and we
10 focus all major economic development investment in
11 those communities.

12 The development target areas have special
13 characteristics, they usually are either mill
14 communities such as Groveton, or resort communities
15 such as Waterville Valley. They may not have the full
16 capacity for economic development, but they possess
17 certain either historical, cultural or physical
18 features which enable them to generate tax revenue,
19 create jobs and support the regions needs.

20 Our interest is to maximize all investment
21 in those development target areas. By doing that
22 that's how we leverage jobs, that's how we leverage
23 development, which is one of the key interests that
24 the council has.

1 With that our interest in having the
2 pipeline in down town Gorham are absolutely
3 tantamount. We think it adds a great deal to the
4 community's potential and opportunity as well as the
5 region's potential and opportunity. So that's, that's
6 sort of the first, the first impact.

7 Beyond that in terms of orderly development
8 and regional activity, there are about 12 million
9 tourists in the north country every year. Those 12
10 million tourists are coming for the obvious reasons of
11 experiencing the environment. In the north country
12 one third of the region's economy is directly tied to
13 tourism. I think if you include the expanded retail
14 commercial activity, that those 12 million tourists
15 spur in those growth centers, you probably would find
16 it's probably closer to half of the economic
17 development future.

18 In 1993 North Country Council, in
19 cooperation through our research capacity with the
20 State University in New York hosted a research project
21 in the White Mountain region to determine what the
22 impact of clear cutting visually was on visitors and
23 residents and what their reaction to it was, and the
24 outcome of that report, which has been filed with the

1 Forest Service and is a main-stay planning document in
2 their management program, found that communities and
3 visitors alike felt that clear cuts which exceeded 1
4 to 2 acres that were linear or geometric or larger
5 than 1 or 2 or 3 acres in size, had a significantly
6 detrimental impact on the person's perception of
7 scenery in the region, and that has been sort of a
8 guiding principle on a lot of the forest management
9 activities and comments that we have made on either
10 intergovernmental review projects that come before our
11 office, on White Mountain Natural Forest planning
12 documents, for management activities that come into
13 the office, whatever. The mainstay of our program is
14 minimal small scattered clear cuts.

15 Beyond that, as a transportation planning
16 agency one of the issues that we found in dealing with
17 the regional planning aspects of this project,
18 north/south roads in this state are pretty plentiful
19 and fairly large and fairly easy. It's when you start
20 going east/west that things start getting a little
21 strange. Those of you that are in the luxury down
22 here in the southern part of the state where you don't
23 have these mountains in the way, have a little bit
24 better time of it than we do. We find ourselves in

1 the north country with basically two east/west roads
2 for the entire northern part of the state. One of
3 those roads is Rt. 302, the other is Rt. 2. Both are
4 very, very significant highways and relative to both
5 of those highways they are so significant that in our
6 transportation planning process we work very hard to
7 get Rt. 2 included in the last ditch as being included
8 on the national highway system. Rt. 2 represents,
9 during its entire length in northern New Hampshire
10 approximately 10 percent of the State of New
11 Hampshire's total mileage in the national highway
12 system. It is a very, very significant road. If you
13 consider that tourism, 12 million of those tourists,
14 our tourism economy is accommodating 12 million of
15 those tourists, you're looking at one of the primary
16 east/west correctors throughout the region. This view
17 is shared very much so by the State of Maine who is
18 working cooperatively with us on a project that Kathy
19 is leading, which I will come to in a minute, which is
20 the Regional Scenic By-way initiative. The State of
21 Maine itself recognizes Rt. 2 as a significant
22 national highway.

23 Q Can you discuss for a minute how the, how this relates
24 to the current application in front of the Site

1 Evaluation Committee?

2 A (Gilbert) Well, in essence people coming into this
3 region are coming in, they're coming from east or
4 west, and we get a fair amount of people coming in
5 from both directions entering New Hampshire or leaving
6 New Hampshire at the site where the pipeline hits.
7 There is already a corridor there. The corridor is
8 managed reasonably well. It's integrated into the
9 landscape. Coming into the region from the State of
10 Maine, which as I said there are a fair number of
11 people doing, particularly now that Sunday River and
12 some of the other development up in Bethel has been
13 going on at a breakneck pace. A lot of our visitors'
14 first impression of this region and their experience
15 in this region will be what they see when they, when
16 they come across the state border.

17 Beyond that is the issue of, going back to
18 the OEDP, of concentrating investment in developed
19 areas. Now our policy, we have a lot of undeveloped
20 area in the north country and we're trying to keep it
21 that way. And we try and respect municipal master
22 plans in any of the reviews that we do, or more
23 appropriately use those municipal master plans as a
24 basis for everything we do. I don't know if that

1 answers your question.

2 Q It does. I have another follow up question. If a new
3 corridor is created in an area like Shelburne, what
4 impact does that have on future development and the
5 location of additional corridors or projects?

6 A (Gilbert) Well, there are two parts to that. I look
7 at it as much from a lost opportunity in Gorham
8 Village as I do for impacts outside of the region. We
9 really, really tried very, very hard in the office to
10 ensure that orderly development means that existing
11 historical and cultural villages where development
12 needs to occur receive all public investment so that
13 they have the advantage, the competitive advantage in
14 the marketplace so that they attract investment, so on
15 and so forth. By allowing development to occur
16 outside of the established village corridors, not only
17 do we encourage development potential outside of those
18 village corridors, but we put the villages themselves
19 in an extreme disadvantage and that is something that
20 is, it's sort of essential in our OEDP that, you know,
21 the commitment to restoring and maintaining main
22 streets and existing development patterns is very
23 critical.

24 Q You prepared an analysis of visual impacts of the

1 proposed pipeline in the Town of Shelburne. Could you
2 describe how that was produced?

3 A (Conway) Basically, what we did is we, in the initial
4 application that PNGTS prepared, they stated that the
5 visual impact through that area would be negligible.
6 We didn't agree with that.

7 So, what we did is we contracted with
8 Complex Systems. Complex Systems is the organization
9 that maintains the Granite System. For those of you
10 who aren't familiar with it, the Granite System is
11 basically the GIS coverage on roads, hydrology,
12 political boundaries, all of that computerized
13 information. So we contracted with them to complete a
14 digital elevation model using Ark info.

15 The results of that are what we have behind
16 us. Basically how that model was developed is they
17 took the existing datalaters that they have, the
18 elevation datalaters, and that information is data
19 that is sampled or collected once every 30 meters.
20 So, we have a 20 foot contour interval. So at this
21 frequently there are some small elevation changes
22 like, for instance, the railroad through Reflection
23 Pond, that particular elevation may not be picked up.
24 So that's one layer that we have here, is the

1 elevation data.

2 Another layer is what they call land cover,
3 which is basically vegetation. The upper model here
4 shows it as bare ground, which could be similar to a
5 winter situation. If a lower model here shows it with
6 65 foot high trees, which is a standard New Hampshire
7 tree height, then also the existing road and existing
8 water is coverage that they have. All of that
9 information is based on USGS mapping.

10 Then the next thing that they did is they
11 took and digitized in where the proposed pipeline was
12 going to go. Where they got that information from is
13 I supplied them with the USGS quad sheet, number 26,
14 that was prepared by PNGTS on 3/97, which showed the
15 location of the pipeline.

16 Now the accuracy of the location of this
17 pipeline is only as accurate as the data we were
18 supplied with. So, for instance, if you look carefully
19 at this quad you might see that the pipeline appears
20 to intersect Hogan Road. So somebody sitting at the
21 computer down in Durham looks at that and it says
22 okay, it looks like the pipeline might intersect Hogan
23 Road so that's that why there's these slight
24 deviations. Again, it's only as accurate as the

1 information we were provided with.

2 Once the centerline of the pipe was
3 digitized in, we then took and buffered it with a 75
4 foot corridor, which was the proposed clearing width
5 at that point in time. We went with 75 feet even
6 though we felt there were probably going to be places
7 that had a wider clear cut because of the need for
8 blasting in this area. But we didn't have any
9 information on additional temporary work space so we
10 just kept the standard 75 foot width.

11 And I think that this model clearly shows
12 that from Rt. 2 across Reflection Pond the pipeline,
13 the clearing for the pipeline is going to be visible
14 and leave a scar across that forested hillside.

15 Q Now, when you say from Rt. 2, what assumptions are
16 made about where the view is shot from? In other
17 words, what is the elevation that this view is
18 produced?

19 A (Conway) Basically again what I did is I put an "S"
20 on the USGS map and said if our car is sitting here
21 and that spot happened to be that, that pull-off in
22 front of Reflection Pond that the Site Evaluation
23 Committee stopped at that day, that's where I said
24 we're sitting right here and if you look across

1 Reflection Pond and this is what we see.

2 Q Now, the applicants have produced a visual mitigation
3 plan for the Town of Shelburne, have you reviewed that
4 plan?

5 A (Conway) I've looked at it, yes.

6 Q Is that plan represented in your model right there?

7 A (Conway) No, because we didn't get that plan until a
8 few days ago so there was no way we could have
9 produced maps to show the reduced right-of-way, but,
10 you know, 75 feet, 60 feet, what's the difference when
11 you're looking across at the, the great distance
12 across Reflection Pond?

13 MR. RICHARDSON: Thank you.

14 MR. PFUNDSTEIN: Justin, are you
15 all done?

16 MS. LUDTKE: Well, we want to mark
17 those as exhibits. We can do that at the end of the day
18 when we're going to mark all of our materials as exhibits
19 unless you want to do it now.

20 MR. PFUNDSTEIN: Whatever you
21 prefer to do.

22 MS. LUDTKE: We'll do it all at
23 the end of the day.

24 BY MR. PFUNDSTEIN:

1 Q First of all, on behalf of PNGTS we welcome all of you
2 to Concord. It's a lot cooler where you came from I'm
3 sure. I guess I have a series of questions for Mr.
4 Gilbert. The first one would simply be, did you mean
5 to adopt the pre-filed testimony as it related to you
6 during your direct testimony?

7 A (Gilbert) Yes, I did.

8 Q It wasn't clear to me whether you were substituting
9 your verbal remarks or not. As I understand it, your
10 regional planning commission serves a dual function of
11 planning and economic development, is that correct?

12 A (Gilbert) That's correct.

13 Q And in fact, Mr. Gilbert, you are, insofar as the
14 council is concerned, at least one of its experts in
15 the area of economic development?

16 A (Gilbert) That's correct.

17 Q And your testimony in fact, your pre-filed testimony
18 was, by its terms, submitted for two purposes, is that
19 not true?

20 A (Gilbert) I believe so.

21 Q And it was submitted as an expert for Public Counsel,
22 that would be one reason it was submitted, and it was
23 also by its terms submitted on behalf of the Regional
24 Planning Commission, which include economic

1 development, is that not true?

2 A (Gilbert) That is true.

3 Q And in fact the purpose of your review by Public
4 Council states that you reviewed the impact of the
5 PNGTS on the economy, environment, and the orderly
6 development of your area of the state, is that true?

7 A (Gilbert) That's true.

8 Q Now, is there anything in your testimony concerning
9 the positive impacts on the economy from PNGTS?

10 A (Gilbert) Not in the testimony that we provided
11 today.

12 Q I notice one of the areas of your targeted development
13 efforts is Groveton, is that not true?

14 A (Gilbert) Correct.

15 Q And are you aware that PNGTS proposes to build a
16 lateral to serve Wausau Papers in Groveton?

17 A (Gilbert) Yes, I'm aware of that.

18 Q Would you agree that one of the important functions of
19 an economy is an adequate supply of energy?

20 A (Gilbert) Absolutely. I guess I'd just like to
21 clarify that in general we are very highly supportive
22 of the pipeline itself, and if anything I think the
23 text of my remarks just immediately prior to this is
24 that if we seek modification, part of it is for

1 orderly land use, but part of it is to also make
2 significant contributions to the economic development
3 of the region. So I would go on record with saying
4 that.

5 Q In fact, as I understood part of your direct
6 testimony, one of the reasons you prefer the southern
7 or the Gorham, the Gorham South route so called, is
8 for the economic benefit that that would provide to
9 down town Gorham?

10 A (Gilbert) That's correct. And specifics, there is,
11 one of the things I would say is that available rail
12 sites in northern New England have been scarce as hens
13 teeth for 25 years and getting scarcer still. One of
14 the better rail sites long term, and I'm not talking
15 about this year, next year, or 5 years from now, I'm
16 talking 20 years, 30 years in terms of life long
17 potential, exists in downtown Gorham. It offers
18 incredible potential for a significant rail use.

19 Q So it would be fair to say then that one of the
20 significant reasons that your organization supports
21 the Gorham South route is the economic benefits to
22 downtown Gorham?

23 A (Gilbert) Most definitely.

24 A (Conway) If I could also add, also not only Gorham

1 but the economic benefits to the region as a whole in
2 terms of tourism is a reason that we also support the
3 Gorham South alternative.

4 A (Gilbert) That's a very good point. The council has,
5 I'll be a little boastful here, we've taken a
6 leadership role in all of New England in the State
7 Scenic Byways program administered by the Office of
8 State Planning. Through the support of that program,
9 I mean we have been able to engage all fuel
10 communities in the region actively in a national
11 program called the National Scenic Byways Program.
12 The purpose of the north country byway is that there
13 is about 500 miles of roads in the region that
14 transect, traverse, go around, go through some of the
15 most scenic terrain in the east coast. There is an
16 inherent economic value to the byway in addition to
17 having it be part of our heritage and part of our
18 reason for being as a region. But a study done by the,
19 by the Federal Highway Administration in 1990 showed
20 that for every mile of scenic byway nationally that
21 the average is about \$33,000 of investment per mile,
22 which would translate to about \$16 million annually
23 just from the scenic quality along the roads that we
24 have here, and I guess I would add from an editorial

1 standpoint, having just come from the Governor's
2 conference on tourism 3 weeks ago, that is, the whole
3 concept of scenic and cultural quality is at the heart
4 of this state's marketing program and the efforts
5 underway in the tourism industry within the near
6 future.

7 Q Thank you, Mr. Gilbert. Just a couple of quick
8 questions and then I'll be through with my remarks.
9 In fact, for those in the room that don't know the
10 answer to this question, could you tell us who Peter
11 Powell is?

12 A (Gilbert) The president of North Country Council.

13 Q And is it not true that last fall, in order to assist
14 the company, PNGTS, you and Mr. Powell actually wrote
15 to the President of the United States of America
16 recommending prompt approval of PNGTS?

17 A (Gilbert) Yes, we did.

18 Q And is it not true that the reason for that request is
19 the significant short and long-term economic benefits
20 that Portland Natural Gas will provide to the region
21 of your state and region?

22 A (Gilbert) Absolutely.

23 Q And subsequent to communicating to Washington, the
24 council also communicated its strong support to a much

1 more important individual for our collective purposes,
2 and that would be the Chairman of this Committee, is
3 that not true?

4 A (Gilbert) That's true.

5 Q And at that time you were also concerned that the New
6 Hampshire revisions so called some how might slow down
7 the federal and state permitting of this project, do
8 you recall that?

9 A (Gilbert) I don't really recall.

10 MR. RICHARDSON: Could you provide
11 him with a copy?

12 MR. PFUNDSTEIN: Sure. (Document
13 provided to the witness.)

14 A (Gilbert) Yes, absolutely, I do recall this now.

15 BY MR. PFUNDSTEIN:

16 Q Would you mind reading it into the record, please?

17 A (Gilbert) Sure. "Dear Commissioner Varney: The
18 North Country Council Incorporated strongly supports
19 the PNGTS project, and we certainly favor the Coos
20 County rerouting. We truly need the economic benefits
21 of an operating pipeline very soon, and anything that
22 can be done to expedite this project would be much
23 appreciated. Further delay could be harmful."

24 Q Thank you, Mr. Gilbert. For our part we certainly

1 apologize for the long time that you had to sit here
2 this afternoon, but you may recall that earlier this
3 year in January when we had a bad snow storm we also
4 were here before this Committee in this same room?

5 A (Gilbert) That's correct, I remember.

6 Q And at that time you had an opportunity to provide
7 certain comments to the Committee, did you not?

8 A (Gilbert) Yes, we did.

9 Q And do you recall this following comment: "This
10 pipeline is an absolutely critical issue for not only
11 James River or Crown Vantage, but also for Wausau
12 Paper"?

13 A (Gilbert) That's correct.

14 Q Do you also remember making a comment, "those two
15 employers are absolutely critical, not only to the
16 north country, but to New Hampshire's economy as a
17 whole"?

18 A (Gilbert) Absolutely.

19 Q Do you recall concluding your remarks on that day with
20 the following statement, "I'm just as concerned as you
21 are. I just want to put the thing in context and let
22 you know how absolutely critical and important this
23 project is to the region"?

24 A (Gilbert) That's correct. I guess I would also just

1 in response to that to go on record that we are
2 generally in favor of the pipeline. There has never
3 been a question on our side that it is indeed, the
4 pipeline in concept is something, and particularly the
5 Coos County reroute, would be a very positive
6 activity. What we did not know at that time were some
7 of the issues relative to the specific siting of it,
8 which I think are resolvable.

9 MR. PFUNDSTEIN: Mr. Chairman, we
10 have nothing further:

11 CHAIRMAN VARNEY: Thank you. Town
12 of Shelburne?

13 MR. CARPENTER: Nothing.

14 CHAIRMAN VARNEY: Committee
15 members?

16 BY DR. SCHMIDT:

17 Q Mr. Gilbert, I'm curious about service to users of gas
18 in Gorham. Is it your understanding that the Portland
19 pipeline project is committed to serving users in
20 downtown Gorham if the pipeline were to pass through
21 downtown Gorham?

22 A (Gilbert) I think it's probably presumptuous to
23 expect that at this point. My, what we are looking at
24 it -- the way we are looking at it is as a long-term

1 investment. There is no capacity in Gorham or any of
2 the communities in the north country to drive natural
3 gas for smaller users or for municipal use, or the
4 formation of municipal utilities. If the pipeline was
5 in place in Gorham and in close proximity to other
6 development target areas and centers, one of the
7 things that we would probably do very quickly is try
8 and work with the pipeline company and other investors
9 to get municipal utilities set up where ever we could
10 or multi municipal utilities if possible. We clearly
11 see natural gas as a great advantage to the north
12 country as a whole.

13 CHAIRMAN VARNEY: Any other
14 questions. Thank you. We appreciate it.

15 (Whereupon at this point in the
16 hearing the Committee took a brief
17 recess for a Court Reporter
18 change. This hearing continues in
19 a separate transcript marked
20 "Evening Session" for this date.)
21
22
23
24

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 the Site Evaluation Committee hearing, Day III, 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.

ROBERT ALLEN

having been duly sworn by Attorney Iacopino

testified as follows:

EXAMINATION BY MS. LUDTKE:

Q Please state your name.

A Robert Allen.

Q Mr. Allen, if you could just describe generally your experience and your educational background for the committee.

A My educational background, I have a Bachelor's degree in electrical engineering from Northeastern University, also a Master's degree in business administration from Bryant College. I spent about seven years in the pipeline industry working for Algonquin Gas out of Boston in various pipeline operation positions; included technical services engineer, principal pipeline engineer for the company, assistant superintendent for one of the districts. Those type positions have all been in corrosion control, measurements, communications, and pipeline design operations.

Q Do you have a consulting firm that does consulting on pipelines?

A Yes, we do. The company I work for is called ARK Engineering. We do electrical engineering, mechanical engineering, pipelines. We do AC electrical interference for putting pipelines in or any type of buried structures in joint facility corridors. We do corrosion control, design installation, field testing mostly in the utility industry.

Q How many years of experience have you had in this area of pipeline construction?

A Right now about eleven and a half.

Q How many consulting projects have you worked on regarding pipeline construction?

A Including the work that I did while at Algonquin probably about 25.

Q Were you retained by the public counsel to provide some expert testimony in this proceeding?

A Yes, I was.

Q Did you prepare an expert report?

A Yes, I did.

Q Let me show what has been prefiled as an expert report and ask you if this is a true and accurate copy of your report.

(Pause while witness reads document)

A Yes, it is.

Q Mr. Allen, what subjects were you asked to comment on?

A I was asked to look at the effects of installing a pipeline in a joint facility corridor in terms of safety personnel and also issues of the pipeline itself. Separation distance from the towers to the pipeline and also right of way type issues involving a permanent right-of-way, temporary right of way space on each side, (inaudible) side and working side, the locations of the towers from the pipeline and also Granite State Gas lines.

Q Was part of your work in preparing this study to really balance factors of safety against minimizing environmental impact? Was that a consideration?

A Yes.

Q And what factors did you look at to do that?

A We looked at the width of the right-of-way, the issues surrounding locating the line

within the joint facility corridors, the workspace, temporary and permanent work space issues.

Q And if you could give the committee an idea of the type of information you reviewed in performing this study that you prepared.

A We reviewed the applications. Maritime's and for PNGTS. Reviewed all the alignment sheets, reviewed the data requests. That type of information.

Q And how did you find the information, as working information? Was it easy for you to work with that information?

A No. The technical information was very tough to work with. The alignment sheets were a little bit difficult to correlate and to understand. The right-of-way issues in terms of permanent right-of-way and temporary right-of-way, you know, which section to involve with what, was pretty tough.

Q And was it just hard to understand because of the complexity of the project or was it hard to understand because of the way in which it was presented?

A The amount of information that was provided was minimal.

Q Now, I noticed that on page one of your report you referred to the Granite State Pipeline and you talked about an increase of 20 feet to the current GSGT easement and you have a pair in there of a 30-foot overlap to GSGT? Do you see that?

A Yes, I do.

Q And I'll represent to you that Mr. Morgan testified today that actually the overlap is 20 feet and that the outboard width is an additional 30 feet. I represent that's what his testimony was.

A Okay. I didn't hear that but I, we -- the drawings that we were provided from --

this is a typical construction right-of-way configuration shows 30 feet for the GSGT pipeline. It shows a 20-foot separation between their 30-inch pipeline and Granite State Pipeline and shows a 30-foot permanent right-of-way on the inbound side and 20-foot on the outbound side, for a total of 50 feet.

Q Before you close that, what's the number on that figure?

A It's Figure 8.22, and it's file number TYP 822.DGN, dated February 25th, '97.

Q That's what I was going to ask you, what the date was on it. And that's what you based this statement on?

A Yes.

Q Did you see any other material, in the material that was provided to you, that was different that showed a 30-foot outboard easement on the Granite State line?

A I don't believe I did. Let me just double check. I did see one, yes.

Q So it's pretty unclear based upon what you were given, how large that outboard easement is?

A Yes.

Q Now, when I refer to the phrase 'outboard easement', what does that mean to you?

A That means beyond the existing easement, we're talking about the Granite State section of line, it means after their easement.

Q So the difference between 20 and 30 feet would be relatively significant, or not? Do you have any ability to judge that?

A In with respect to what?

Q The 10-foot difference. Would that be a fairly significant difference, in your opinion? Between 20 and 30 feet?

A Yes.

Q Now, just briefly, I don't want to go through your whole report again because it has been filed with the Committee. If you would just let the Committee know what your recommendations were with respect to balancing these safety issues against the environmental concerns on the width of the right-of-way.

A Okay. With respect to the Public Service of New Hampshire right-of-way our recommendations were that the pipeline be no less than 50 feet from the towers, a minimum of 50 feet from the towers, and that's relative to the electrical interference type issues and safety of the public and the personnel. We did state in there that if there was required to be more than 50 feet if an additional electrical mitigation should be installed, should be looked at and installed. With respect to the Granite State easement we recommended that there be a 30-foot inbound right-of-way and a 15-foot outbound right-of-way with a recommendation of just the inclusion that work could be done along that 30-foot for maintenance and access could be available in the outbound 15-foot.

Q Mr. Allen, I represent to you that earlier this morning Mr. Morgan testified that 20 feet difference between the pipe on the Granite State easement and the pipe, the center line of the pipe, the new pipe, was not sufficient to allow him to access his new pipe for construction or operation or maintenance purposes. Do you have any comment on that 20-foot distance, whether that would be standard in the industry?

A 20-foot from the existing --

Q As an access way. In other words a 20-foot corridor that would provide access to the pipe. Would that generally be considered sufficient in the industry?

A For maintenance, yes.

Q Do you have any additions, changes, supplements to your report?

A No.

Q Thank you, nothing further.

MR. PFUNDSTEIN: If we may have two minutes, Mr. Chairman.

CHAIRMAN: Okay.

EXAMINATION BY LESLIE LUDTKE:

Q Mr. Allen, let me ask you one more question. Do you adopt that your report is your testimony in this proceeding?

A Yes, I do.

EXAMINATION BY MR. IACOPINO:

Q. Mr. Allen, your testimony is supplemented by various appendixes.

A Yes they are.

Q The information contained in those appendixes you also adopt as part of your testimony?

A Yes, I do.

MR. PFUNDSTEIN: We have one little problem with exhibit overload, Mr. Chairman. We will be with you shortly.

EXAMINATION BY MR. KRUSE:

Q Sir, turning to your Exhibit A of your testimony, reflecting a 30-foot permanent right-of-way on the inbound side, are you aware from that Exhibit that that proposed area is only for the distance of milepost 18.1 to 18.2?

A Yes, I am.

Q It doesn't appear elsewhere that way, does it?

A No, it doesn't.

Q Turning to the Environmental Construction Plan, do you have a copy of that?

A No, I don't.

Q I am showing you Figure 8-23, bottom left hand corner. Had you reviewed this figure before?

A Yes, I have.

Q Do you see these typical representations milepost locations?

A Yes.

Q Are these consistent with your view as to how this ought to be handled?

A Consistent with -- I don't understand the question, I guess.

Q Your opinion on separation.

A The 20-foot separation and the 30-foot outbound, you mean?

Q Right.

A No.

Q They are not consistent with that?

A No.

Q In what respect?

A Well, when we looked at this, the 8.22 figure, we made a recommendation that if he could do it in this section, be 30 feet on the inbound and 15 on the outbound that you should be able to do it everywhere.

Q Now with respect to the electrical safety inspector recommendations, sir.

A Yes.

Q Have you dealt with a project like this where a utility has to engage in an agreement with the power transmission company?

A Yes, I have.

Q Has it been your experience that typically the power company remains actively involved in monitoring the installation?

A I've had experience on both ends where the power company is actively involved and other experiences where power companies have not been very cooperative.

Q How about the Public Service Company of New Hampshire? Do you find them cooperative and concerned about maintaining electrical safety?

A I have had some conversations, and I included in my testimony their safety specifications and the people that I have talked with at Public Service have been cooperative, yes.

Q So you don't foresee the need of an independent electrical safety inspector beyond those personnel from Public Service Company who would be involved in implementing their safety procedures?

A Well, what we would recommend is that there be an electrical safety inspector tied to the pipeline end of things, from the pipeline side, that would coordinate what work is going on on the right-of-way with the electric company.

Q I have no further questions.

EXAMINATION BY LESLIE LUDTKE:

Q Mr. Allen, I just have one follow-up question. Attorney Kruse asked you about the configuration that you referred to that showed the 30-foot on the inbound and the 20-foot on the outbound.

ENERGY FACILITY SITE EVALUATION COMM. - 6/25/97 Evening Session

A Yes.

Q And he suggested that that might be an unusual situation?

A Yes.

Q Let me just show you the combined permanent easement that is listed on here by the Granite Statement easement and have you identify what it would be here. I call your attention to this line right here, it says, what, 18.02?

A Yes.

Q To?

A 18.22.

Q Okay. And what's the combined easement listed?

A 65 feet.

Q Now, following down that line, is that fairly typical?

A From?

Q In terms of the combined permanent easement width?

A Yes, for the next three miles.

Q And would that suggest to you that the figure you are reviewing there is atypical in any way or lead to a narrowing of the easement?

A No.

Q Thank you, nothing further.

CHAIRMAN: Town of Shelburne?

MR. CARPENTER: No questions.

CHAIRMAN: Michael.

EXAMINATION BY MR. CANNATA:

Q I would like to say good afternoon Mr. Allen, but I think I have lost that opportunity, so, good evening. A couple items. Don't let my comments indicate to you a disregard for electrical safety but are you aware that Public Service of New Hampshire dispatcher, (inaudible) Grant, the applicant, was called clearance, to work in and around its electrical conductors?

A No, I am not.

Q Are you also aware that that dispatcher has stopwork authority and could revoke that clearance at any time?

A I am not familiar with the Public Service, no, but I know that that happens on other utilities.

Q In your testimony, on page 6, you indicate minimum work clearances quoted from PSNH's electrical safety handbook?

A Yes.

Q That was Exhibit C?

A Yes.

Q If you go to page 2 of Exhibit C, I think that's where you get your distances.

A Yes.

Q On page 6, 8 foot 6 at 20 feet. The 8 foot 6 is where on page 13-1? In the lefthand column of the base to ground, is that correct?

A Yes, it is.

Q After 345.

A Yes.

Q And the 20 feet is base to ground distance of 345?

A On the next page, yes.

Q On the next page. Are you familiar with the voltage levels on the PSNH lines that are to be encountered in the areas that you are testifying to?

A I believe they are 345 but I'm not --

Q Subject to check would you --

A Yes, okay.

Q -- take my word for that they are 115 and 34.5.

A Okay.

Q And as such that working clearances would be reduced by approximately 10 feet for nonqualified personnel.

A Yes.

Q If my premise is correct, are you as concerned in your testimony with regards to the two areas that are less than 50 feet? Because I think your recommendation was tied in the areas of voltage greater than 115 should have 50 feet of clearance?

A Yes, that's correct.

Q If, in fact, there are no areas greater than 115, do the clearances that are presented meet your requirements?

A They could be less. I would have to look at exactly what the minimum distance would be. But it could be less than 50 feet.

Q Could you offer a recommendation to the Committee if in fact the premise that I put forth to you is true, that the lines that are being parallel are 115 and 34.5, KV lines?

A Yes.

Q If you would please.

A 115 probably in the 35-foot to 50. Obviously the further away you are the better off you are. And on 34 KV, 20 to 35 feet.

Q And one final question. Do the distances as put forth in your testimony meet those requirements?

A The distances?

Q As the applicant has stated they will construct the pipeline in terms of distance from the power lines?

A Yes.

Q They would meet those --

A Yes. Well, there's only two areas where they were less than 50 feet, and those were 45 -- 35 and 45 I believe. I could go back and check my --

Q Neither of these two would meet your revised criteria?

A Yes.

Q Thank you.

EXAMINATION BY MR. SCHMIDT:

Q Just one question, and I apologize if you said -- talked about this and I missed it, but are the electrical issues that you are dealing with essentially during construction and maintenance when heavy equipment might be operating in the area, or are there electrical safety concerns during more or less routine operations?

A They are -- when you construct, install, operate, and maintain a pipeline within a joint facility corridor, there are continuous effects. Obviously there are a different set of effects associated with construction when you've got pipe out of the

ground and you may have it isolated from ground and you are actually putting it in the ditch. Those type of issues versus once it's buried and you've got maintenance people working at valve sites, the general public possibly in contact with a fence surrounding one of the structures or one of the (inaudible).

Q Would you explain that a little further? If the general public, during routine operations, when there's no maintenance, no operating equipment or construction equipment in the area, what, if any, electrical safety issues are there to the general public?

A There can be, and it's a function of the voltage levels on the towers and the current in the power lines. It can mean induced voltages on above-ground steel on the (inaudible) structures, that are in close proximity to electric power lines.

Q Okay, and does the existence of the pipeline in any way acerbate those kinds of problems?

A Well, pipeline acts as a magnet, even though it's buried, and it will conduct electricity. So if the general public, without mitigation type methods, if the generally public happens to walk by and grab a fence which is actually connected through ground to the pipe or a valve, there can be some shock hazards.

Q Potentially fatal, or would you just let go immediately?

A It could be fatal, it's a function again of the induced voltage as a result of the voltage on the power lines. And also the effect of, if there was a fault on the power lines, at -- remote as this may seem, at the same time when somebody's either working on the pipe or happens to be passing by and grabs onto the steel.

Q Thank you.

EXAMINATION BY MR. PATCH:

Q Could you tell us what you mean by mitigation? What sort of mitigation would be necessary to avoid the kinds of problems that you detailed?

A Yes, there are a number of different mitigation methods. Again, it's a function of the length of line, size of the pipe, the distance from the towers and the voltage in the power lines. And there's some modeling and analysis that takes place. Mitigations can be anywhere from a number of ground rods connected to the fence or to the pipe or to the valve, to actually drain that AC off the structure to complicated methods of grounding system that would run the entire length of the pipeline that would act as a ground, a continuous ground.

Q So these are -- these are the kinds of mitigation you just talked about are more permanent basis, not mitigation during the construction phase?

A Yes, this is permanent.

Q Are there also mitigation in the event that you have a pipeline that's closer than it should be to such a line? Are there mitigation things that need to be done during construction phase?

A Yes. I believe that's outlined in my testimony in terms of the safety procedures. Such things as bonding the pipeline to ground if it's sitting on skids, actually isolate it from ground. Not welding up a number of sections together and letting it sit there, it's under the power lines. There could be some shock hazards associated with installation. Grounding of trucks and construction vehicles, those kinds of things.

Q Based on the questions that Mr. Cannata asked you, are there any situations that you

are aware of now that raise the need for the more permanent kind of mitigation efforts? I thought based on the questions he asked you it looked as though there were now no distances that you were aware of that were too close, essentially?

A Well, without analyzing the line itself and looking at the loads and the grounding system of the electric company, I couldn't make a comment on what mitigation would be required. There's a difference between separation distance from the tower to the pipe without mitigation versus separation acceptable -- separation distance where there may be mitigation required at the valve sites, say, as a result of the pipe being above ground in that location. Or at least the valves, that's the valve operated to be an above ground in that location.

Q And that's something that you think the electrical safety inspector that you've recommended ought to be involved in evaluating?

A Well, once the pipeline is at the construction phase, yes. He should be aware of what mitigation measures are required or to be installed. And also the effects of the line on the pipe being installed.

CHAIRMAN: Any other questions?

MR. SCHMIDT: Can I follow up with just one?

EXAMINATION BY MR. SCHMIDT:

Q Just one further question regarding the subject of induced currents in the pipeline.

Would that have any impact on the cathodic protection system for the pipeline?

A Yes, it can.

Q Could you describe what that impact might be?

A Well, in a number of designs that I have been involved with, once you determine that

there is AC, induced AC on the pipeline then you have to isolate the -- be able to drain that AC to ground or isolate from the ground the CP system, or else you are actually protecting the ground system.

Q So that is something that could be done? A device installed to drain off that AC?

EXAMINATION BY MR. CANNATA:

A Oh yes. It's done on a regular basis.

Q Mr. Allen, if the applicant were to be able to secure the facilities tagged out of service by PSNH during construction, would that in fact, tremendously reduce the amount of the shock hazard during construction?

A If they are out of service? Without knowing what the current levels are existing, when that line is in operation, I couldn't say whether it would greatly reduce it. If it was dead, yes, there would be no shock hazards.

Q Yes, that's what I meant. The phrase "tagged out of service" would be to open that line up at both ends and tag it, not allow it to be energized while work was being conducted beside it. If that was able to be secured by the applicant would that significantly reduce shock hazard?

A It would reduce, but I don't know -- significantly, without knowing what the shock hazards would be with that line energized. With it dead you would have no shock hazards.

Q Okay. Thank you.

CHAIRMAN: Any other questions? Thank you.

MR. RICHARDSON: Mr. Chairman the next witness is Clay Mitchell from the Rockingham Planning Commission.

CLAY MITCHELL

having been duly sworn by Vincent Iacopino

testified as follows:

EXAMINATION BY MR. RICHARDSON:

Q Could you state your name for the record, please?

A My name is Clay Mitchell.

Q Mr. Mitchell, I have just handed you a copy of counsel for the public's prefiled testimony which contains a copy of a section of which you prepared, is that right?

A Yes.

Q Is that section true and accurate to the best of your knowledge?

A Yes, it is.

Q Do you adopt that as your testimony today?

A Yes, I do.

Q Are there any modifications or changes you would like to make to it?

A There are a few things I would like to add, yes. There are a few things I would like to summarize.

Q Please go ahead.

A I'll be brief. One of the things that I would like to discuss is, we are a regional planning commission and we are similar to the North Country Council and that we provide planning advice to municipalities and towns in our region. We find ourselves with a different role than the North Country Council in that we primarily provide directed planning assistance to municipalities and the municipalities that are

impacted in the southern region we provide assistance on burying levels to all of them. Our goal -- we have been involved in this for approximately a year now, I believe. And our goal has been to try and get these municipalities involved as much as possible and operate as a conduit that information from this Committee can be disseminated to them and that information and concerns that they may have may in turn be disseminated to this Committee. Two general concerns I would like to go over. One is the issue of roadway crossings, and I know we beat that one earlier, but I'd like to take a few shots at it. We were concerned when we reviewed the testimony between the two Exeter hearings about some references that were made concerning future development. And as most of you are probably aware, the Rockingham region is developing faster than any other region in the state, in fact there's a chart that DEIS that states that the number of housing units has increased 47 percent between 1980 and 1990. We feel that we are currently in the midst of another growth spurt. Due to the physical layout of the region and the roads and the parcels of land that are crossed by the pipeline, we feel that there's a high likelihood that there will be future development that will cross the pipeline. And thus we are concerned about getting out on the table the issue of the roads on down the line, (inaudible) pipeline it may in fact cross the pipeline. We realize that you discussed it and you just want to echo our concern about this and the fact that although there are not a lot of development plans that cross the pipeline now, I know of at least four that exceed 50 homes and that exceed two miles that are within a mile of the pipeline. We feel that it is a valid concern, particularly in the southern region to look at subdivision road crossings. It has -- it directly affects the orderly development of

the region because the towns have been plagued with a high number of dead-end roads and it's the town's goals to create as many loops as possible and many of the pipeline routes parallel existing roads and the connections between those existing roads would necessarily cross the pipelines. Therefore we would hope that the pipelines are encouraged to be as cooperative as possible with both the developers and municipalities themselves, because they have an interest also in seeing this pipeline potentially cross for safety reasons.

Briefly, I just want to review the concern and hopefully it can be cleared up.

In the Exeter public hearing on 3/5/97, in the record, page 40, Mr. Flumerfelt responded to a question concerning roads and, if I may quote, it says, basically, the Chairman Varney asked the question about how you deal with the case-by-case basis in terms of dealing with the company on road contacts and Mr. Flumerfelt's response was, "if 10 years down the road somebody came in and said, gee I'd like to just pave over your right-of-way to get access to a subdivision that I am thinking about in the year 2010, I think we would be reluctant at that time." I've seen developments take at least three or four years, in their entirety, to come on line, which means that somebody would be asking in 2007 for a development that would be done in 2010 and we would hope that they would not be reluctant at that time to discuss these issues.

Our second concern of general nature is the concern about the field practices of the company representatives in the various towns in our region. We first became aware of this on September 9th at the Exeter public hearing. We followed up with it with some of the towns that have expressed concerns and I personally received some testimony in a planning board meeting concerning these practices in the Town of

Newton. We subsequently filed a letter with this Committee which yielded results, and we thank the Committee for forwarding our concerns to the pipeline companies, and they in turn -- their officials met with me promptly and we discussed the issue. The reason I bring this up is because in the future you're talking about sending representatives out to these residences again to talk to them about well impacts. We are concerned about the possibility of their residents being reluctant to discuss with these people their concerns and ask for things from them when they feel, in my opinion, in seeing these people actually testify to these concerns, they are somewhat scared of these companies and they are scared of the entire process. We would just bring that to light in hopes that the Committee could possibly come up with some way of helping out.

Next I would like to discuss water issues in regards to the well issues, particularly on, you notice in the Haley and Aldrich report, which I think is part of the prefiled direct testimony at page 2-1 that they suggested a 300-foot distance for testing pre and post wells. We would also hope to recommend that and, particularly, in areas where there are stratified drift aquifers in the southern New Hampshire region. And we have noticed that studies showing medium and high transmissivity of aquifers have been supplied as part of the information, but there are also low transmissivity aquifers, and although they are classified as 'low' there still is going to be some hydro geologic action going on that could bring sediment, water, any other kind of polluted water, I don't mean polluted in terms of pollutant, but changed, into well-owners' wells. We would hope that if the pipeline is going to cross a stratified drift aquifer, be it low, medium, or high that the low radius for

testing be expanded to 300 feet.

Q Do you have any specific concerns that relate to the municipalities you worked with on this project?

A Yes. Those are primarily routing concerns. If I could -- I must say that we have attempted to meet with the company individually to get these concerns as directly as possible to them, and we have had discussions with them. They are looking into them, but I would like to review four of them with you to show the nature of these concerns, if I could. The problem is I don't have site maps and was wondering if -- they are no longer here. I was wondering if I could get them.

This is the map of the town and land of Newton, and I just wanted to review briefly with you what our concern was. The fact that I am a (inaudible) planner for the Town of Newton, as well, and if they can get together and put a facility on this land it would be great and I think that even the slightest hindrance would be hard for the Town of Newton to deal with. What that hindrance would be is if the pipeline were where it is now it takes up predominantly almost all of the parcel for development purposes, whereas if it were moved north to the existing right-of-way it would hug the existing pipeline and leave the remainder of the parcel, which is about two-thirds of it, open for development potential. We feel that that is an appropriate mitigated measure. Our next piece of land is the Exeter Town Forest.

MR. TAYLOR: Excuse me, Clay can you cite milepost markers when you are talking?

A Sure. This is at milepost number 22. --, which way do they go?

CHAIRMAN: South to north, I believe.

A It's about 22, between 22 and 23.

Q Thank you.

A It's at Wallace Street. On lineman sheet number 31 is the Exeter Town Forest and the reason we bring this up is because the environmental impact statement makes the statement that the pipeline doesn't cross any significant recreational uses or trails. If you look closely you can see a road, right here, that enters the forest. The sign to the town forest is right there, the road is here and the pipeline crosses it twice.

MR. TAYLOR: Mileposts again, could you?

A I am sorry, the milepost is 33.7, roughly. It our hope and opinion that if the pipeline comes down and hugs the railroad right-of-way and then crosses again, you will be able to eliminate this dual crossing of the major trail that leads into the Exeter Forest.

The third concern is in the Town of Stratham, map number 33, milepost number - - approximately milepost number 35. It's where the pipeline crosses Portsmouth Avenue, Route 108, Route number 33, it has multiple names. This is the area in Stratham where we expressed concerns from the Town of Stratham regarding the alignment of this road, Frying Pan Lane which disappears off the map and River Road which comes down here. If you were able to look -- if you were able to widen the lens on this picture you would see that it's almost perfectly natural for these roads to be aligned and it's in Stratham's long term goals to see those roads aligned. And although the draft of our new impact statement states that the New Hampshire Department of Transportation doesn't have any plans, these are town owned roads and

they have contacted the State about a small parcel of state-owned land that they didn't want sold for the sole purpose of preserving this option. We feel that if the pipeline were manipulated, brought a little closer to Portsmouth Ave. it would allow that straight-on shot a little bit easier which would allow Stratham to see this happening. In addition, in the same area, the pipeline crosses directly across the parcel which is now a field, while the existing pipeline comes up north a little bit.

This is targeted as one of the main commercial lots in the entire Town of Stratham.

It's been in the rumblings that something's going to go there and the Town of Stratham would like to see it developed commercially and we were just hoping that the pipeline could be brought a little closer to the existing right-of-way sooner so that this lot has more development potential from a commercial standpoint. The last few concerns I don't think I need the maps.

MS. GEIGER: Before we move on, I have a question about the record, and perhaps this is addressed to counsel for the public. Are the alignment sheets that we've just been referring to, have they been marked, yet?

MR. RICHARDSON: I don't have the exhibit number, but those are in the pipeline company's.

MR. PFUNDSTEIN: Exhibit 19.

MS. GEIGER: Thank you very much.

A My last two concerns regard the Town of Newington. Those are just that they are concerned about the safety of the pipeline at the end of the runways. They are not aware that they -- they are aware that they don't have jurisdiction to enforce anything, but they are concerned about the possibility of a crash of some sort at the

end of the runway that may dig into the pipe and increase the likelihood of a breach of some kind. Their other concern regards Arboretum Drive and the hopes to keep that right-of-way to a minimum because Arboretum, the forest there is on the Register of Historic Places.

And finally the Newington Lateral, they have asked me to convey to this Committee that they hope to work with the companies because they support the Lateral, they just think there are some siting errors and they did not get the information on the Lateral until late in the game. They would like to have the opportunity to be able to discuss that with the companies. That's all I have.

MR. RICHARDSON: Thank you Mr. Mitchell.

MR. PFUNDSTEIN: We have no cross examination of the witness. We just simply want to confirm his testimony that the company is certainly willing to continue to sit down with Mr. Mitchell and discuss those concerns. Some of them were identified as alignment changes that are under consideration now and prior testimony. We thank the witness for coming to Concord as well. Thanks.

CHAIRMAN: Questions? Seeing none, I guess it was a good summary. Thank you very much.

A Can you tell that to my boss?

MR. PFUNDSTEIN: Mr. Chairman I have been informed that lunch or dinner has arrived. Perhaps this might be a point where you might like to take a quick break.

MS. LUTKE: Mr. Chairman? Public counsel has one more witness to put on, a Mr. Richard Marini and I wonder if you want to go ahead with his

testimony and finish off, then after dinner the applicant will be left. We will have completed the public counsel's portion once Mr. Marini testifies. It doesn't matter to me, we can do it before or after dinner.

(Discussion about when to resume ensues)

CHAIRMAN:

Very quickly, this is the issue.

We will take a 3 minute break so you can set up and then we will continue. Are we ready for the next witness? We will swear them, I assume?

STANLEY JUDGE AND JOHN CARPENTER

having been duly sworn by Attorney Iacopino

testified as follows:

EXAMINATION BY MR. IACOPINO:

Q Can you identify yourselves for the record please?

A My name is Samuel Judge. I am Chairman of the Board of Selectmen for the Town of Shelburne.

A My name is John Carpenter. I am Chairman of the Planning Board for the Town of Shelburne.

A **(JUDGE)** We are here representing the Town of Shelburne. We would -- we are here to file the pretrial direct testimony that is dated June 13, 1997, and that testimony was developed on the basis of information to us, up to that point in time. In the last two days there have been considerable additional information brought forth and we would like to have an extension of time to provide some written testimony in answer to some of that information. We would request that the pretrial direct testimony be entered as an exhibit.

MR. IACOPINO: If there is no objection from the applicant we can do that between ourselves, put a number on it, at the time we logged in public counsel's exhibits. Any objection to that?

MR. KRUSE: No objection to marking their pretrial testimony.

MS. LUDTKE: Let's be clear, is it marked for identification or is it entered as an exhibit? I understood they were trying to enter it as an exhibit and not just mark it for identification.

MR. KRUSE: As far as I am concerned anything that has been marked for identification thus far can be entered as an exhibit.

MS. LUDTKE: That's not my question. My question is, are you objecting to them having it entered as an exhibit at this time?

MR. KRUSE: No.

CHAIRMAN: That's true and accurate to the best of your knowledge?

A (CARPENTER) It is.

A (JUDGE) It is.

A (JUDGE) We would like to bring out that his testimony was put together by four individuals and I would like to give a quick rundown of their resumes: Samuel Judge, resident of the north country for 46 years, resident of Shelburne for 36 years. Served as selectman for 13 years, served at various times on the Planning Board for 7 years, and is the current Board's representatives on the Planning Board. John Carpenter, has a Bachelor of Science degree in forest

management, has been a Shelburne resident for 25 years, has been on the Shelburne Planning Board for 20 years and has 25 years of technical and industrial management experience Crown Company, James River and now Crown Vantage. The third member from the town is a Mr. David Carlisle, Jr., is Chairman of our Conservation Commission, has been a Shelburne resident for 18 years, he holds a BS wildlife management from University of New Hampshire and an MBA from Plymouth State College and is a professor of natural resources at New Hampshire Technical College. And Mr. Raymond H. Danforth, member of the New Hampshire -- Shelburne, New Hampshire Planning Board. He's lived in Shelburne for 24 years, has served twice on the Shelburne Planning Board and is currently serving in his second year of the three-year term. He holds a BS in chemistry from Bates College, a Ph.D. in chemistry from Princeton University, has worked with the Crown Vantage, Berlin, New Hampshire, formerly James River Corporation and Brown Company. The last 17 years as environmental director. We are here as a panel, obviously. John will take it from here.

A (CARPENTER) We had a video that we were going to show you, but due to the lateness of the hour and the fact that most of the Committee here took the site visit we aren't going to present that video tonight. It has been filed with the Committee as part of our pretrial and we would encourage that any members who were not able to partake of the site visit review that video.

CHAIRMAN: We do have a copy available and I have seen it myself.

A (CARPENTER) There have been a number of newspaper articles relating to the -- represented by Representative Guay, yesterday, indicating a serious conversion or

division of the north country concerning this project. We would like to enter 26 letters of support for the position of Planning Board, Selectmen, and Conservation Commission that were not previously filed. The key among those letters are that there are three from owners of property who would be impacted by the Gorham South reroute if it was adopted. Two of those owners, one of which is prominently mentioned in the paper, have signed letters supporting the position of owners of campgrounds. We think we have a very large degree of support for the position that we are taking. There are, obviously, in any situation where land uses are involved, there are those that win and those that lose. The Town's position is that we need to look at this from our master plan and our long range planning perspective, and not try to adopt the land owner concerns. Once the route is established, we will work with any individual landowner to mitigate individual items that come up. In those letters there is one from a citizen who owns a standard horse farm on North Road. He has had a serious incident with a land agent at some point. His pasture is being bisected by the opposed right-of-way and he has expressed concerns that that bisection will prevent his horses from reaching a water area where they normally obtain their water. The response to that gentleman to that question was, "I guess you will have to haul water." He don't think that's adequate.

I would briefly like to review our zoning map. This was filed in the filing in an 11 x 17, which is kind of tight. We would like to enter this as a second exhibit for the Committee. Basically it outlines land areas that are in conservation easements or are town, state, or municipal. Town, state, or federal property being the White Mountain National Forest; Leadmine State Forest; the Appalachian Trail

corridor; some state land adjacent to the rest area; the conservation easement in the Society for Protection of New Hampshire Forests; a conservation easement at Millbrook Trust; town property; town property, and additional town property down here. We have shown on the map the fact that we have two conservation -- we have two zoning districts, everything outside of the red hatched area is what is known as zone 1, most of it is in remote areas. There is a small corridor along Route 2 that is basically a commercial zone. Zone 2 was adopted approximately 10 years ago, and put restrictions on the use of the land in the corridor. It would basically be restricted to agricultural, residential, and silvicultural practices.

The dark blue line indicates the shoreline protection zone adopted by the State of New Hampshire and where it impacts property or the Androscoggin River corridor. The dark gray line indicates the applicant's proposed right-of-way based on the best data that was available at the beginning of May this year. The orange line indicates the present existing Portland Oil pipeline. You can see that this section here is the total overlap of those two energy corridors for the Town of Shelburne. You see the substantial divert at the east end and we see a substantial divert up the Hogan Road which we've heard so much about, so far.

Going -- looking at this, it indicates that there are a number of areas that there will be new crossings of shoreline protection (inaudible) state on the applicant's pretrial, probably before this latest mitigation plan. It is our initial belief that we need further study that they will push more of their right-of-way into shoreline protection zone that is currently there now with this mitigation. Following the orange line, once you cross it and clears the river bank here at the

existing pump station, it is entirely outside of the shoreline protection zone.

This overlay was not provided with the prefilings, we would like to enter it as a new exhibit. It shows areas of slope over 15 percent in the Town of Shelburne. It is derived from the New Hampshire corridors, highway corridors study that was provided to North Country Council and through the Granite System. Basically it shows that the applicant's preferred right-of-way along Hogan Road runs almost exclusively in areas that are over 15 percent slope. We believe (inaudible) visual and construction difficulties to it. If you look at the existing oil pipeline, there are only several short areas that are in fact by the high slopes data. Those are in the, right where -- just after it first crosses and a short section just north of the Reflection Pond area, where it crosses a ravine.

We would like to enter the series of photographs labeled one through eight. Photo one shows the very significant clear-cut that has occurred since our data file, our prefilings. It has been defined by the landowner as a salvage cut. Based on the draft environmental impact statement, he has perceived loss of his timber, and it is approximately a mile in length to the horizontal cut following very close to the flagged center line which has been proposed in the pipeline project.

MR. IACOPINO: Mr. Chairman, I am afraid we are going to get lost. I didn't realize they had so many exhibits, but I think we better start marking them at this point. If there's no objection I would suggest we mark the testimony as Exhibit 76, that's a free number.

MR. KRUSE: That's fine. The exhibit list is technically called Applicant's Exhibits, but however you deem appropriate. There

could be a separate list for other parties' exhibits, or we can have --

CHAIRMAN: Why don't we create a list with Shelburne Exhibits.

MR. IACOPINO: Alright, Shelburne number 1. The zoning map will be number 2, the overlay number 3, and do you want to put these photos in each one separately, or do you want them as a group?

MR. CARPENTER: Put them as a group.

MR. IACOPINO: Alright, and the photos will be a group. Number 1, I should say, includes the video, that was filed with it.

MR. KRUSE: I guess at this point we need to say that marking them for identification is fine and a full exhibit for the pretrial testimony. But anything that is being added today, I am not sure we can agree right this minute on the full exhibits until we have a chance to see them.

MR. CARPENTER: There should be -- copies of these should be in the packet that was passed out to you.

MR. KRUSE: Of the photographs?

MR. CARPENTER: Of the photographs.

MR. IACOPINO: Of, this, so we will mark this blue folder as Exhibit 4 for identification at this point.

MR. CARPENTER: I will give you the originals before we go.

(Resume testimony of Mr. Carpenter)

A Photo number 2 is again on the right-of-way. It shows the right-of-way center stake

which is in the area of the ravine, the ravine where the cutting has ceased because they were entering a watershed and appropriately did not have permits to cross it at this point in time and had to stop. I would like to point out that it is a watershed that we do not believe was counted in the applicant's filing of (inaudible) streams.

Photos 3 and 4 continue, are additional pictures of the clear-cut showing the defined right-of-way at milepost -- picture 3 shows it as mileposts 69 and 70 -- between mileposts 69 and 70.1 and the same with picture 4.

MR. CANNATA: Excuse me. Request for clarification.

Does the clear-cut that you have indicated in your folder, is that the same clear-cut that was indicated in (inaudible) photos two days ago?

A It is an extension of the same clear-cut. Picture 5 was taken at milepost 70.1 and shows a right-of-way cut. There is below it Exhibit, or is figure one which shows the PNGTS cross-section proposed for that location. It will show that the clear-cut is obviously off the proposed mitigation plan. Picture 6 shows Hogan Road at approximately milepost 71.62 and it relates again to the cross-section shown in plaintiff's, correction applicant's, exhibit and again, we would ask you to draw your conclusions as to the impact. Picture 7 shows a view at the entrance, looking from Hogan Road towards North Road, where (inaudible) enters the Leadmine State Forest, and again it is, compared with the applicant's cross-section for that area. We did not have the ability to digitally enhance it, to show what we believe the impact will be. Picture 8 shows a reverse view looking from the Appalachian -- from the center line looking down Hogan Road. Again, this shows the same cross-section. Picture number 9 is taken from a very similar location to what the applicant showed us in his

exhibit from the railroad crossing at the Androscoggin Valley Country Club looking across hole one, showing the clear-cut clearly visible on the north side of the river. Picture 10 was taken approximately half a mile down the road from the rail crossing and looking across the Country Club still, you can clearly see the horizontal slash of the clear-cut visible from the road. Picture number 11 is taken from the tee on the fifth hole at the Androscoggin Valley Country Club and looking across to the north, horizontal slash of the clear-cut of the proposed right-of-way is highly visible. Picture number 12 is taken from the Portland Pipeline Pumping Station looking across Reflection Pond, looking to the northwest. And again the, though somewhat minimized by the distance, the line of the clear-cut is still clearly visible. These indicate to us that mitigation of the view shed is going to be extremely difficult, and in fact, we think that they provide evidence that it's probably not going to be possible.

MS. SCHACHTER: Excuse me, is there any reason that you would object if we pass those around? The copies in these materials are dark and hard to see.

A I'd love to have you pass them. We would now like to enter as our next exhibit, I'm sorry I don't have the number, an aerial photograph provided by PNGTS taken on 8/11 of 1996 which shows the Reflection Pond area. It shows Hogan Road and the existing pipeline corridor to the south of US Route 2. I point your attention that Hogan Road is hardly visible in this aerial photograph due to its canopied nature. I point out that the pipeline is very visible.

There was a large amount of testimony yesterday concerning gravel pit on Hogan

Road, a couple of things the Town would like to mention. One, that is a pit that is incidental to ongoing silvicultural activities. Two, that it was grandfathered or established prior to the adoption of our zone two in 1987, and we will have to review under RS 155, whether an extension of that property is possible. But we do want to point out that it is not a commercial pit.

The next exhibit are the town road standards for the Town of Shelburne, and basically we just want to look at the classifications there. They come from the State Highway Department, and basically a local road is something classified as 0 to 160, average daily traffic. We would enter testimony from one of the primary users of that road, a logging contractor who operates up there and has given us an estimate from what he can see the volume of traffic on that road.

MR. PFUNDSTEIN: Was this part of the pretrial testimony
or is this new?

A No, this is new. This is new testimony in response to the statement that there was a heavy traffic pattern on this road. Basically Hogan Road is a dead-end road. The contractor involved is Mike Kelley who runs (inaudible)Lumber, one of the major contractors in the north country. We asked him what he perceived the truck traffic to be on that highway and his indication is that in the period in early May, and leading up to early June there is probably an average daily volume of 25 trucks per day, serving three logging operations that were going on at that point in time. This is an early area that they can get into following the spring break-up and there was also considerable amount of wood that was down from winter operations. He states now that the logging operations typically has five to six loads three days a week. He

further stated that he does most of the maintenance on that road hauling gravel from the pit that we have talked about. He states that he has tried very hard to maintain the character of the road, not cutting trees and maintaining the canopy, maintaining the character, not cutting trees or the canopy. He also states this is a -- he views this area as a unique area and is one of the few places where an old New Hampshire road can still be enjoyed.

A (JUDGE) We have no other comments on what we have heard in the last few days, except what John has just given and comments we've made through the day. I just would like to say that Shelburne's issue here is one of the land issues, one of the land use problems that we see. We think it's with the cutting that has unfortunately taken place is a kind of indication of not an orderly process that is being taken place in Shelburne, that it's unofficial. But evidently Mead Corporation unfortunately assumed that the draft DIS was probably the real thing and went ahead to get it's wood off before it was gone and, of course, this is the kind of situation that our zoning and our planning ordinance, subdivision ordinances have been instituted to try to prevent.

In talking to Mead they have no position as to where the pipeline goes, the clear-cut will grow back. We think the clear-cut that takes place there now is not part of the issue that we are speaking of in locating a right-of-way for a pipeline through Shelburne. The -- I think that -- I would just conclude and say that in our prefiled direct testimony, we cover the items of our planning and zoning and siting, our concerns relative to all the issues that we could address based on information available to us through June 13th. That will be the end of our testimony today.

ENERGY FACILITY SITE EVALUATION COMM. - 6/25/97 Evening Session

A (CARPENTER) I guess I would just ask one -- I have one final piece, I am sorry. I would ask the Committee to review photos 6B1 of the prefiled testimony showing visibility across Reflection Pond in the winter conditions showing Hogan Road. And I would ask the Committee to look at series 6B1 through 6B4 that show areas of active habitat along Hogan Road that would be impacted by the increased corridor that would be much of that habitat region, devastatingly impacted.

MR. IACOPINO: Mr. Chairman, just for the record can I continue to note some of these markings? The last one we did was number 4 which consisted of the 26 letters and the photos. Number 5 is the aerial photo, number 6 is the road standards, and number 7 is the statement of Mike Kelley taken by Mr. Carpenter.

A (CARPENTER) Taken by Mrs. Carpenter, the Town Administrator.

MR. IACOPINO: Mrs. Carpenter.

CHAIRMAN: Any questions from the applicant?

MR. GARTRELL: Thank you, Mr. Chairman.

EXAMINATION BY MR. GARTRELL:

Q Perhaps either one of you can answer the question for us. Whether Hogan Road is a public highway, is that a town road?

A (JUDGE) We are not certain what its designation is. We look at it as, the town does no maintenance on Hogan Road. We have not been able to find any documents that really say that it is a town road. We had some statement alluding that it is a state highway, a class six highway, but we've not been able to confirm that from the highway department. It is not plowed, it's maintained by a logging company as they

are going to haul out, otherwise, it would be in disrepair.

Q Is it fair to say, then, that Hogan Road as it were, to be altered, improved, maintained, enlarged, is essentially a private road and not within the town's control?

A 1500 feet of it goes -- is in the Leadmine State Forest, so I would assume that it is under the jurisdiction of the Leadmine State Forest. The balance of it is private property.

Q In your prefiled testimony, and in the conclusion of that you indicated that your principal concern, as I understand it, was that the revised route through both the towns of Shelburne and Gorham would result in unreasonable permanent impact to the natural environment, the orderly development and land use of the area and that the Committee should require the use of the existing pipeline and power line right-of-ways. My question is, is there any reason why other corridors that exist presently are not equivalent to the pipeline and power line rights-of-way in terms of the location of the proposed pipeline? For example, the rail corridor or the existing highway or road corridor?

A **(CARPENTER)** I would have to take it on a case-by-case basis. I guess it depends. Hogan Road is classified by the town as a logging road, it is not a recognized corridor, including, as I remember, even DIS says that they cannot find a different pattern or right-of-way, there is no defined right-of-way there. I guess we do not consider that a corridor. The other corridors that you list are open for study.

Q As the aerial photograph that you recently offered indicates, at least portions of Hogan Road are as visible as some of the other corridors that are displayed from the

air, if one were to look from that vantage point. Is there a practical reason why, if your concern is the view shed, and the visibility of what's in a corridor, that that would not be counted as an existing corridor?

A (CARPENTER) Would you repeat the question?

Q Is the roadway, as it cut through the landscape, whether it's a public or private highway, is there any reason to exclude that as an existing corridor in determining whether the pipeline route that is being proposed is actually in or adjacent to an existing corridor, whether that's occupied by a pipeline or a utility right-of-way or not?

A (CARPENTER) As a corridor -- if you determine that it is a corridor, then I guess you would have to. I guess our contention is that it is not a corridor per se. There is only certain sections of it that are widely open or visible, it is not considered as a corridor when the applicant came in,

Q Was not considered by you as a corridor?

A The applicant did not mention that it was an existing corridor, and made no comments to that fact when he was reviewing it with us, that he was considering that as a corridor.

Q I take it you've seen the proposal with respect to the revised mitigation plan along Hogan Road?

A (CARPENTER) Yes, we have.

Q And in light of those proposals, would you regard that as a corridor?

A (CARPENTER) I would say not, based on our definition.

Q And your definition is what then?

A (CARPENTER) It is not a clearly visible forest. There are sections of it that I would read as clearly visible (inaudible) Hogan Road, particularly in the high impact areas, it is not what I would consider a visible corridor.

Q You've indicated in your testimony a moment ago that there are owners of property impacted by the various proposed routes, some that win and some that lose. Do any of you, or any of those who are involved in the preparation of the pretrial testimony have land that is affected by either one of those corridors, that is a winner or loser?

A (JUDGE) Yes. I have a piece of land that would be impacted. And I guess we didn't mention here at the statement for the Committee and Groveton. At one point that was brought that I was one of the impacted individuals.

Q Which route is that Mr. Judge?

A (JUDGE) That would be on your revision.

Q The northerly route?

A (JUDGE) The revision that we had as of June 16th.

Q With respect to the orderly development of Shelburne, as you cited in your prefiled testimony with regard to the zoning ordinance and the master plan, let me ask a couple of questions, if I may. Your master plan which was included in your prefiled testimony identifies the Crown Vantage Company as a major source of employment for Shelburne residents; it observes that the Portland Pipeline Company owns and maintains a pumping station and oil line right-of-way through the town; that properties adjacent to the river are also prime gravel sites, but there are several commercial gravel pits operated by Gorham Sand and Gravel, and the most recent

industry is the R.J. Chipping Plant. And you further observe that Route 2 is a primary east/west corridor from Maine to Vermont and frequented in the season by skiers. These are all economic factors that you take into account in your master planning and your zoning, are they not?

A (JUDGE) That's correct. They are a listing of those economic factors that are in town or adjacent to it.

Q And I take it that you have tried to accommodate the existing or perceived economic factors in your plans for the development of the town.

A (JUDGE) I am not certain -- let me answer your question as I think I heard you ask it. Not in all cases. In cases of gravel pits, we have zoned the town to exclude the operation of gravel pits in one zone and well, to answer that way, there are other regions -- because its effects on the environment, we feel the natural environment and the esthetics of the town. It isn't that they are excluded completely from the town, but they are zoned.

Q Of the existing gravel sites, or gravel pit operations, are there any that are located in the zone two?

A (CARPENTER) There are several, there are one that I believe that is active in zone two. There have been no new gravel pits cited in that zone since the ordinance was adopted 10 years ago.

Q And is it your understanding, Mr. Carpenter, as Chairman of the Planning Board that RSA 155e is the statewide system of regulating these excavations?

A Yes, sir.

Q And that's been effective longer than your gravel ordinance, has it not?

A (CARPENTER) Our gravel ordinance was an enacted under 155d, I believe. The gravel ordinance was adopted 1979, I don't know when 155d or e was adopted.

Q I see. So since 1979 the town has regulated excavation?

A Yes.

Q And is it fair to say that in whatever zone, if someone were to excavate gravel, that would be subject to the permitting process of the town under 155e?

A (CARPENTER) Other than those areas where it's incidental to normal agriculture or silvercultural standards. We have, up to this point exempted timber companies when they are building roads for the removal of temporary roads, or even the permanent roads for the removal of timber.

Q Is it your understand that the so-called clear cutting operations that we have been hearing about is, or that the proposed gravel operation along Hogan Road is incident to the logging operation?

A Yes.

Q What, if any, regulatory power do you exercise under your zoning and your master plan over logging operations?

A (CARPENTER) At this point, none but I believe we will be considering that.

Q With regard to the so-called clear-cut there has been evidenced in photographs here, did I infer incorrectly that there was some suggestion that the Mead Company, or whoever is doing that clear cutting was doing that in response to the DEIS report regarding the proposed PNGTS pipeline?

A (CARPENTER) And power station with the Mead representative one of the things that came out was that they were responding to their interpretation of the DEIS and

thought that they had salvage landing, either the spring job that they started on, which was an easy spring job that was currently accessible and they put a crew in there to do a salvage cut.

Q Do you know when that began?

A (CARPENTER) Approximately early June.

Q In the photographs, and from your own observations of that clear-cut and its visibility from points like the golf course and Route 2, do you agree with the testimony that has been produced before the Committee that the elevation of that is higher than the elevation of the proposed or mitigation route that's been proposed for the pipeline?

A There are some --

A (JUDGE) Again, we really saw this information during the weekend and we were not provided very good details. We had a photocopy of a laser printed piece, et cetera.

But in doing a little bit of sketchy engineering here at the table, it appears that as though approximately probably three-tenths of a mile, across from the golf course is where the original so-called mustard line will continue to run and that portion will be visible from Route 2 and various sections of the golf course.

Q Was it -- did you understand Mr. Wilbur's testimony, I believe, that the, or it may have been Mr. -- I think it was Mr. Wilbur's testimony, that the revised route, or the location of the pipeline as it is currently proposed would be at the lower end of the cutting where it is now shown?

A (JUDGE) Yes, I understand that. Let me just -- what you are speaking to is that this portion is going to be not on a clear-cut but is sort of at the foot of the clear-cut

and the photo taken now shows, plainly, the ground at the clear-cut at 69.5 on Gorham/Shelburne line. However, when you go to this section, which is the mustard line, as best we could ascertain, and there is a photograph that shows that section, that that section would be visible from Route 2. The mustard portion of that line.

Q Is it now visible from Route 2?

A (JUDGE) It is. My judgment, on the basis of the photographs and looking at it over the weekend, my judgment would be that this mustard section, beyond the section that you are referring to would be visible, but where you lowered it at this point to 69.5 to 69.7, whatever, may not be.

Q Just so I am clear on your testimony, is it your statement that, by your reckoning that the proposed route of the pipeline, as it now exists, at the point where the clear-cutting is evident from the photographs, is at an elevation which is visible in those photographs?

A (JUDGE) As best I can ascertain and from what you have provided us, the information on this drawing, and what we have, the photographs, and my looking at it this is a judgment call, pardon the pun, I would say that that section, -- excuse me while I get another map here that might have it. As best as I can ascertain, blowing up what you provided us by mail, and looking at the elevation, it would appear that the distance between 69.7, which would be approximately here, and this point would be visible as per the photograph in our picture number 11, it shows that cut.

Q That's not exactly my question.

A Okay, I am sorry.

Q My question is, is the proposed route of the pipeline, as you now understand it,

visible in the photographs that have been submitted?

A A portion of it.

Q What portion?

A (JUDGE) The portion I just mentioned. From milepost, I wish I had more information, milepost 69.74 to approximately milepost 70. In your mitigation you had some of the lines, as I understand it, in the original revision route, you have re-mitigated what you call the mitigation for Shelburne, as some of these red sections, where you drop down to lower elevations. Now I am speaking of mustard line that remains at that original revision position, that is going to be the 75-foot construction right-of-way and eventually 50-foot permanent right-of-way. Does that answer -- I am not sure I answered your question.

Q As long as your comment is addressed to something that is in an area that is now being clear-cut, that is responsive to my question.

A That's correct.

Q It's not an area that is to be cut as you understand it, but is cut now?

A (JUDGE) I'm speaking of an area that has been cut. Which will grow up.

Q With regard to your -- while we are on that, it is then potentially -- there is potential from logging operations that are permitted uses of a vast amount of land in that part of Shelburne that views will be affected by logging operations? Is that not so?

A (JUDGE) I am sorry, I didn't hear the first part of the question.

Q I said there is a potential that logging operations will affect the views of a large area of the Town of Shelburne in perfectly permitted logging operations, is that not

so?

A (CARPENTER) Generally speaking, there have been, because of the steepness and nature it. A good logging practice does not permit clear-cutting in that area. There have been very few clear-cuts in Shelburne, there are a lot of silvercultural cuts with very few actual clear-cuts.

Q Are there any regulations that the town has that either regulate that or prohibit that?

A (CARPENTER) Well, the regulations that we rely on are those provided by the state, as I said, there are new policies coming and the Planning Board and Conservation Commission will be looking to adopt standards that would mitigate that, primarily in these view shed areas.

Q But no such regulations today?

A If there were we would have stopped it.

Q With regard to your zoning ordinance, you made reference to something you call the "shoreline protection zone", is that right? Zone 2?

A (CARPENTER) The shoreline protection zone is that adopted by the State of New Hampshire.

Q Okay, so that isn't synonymous with your zone 2 which is --

A (CARPENTER) It is not synonymous, our zone 2 is wider, it extends 400 feet to the uphill side of North Road and Hogan Road Extension.

Q Are there logging operations or gravel operations within zone 2?

A (CARPENTER) No. Let's split that. There are no gravel -- there are no new gravel operations since the zone was adopted. There are several that are on-going we

grandfathered prior to it's adoption and hopefully will be phased out within the next several years. And yes, there are some logging operations that are occurring in zone 2.

Q In your zoning ordinance you list in each of the two zones permitted uses and prohibited uses. Do you not?

A That is correct.

Q And in zone 2, is there any prohibition against a pipeline?

A (CARPENTER) I don't think we thought of that one.

Q Well, let me ask, is there anywhere in the zoning ordinance, any reference to the Portland Pipeline?

A (CARPENTER) The Portland Pipeline predated --

Q I realize that.

A -- the adoption zoning, so no it is not referenced in the existing ordinances.

Q So there's no mention of the existence of a pipeline in the zoning ordinance?

A (CARPENTER) No. I believe it is picked up in the master plan, not in the --

Q Is it fair then to say that it's not listed either as a prohibited or as a permitted use?

A (CARPENTER) I would say that's fair.

Q Among those uses, however, there are permitted in zone 2, are things called public facilities. Am I correct?

A Yes.

Q And according to my reading of the ordinance, I find no definition of what public facilities are, do you find a definition for that?

A (CARPENTER) I do not find a definition for that term.

Q Is there any expressed permission or prohibition in the zoning ordinance with respect to power lines or railroads?

A (CARPENTER) No. Basically they are none there because they don't generally come under the control of towns.

Q In the overlay that you presented to us tonight, which depicts areas of the town with slope in excess of 15 percent. Have you made any analysis of what percentage of 15 percent slope or greater would be impacted by any of the alternate routes before this Committee for this pipeline?

A (CARPENTER) What percent is in comparison to the original (inaudible) in the applicant's chosen route.

Q Have you calculated the area that would be impacted by expanding the routes that you favor through Shelburne?

A (CARPENTER) There's been some rough calculations, but none that I have with me.

Q A document that was submitted tonight entitled "Conversation With Mike Kelley", I gather it -- the essence of that is he's stating that in the month of May there were about, what he described as heavy traffic and that constituted about 25 trucks a day?

A (CARPENTER) That is correct.

Q That statement was taken before, I guess, Joanne Carpenter, would that be a relative of yours?

A (CARPENTER) Close.

Q And he is one of the loggers who -- logging contractors who uses this road?

A (CARPENTER) Yes. Mr. Kelley logs both for Mead and for Gorham Land Company and

uses that road probably the most of anybody.

Q How does 25 trucks a day compare to traffic on other highways in Shelburne?

A (CARPENTER) Compared to Route 2, it's infinitesimally small. Compared to North Road it's quite small.

Q With respect to the goals of your planning and your zoning ordinances to regulate development in Shelburne, you wanted to preserve open space and a rural nature of the town, would it be on the surface, if we were trying to make some objective analysis, an area which cleared less land or covered less distance that was near or upon an existing corridor, including roads, would it not be preferable to chose a route which required less clearing and less acreage and less distance?

A (CARPENTER) I think it depends on the impact on the area, the purpose of that area that deemed to be beneficial for (inaudible) in context of the whole master plan, which basically describes protects those areas that are not developed presently, to any substantial degree. This would substantially change development of that area, which the town has consistently indicated should be reserved for a wildlife wilderness type experience.

Q When you say that part of town, are you speaking of any particular part of town?

A (CARPENTER) I am talking primarily of the Hogan Road area. It is typically used as a hiking, skiing, bicycling, area for a number of residents from the town of Shelburne.

Q Based on the revised route as it's now been mitigated, according to a proposal presented, how would that development in the Hogan Road area upset the objectives or the goals as you see them?

A (CARPENTER) Our initial survey, and we will file further comment on this, is that it would still be a devastating esthetic impact on the Hogan Road area. From the person traversing the road or from a person viewing the area from US Route 2 across Reflection Pond.

Q Could you describe some of the effects of that nature that you've experience with regard, or that the townspeople have experienced with regard to the existing Portland Pipeline?

A (CARPENTER) The only comment that we ever received on the Portland Pipeline was a comment, some portion of it is currently used as a winter skidoo trail and there are some residents have willingly given up their rights to the state for their trails programs, and now wish they hadn't done it. But it's done. That's the only comment That we have received concerning the use of the existing pipeline corridor.

Q With regard to areas that are in pasture that are crossed by the existing Portland Pipeline, is it your observation that this has been an impediment to those uses?

A (CARPENTER) No. (Inaudible) benefit from the use of that corridor.

Q I have nothing further.

CHAIRMAN: Any questions from the public counsel?

MS. LUTKE: I have a few questions, then I am going to have Justin ask a few as well, if that's acceptable to the applicant. Let me ask a few questions, then I will turn it over to Justin, he also has a couple.

EXAMINATION OF MR. CARPENTER BY MS. LUTKE:

Q You were here yesterday, I think it was yesterday, when Mr. Trettel testified?

A Yes.

Q Do you recall that?

A Yes.

Q And do you recall that I asked him to rate the Gorham South route and the proposed revision using the six criteria identified by the FERC and the Army Corp. of Engineers as rating criteria?

A Yes.

Q And, let me run through the three criteria that he rated the revision as a preferable route, and I would like your opinion on each of those criteria, whether you agree or disagree with his rating. The criteria that he rated the revision as preferable on were, number one, locate an area that's less visible to the public. In your opinion, would the revision be preferable to the Gorham South alternative under that criteria?

A No.

Q Why wouldn't it be?

A The existing corridor of the well buried -- the existing corridor is generally well buried US Route 2, or is running in open fields in the area. Once it crosses to the Reflective Pond area, it runs parallel with Route 2 at approximately the same elevation and about 400 to 500 to 1,000 feet back from it.

Q Okay, so you would disagree with that rating?

A As far as it pertains to Shelburne, I would have to disagree with that rating.

Q The second one that he rated the revision as preferable on was avoid heavily timbered areas and steep slopes for practical. He said the Gorham South alternative would be worse under that criteria. Do you agree?

A As far as steep slopes go, I would have to agree, there's -- just looking at it, the right-of-way has a narrow impact here and the existing right-of-way has a very short impact on steep slopes here, whereas this alternative, runs into steep slopes almost the entire length of Hogan Road.

Q So you would disagree with Mr. Trettel's rating in that area as well?

A As far as the town of Shelburne.

Q The third one was avoid long views of cleared right-of-ways visible from highways and other areas of public view, and he rated the revision as preferable under that criteria. Do you agree?

A Obviously not, because this is the major view shed into town and we can show impact on the mustard line.

Q And let me ask you on the other criteria where he said that it was basically a draw, and that was where practical right-of-way should not cross hills and other high points at the crests, particularly when visible to the public.

A The only impact there is not in the Hogan Road in Shelburne, it is crossing -- in this area where it crosses the Leadmine Brook. Other than that the route pretty well only crosses a couple of minor hills.

Q If you were asked to rate which one would be preferable under that criteria and comparing the Gorham South alternative to the revision, which one would you rate as preferable?

A Gorham South.

Q And now, Attorney Gartrell asked you some questions regarding whether you would prefer more clearing by using the Gorham South alternative. Have you ever seen any

information which actually establishes if there would be more clearing using that alternative?

A Other than the information that was discussed here yesterday, no.

Q Have you ever seen any acreage calculations which indicate the as-built width of the Portland Pipeline right-of-way that would allow you to make a judgment as to the clearing that would be required?

A None that I'm aware of.

Q Justin has some questions as well.

EXAMINATION OF MR. JUDGE BY MR. RICHARDSON:

Q Mr. Judge, I have here sheet 7 of 17 that was included in counsel for the public's prefiled testimony of Haley and Aldrich, a photograph of the proposed pipeline, Portland Pipeline corridor in the town of Shelburne. Can you tell me where that is?

A I am not sure. That would be at the area just above the river crossing on North Road.

Q This is the existing Portland Pipeline?

A No. (inaudible due to both men speaking at same time)

Q Are you certain?

A **(CARPENTER)** I have no idea if it's even in Shelburne.

(Laughter)

Q Mr. Judge, do you remember visiting the existing pipeline with Haley and Aldrich?

A Yes. You would have to -- two sites to view along the existing pipeline/power lines.

Q Was one of those sites a Mariah --

A Mariah Acres.

Q Does that look like that area?

A That's a turn-around at the top of Mariah Acres.

Q Thank you. Now, the original -- when was the original Portland Pipeline installed?

A The original was 1942, I believe. The first line went in 1942.

Q Okay, and you didn't live in Shelburne then, did you?

A No. That was even before my time.

Q And subsequent to that, there was a second pipeline that was installed, is that right?

A Correct. I am not certain of the date, I don't have the date. I was taught in college, if you didn't have to know numbers, don't bother to keep them in your mind, you can always look them up.

Q Where was that second pipeline installed?

A The second pipeline was installed parallel close to the existing, so we have two lines in the pipeline right-of-way.

Q Subsequent to that there is a third pipeline that was installed, that's right?

A Correct.

Q And where was that one installed?

A That's parallel to the other two, for the entire route.

Q There's also a power line in the existing Portland Pipeline right-of-way, isn't there?

A Correct.

Q Do you know when that one was installed?

A I would have to guess it was again, before my time, as long as I've lived in Shelburne the power line's been there, to the best of my memory.

Q Okay. Earlier in your testimony, I believe in response to Mr. Gartrell's questions you indicated and Mr. Carpenter indicated that the existing Hogan Road was not a corridor, as you called it, is that right, as you considered it?

A **(CARPENTER)** It certainly is not a cleared corridor as I would consider US Route 2, a railroad, the existing pipelines. It is a (inaudible) logging road.

Q Okay. I have for you a copy of Title 18 of the Code of Federal Regulations. I am going to show you Section 2.69A. I wonder if you would read the first sentence for me. You can read the title as well if you like.

A **(CARPENTER)** Guidelines to be Followed By Natural Gas Pipeline Companies in the Planning, Locating, Clearing and Maintenance of Right-of-Ways and Construction of Above-Ground Facilities. Item A: in the interest of preserving scenic, historic, wildlife, recreational values, construction and maintenance of facilities authorized by certificates granted under Section 7C of the Natural Gas Act, should not be undertaken in a manner which minimized adverse effects -- should be undertaken in a manner which will minimize adverse effects on these values.

Q Now, could you turn the page and read to me the first value that is listed? I believe there is a number one in front of it.

A **(CARPENTER)** Pipeline Construction? Item 1: The pipeline construction [I] in locating proposed facilities consideration should be given in the utilizations, enlargement, or extension of existing rights-of-way along, belonging to either applicant or others, such as pipelines, electric power lines, highways, and railroads.

Q Now is there a pipeline along Hogan Road?

A (CARPENTER) Not that we are aware of.

Q Is there a railroad along Hogan Road?

A (CARPENTER) No, there is not.

Q Is there a power line along Hogan Road?

A (CARPENTER) No, there is not.

Q Is Hogan Road, in your opinion, a highway?

A (CARPENTER) No, it is not, it's a logging road.

Q Do you believe that Hogan Road undergoes criteria as an existing corridor?

A (CARPENTER) Those criteria, I do not believe Hogan Road is an existing corridor.

Q. Thank you. You indicated just a minute ago that a series of pipelines were built and installed adjacent to each other. What impact do you think placing a pipeline along Hogan Road would have on whether or not Hogan Road was a corridor as you defined it?

A (CARPENTER) It would, it is our belief that Hogan Road would then become a main corridor and would be open for future development for the next project we would have come along, be it an oil line or a power line, railroad or whatever.

Q So in your opinion, is it possible that additional projects could seek to use the Hogan Road area as a corridor because it was an existing corridor?

A (CARPENTER) I believe that to be true.

Q Now, could you describe to me what impact that would have on the Town of Shelburne's master plan?

A (CARPENTER) It certainly would disrupt what we believe orderly growth to be, we believe, what we have sought to protect the rural nature of the town, to preserve the view sheds. All of which have been identified as being impacted by Hogan Road.

Q Okay, a minute ago we looked at the -- this exhibit right here, and you indicated to me -- you indicated to the Committee that this section of this area were protected shoreline rights, is that right?

A (CARPENTER) We believe -- it's very hard to tell not only the existing route but -- . Based on this map, assuming that they have not transitioned off it, they were already in the protected zone, at least partially, and it appears that moving closer as most of the red diverts do, north --

Q Now this -- that area, could you describe the shoreline for me? Is it a developed shoreline, what exists there and what's the condition?

A (CARPENTER) There is no development on that shoreline, other than there is one small wooded boat launching.

Q Now, you seen over the last few days, the visual impact mitigation plans, what would this -- does this have a different impact on the shoreline than the previously identified application? What changes with respect to where the shoreline is and the value of the shoreline area (inaudible).

A (CARPENTER) I would really have to study that in more detail.

Q Does the proposed mitigation plan bring the pipeline closer to the protected shoreline areas in several places?

A (CARPENTER) It definitely brings it closer.

Q Thank you.

CHAIRMAN:

Committee? Jeff?

EXAMINATION BY MR. TAYLOR:

Q Looking at the pre-filed testimony it indicates the Town of Shelburne began its

master planning efforts in 1962, and that the first master plan for Shelburne was approved in 1964, and that there have been periodic updates up to and including January 1996.

A (CARPENTER) That's zoning I believe you are referring to.

Q I'll get to the zoning. This is the master plan.

A (CARPENTER) The master plan was not adopted that early.

Q I guess the master planning effort began in 1962.

A (CARPENTER) There were planning efforts that began in 1962 that led to the zoning - to the adoption of the zoning ordinances. The master plan was not developed in state protocols, I believe, that early. That predates me.

Q Are you aware of any community in that part of the state that even began a master planning effort as early as 1962?

A I believe that Shelburne was one of the first communities in northern New Hampshire that evolved into zoning and eventually into the subdivision master plan.

Q Are you -- when I look in the record here, the zoning ordinance was in fact adopted in 1964, according to the information here. Are you aware of any other community in the state that adopted zoning as early as 1964 and (inaudible).

A (JUDGE) I couldn't answer that because I just don't know factually the answer to that.

Q You have no recollection of anyone who would adopt it earlier than this, perhaps?

A (JUDGE) That's correct. The impetus of the effort was a Dr. Reed who, along with Mrs. Merrill who lived in Shelburne and were connected with John Hopkins who were very active in the leadership and the organization of these land protection efforts in Shelburne.

Q So it would be a fair statement that the Town of Shelburne had been actively engaged in planning and zoning in an attempt to determine its future since the early 1960's?

A (JUDGE) That is very true.

Q Thank you.

EXAMINATION OF MR. JUDGE BY MR. TAYLOR:

Q Mr. Judge, you detailed an extensive public service career within the Town of Shelburne, but you didn't mention any of your professional responsibilities. I wonder if you would tell us what you did.

A As a graduate engineer, I first came to the north country in 1951 to work at the Brown Company as a draftsman engineer and matriculated through the system and became plant engineer of the paper division of the Brown Company, then moved on for a short stint at Wildcat Mountain as its general manager and eventually its president and director. I stayed there for 35 years. The short stints, was the last three days there I guess. I am presently semi-retired and doing some consulting work with the new corporation, Meadowgreen Wildcat Corporation. In that period of time, as I mentioned, I have lived in Shelburne for the 34 years thereabouts.

Q Just previously there were a number of questions concerning, or asking you to evaluate the appearance of clear-cuts to protect where clear-cuts might be visible from, to anticipate view sheds and how they might be affected by cutting. During that short stint at Wildcat, did you have occasion to be engaged in those practices?

A Yes, we did. We call it building ski trails.

Q I guess the final question, I believe, in the material that was delivered by Representative Guay yesterday, there was a quotes, and I am not sure if it was Mr.

Judge or Mr. Carpenter or someone else representing the community. When asked by a reporter to indicate the total amount of public investment that Shelburne had made in pursuing the development of the alternative corridors, I believe a figure of \$400 was mentioned. Is that figure in fact accurate?

A It's fairly accurate. It may be a little more extensive now, we picked up a \$60 bill yesterday so it's probably in the neighborhood of \$550 now.

A (CARPENTER) It may be a little higher than that, there was probably some secretary time. Mrs. Carpenter's time in there.

EXAMINATION BY MR. SCHMIDT:

Q If I could ask a couple of questions. A little while ago Attorney Ludtke asked you to compare the route north of the river, the preferred PNGTS route to the one I think it's called the South Gorham and you drew some comparisons of your own. If instead you were evaluating or comparing the route that crosses the golf course to the PNGTS preferred route, would there be any differences in the comparisons?

A (CARPENTER) In comparing the route that crosses the golf course and PNGTS route, (inaudible) obviously preferential to the PNGTS route. There are some issues that we have to look at, the visual impact in key areas, the impact on the Appalachian Trail corridor, the impact on Hogan Road which would be largely mitigated.

CHAIRMAN:

Michael?

EXAMINATION BY MR. CANNATA:

Q Could you just explain what you see those routing problems are in the so-called Shelburne route.

A (CARPENTER) I think in selecting a route, I think there are some options that need

to be studied further there. If somebody in FERC drew a line and that became the Shelburne route, we simply asked if there had been studies. At FERC hearing Mr. Judge asked had there has been any studies of a crossing in the area of a golf course, and somewhere somebody drew a line on a piece of paper and I think there are some options around that golf course that are doable that would meet many of the concerns of the Town of Shelburne and probably meet some of the concerns that Gorham has exhibited for its development.

EXAMINATION BY CHAIRMAN:

Q A question I have. Are you familiar with the scenic road provisions of state law, the scenic road designations?

A (CARPENTER) Yes.

Q Does the town have any designations?

A (CARPENTER) The Town has designated the lower end of North Road as a scenic road. The majority of North Road from where it crosses Meadow Road up to and across Leadmine as a state highway. We are not able to designate this as a highway. There is a section where another town control, running down North Road to the state line is a scenic highway. I'm sure that at some point Hogan Road is determined to be a town road then we would obviously have an interest in designating that --

Q As it stands now it's not subject to the scenic road requirements? Could you explain for the other members of the Committee what the scenic road provisions do? Or do you want me to explain it?

A (CARPENTER) Basically they restrict the type of activities that can occur along the road from removing trees to view sheds to stone walls to -- they put on a stricter, a

fairly strict code of what can happen along the road. You may want to expound further on that.

Q Well, just that -- to explain a little further, it would call for essentially a public hearing or meeting anytime that there will be work done on the side of the road that would affect the trees or stone walls that run along the side of the road.

It does not prevent clearing or work from taking place, it simply requires that a public meeting be held so that before anything is done there is public input so that someone doesn't come home from work and find both sides of the road all cleared leading to one's driveway. The point that I wanted to bring out here is that this Hogan Road is not subject to the Town's scenic road designation, it's not designated as a scenic road, and I don't think this -- the Town has any requirements that would limit the tree cutting in any way along that road. Is that correct?

A **(CARPENTER)** That is correct. Other than where much of the road does fall into the shoreline protection zones.

Q So a private owner on that road could cut on either side of the road 50 feet back and the Town would, other than to seek funds from the yield tax, would really have not much to say about it?

A **(CARPENTER)** That is true. It might be fair to comment that there are essentially two owners of property up there. Basically it's the Leadmine State Forest and the Mead Corporation. They are essentially a large single ownership tract.

Q Thank you. Any other questions from the Committee?

EXAMINATION BY MR. PATCH:

Q If you could summarize the Town's position with regard to on the Evans Island

alternate routes.

A (CARPENTER) The Town still feels -- would prefer to see the route stay on the existing pipeline. We know there are some substantial issues, there are not the number of issues there that we have in the, obviously have in the Hogan Road area. Obviously we believe that the creation of that new corridor is going to fragment properties and may be a problem at some future point.

Q Your steepness chart fell off the back, and you don't have to put it back up again, but is this steepness issue raised at all by the proposed alternate route that the company has in that portion of Shelburne? It looks to me, on the map that I am looking at it, as though it's very close to a hill or a mountain called Crows Nest and I don't know if that's indicated there.

A (CARPENTER) For the most part, just to confirm my opinion, for the most part the route skirts a very steep area, it impacts at only a couple of other areas.

Q Okay, so the Town's concern then, as I understand it, relates primarily to dividing properties, as you said?

A (CARPENTER) Yes. Where, at the west end of town we are dealing with large single ownership. There are a number of properties on the east end, some of which would be fragmented by the right-of-way.

Q I believe when I asked a similar question of the company, part of the response related to a concern about, I'm probably wrong, and the transcript would speak for itself, but a concerned about, if they would stick to the existing right-of-way they would have to essentially run through more wetlands and there would be more possibility of erosion or some of the covering to the pipeline being washed away. I

think there are similar concerns to that being expressed if they were to stick to the existing right-of-way on that portion. I don't know if you have any particular comment on that.

A (CARPENTER) There is no question that there would be more impact on wetlands running it on that route. I guess we can't comment, the existing lines are there, we do not know of any issues of maintenance or erosion problems on their right-of-way.

EXAMINATION BY CHAIRMAN:

Q The Town will be receiving tax revenues if a pipeline is built, correct?

A (JUDGE) Correct.

Q In looking at the two alternatives, the Town's preferred alternatives and the applicant's alternative. Which alternative will provide more revenue to the Town?

A (CARPENTER) I believe the testimony is that the impact on Shelburne is essentially the same on both routes that I heard yesterday, that the mileage was fairly close so we don't see that there's a substantial difference between the two.

A (JUDGE) If I could just comment to that. The Town's concern has really not focused to the degree of differences on tax income. We feel that that issue is secondary to the long-term land use issues that we speak to in our prefiled testimony. We feel strongly that the bigger issue is how the land in Shelburne is used and/or preserved for the future. And obviously, our feeling is that another pipeline corridor, which is in perpetuity, decides now how that land will be used prevents future decisions on how that land may be used, which might be to a better advantage of pipeline in the present.

Q Thank you.

ENERGY FACILITY SITE EVALUATION COMM. - 6/25/97 Evening Session

CHAIRMAN: Any other questions from the Committee? Applicant?

ATTORNEY GARTRELL: Nothing further.

CHAIRMAN: Thank you very much. We greatly appreciate the effort that the Town has put into this application and the time and effort that the two of you on behalf of the town have spent, we greatly appreciate it and you both should be commended for your efforts.

MR. CARPENTER: We would really like to thank the Committee for its perseverance with this trial and allowing us to participate in this process. We also would like to thank the applicants for allowing us in process.

MR. JUDGE: Without dragging this, I promise you to be short and obviously I didn't live up to my promise. But we would -- we do think that the State's siting law 162h allowing a public counsel to perform the duties to the citizens that adversary position has, I think, made a siting issue very doable in the state. We appreciate the efforts.

(Off the record for break)

MS. LUDTKE: Public counsel's next witness is Mr. Richard Marini. Mr. Marini is an employee of the Public Utilities Commission and he is essentially not a witness of public counsel. His testimony has been filed in public counsel's filing to be brought before the Committee. I want to make that clear on the record. I do intend to ask Mr. Marini a few questions and have him adopt his testimony and then the Committee will be, obviously, free to ask him questions, as well as the applicant. Mr. Marini, if you could just describe --

RICHARD MARINI

having been duly sworn by Attorney Iacopino

testified as follows:

EXAMINATION BY MS. LUDTKE:

Q Mr. Marini, if you could describe your job title, position, where you are employed, how long you have been there.

A My name is Richard G. Marini. I am an administrator for the safety division with Public Utilities Commission. I have been with the Commission for 18 years and 10 days.

Q And what's your current position at the Commission?

A It's as administrator for the safety division. Essentially it's my responsibility to administer and enforce the pipeline safety regulations for both federal and state for the regulations for the State of New Hampshire and also I administer the one-call program that we have.

Q And what education do you have that qualifies you for that?

A I have a Bachelor's degree in mechanical engineering. I'm a registered professional engineer in the State of New Hampshire. As far as my background, as I mentioned I have been with the Commission for over 18 years. I'm on the Board of Directors and past chairman for the National Association for Pipeline Safety Representatives which is a national association of pipeline safety managers for the states. I am also a member of the NERUC Staff Subcommittee on Pipeline Safety, which I am also a past chairman.

Q Have you worked with federal agencies regarding pipeline safety?

A Yes, I have. Previous to my employment with the State of New Hampshire, I was a pipeline safety specialist for the National Transportation and Safety Board in Washington, D.C.

Q Are you familiar with what other states have done with respect to regulating of interstate pipelines and inspection of construction of interstate pipelines?

A Yes.

Q And what's the basis of your familiarity in that regard?

A Being very active in the national associations that I mentioned, both NERUC and NAPSA, this is essentially what we do for a living.

Q Did you prepare a report for submission to this Committee?

A Yes, I did.

Q And do you have a copy of it in front of you?

A Yes, I do.

Q That was included in the public counsel's prefiled testimony?

A Yes.

Q And, do you adopt that report as your testimony?

A Yes, I do.

Q Is that true and accurate?

A Yes, it is.

Q Do you have any additions to that report? Supplements to that report?

A No.

Q Now, you've heard Mr. Morgan's testimony today regarding pipeline safety issues, you were here all day listening to that?

A Yes.

Q And do you have any specific comments that you would like to make with regard to any of the statements Mr. Morgan made in his testimony?

A Yes, I do. If I can, essentially I would like to summarize some of my testimony because it does directly reflect the testimony of Mr. Morgan. My concerns in my testimony essentially are the pertinence of the integrity of the proposed pipeline facility. Particularly the design parameters and construction techniques. Although the applicant has frequently indicated that the pipeline will be installed to meet DOT standards, it has not supplied sufficient specific information as to how it will meet those standards. Essentially the Public Utilities Commission, we have an agreement with the Federal Office of Pipeline Safety as an agent of theirs to enforce pipeline safety regulations in the State of New Hampshire on interstate pipelines. I can tell you that it is a fact that, and it should be noted, that these are minimum standards which are applicable to all pipelines and that many of the provisions are written in performance language. Performance language identifies general areas of concern without specifically identifying the actions the operator must take in order to comply with a particular subpart. In other words, the federal regs tell you what to do but they don't tell how to do it.

Q Now you've reviewed quite a bit of information that's been submitted by the applicant with respect to this application, haven't you Mr. Marini?

A Yes, I have.

Q And have you been able to determine, based upon that information, whether the applicant's construction or design or operation will comply with the federal

standards?

A In my opinion, I cannot determine that.

Q Why can't you determine that?

A Because the applicant has not submitted any construction standard.

Q Now you are familiar with the construction conditions report that was recently filed sometime in June, I think, June 7th or sometime around then?

A Yes.

Q And you reviewed that?

A Yes.

Q And did that help you?

A Not at all.

Q Why didn't that help you?

A Essentially it does not cover 99 percent of what's required in the federal regs.

Q What would you need to have, some type of assurance that the pipeline company was actually complying with the US DOT standards regarding construction and operation and maintenance of the pipeline?

A First of all you need a construction standard.

Q Do we have one here?

A No we don't. That's the first thing you would need in order to evaluate whether the pipeline's going to be put in in a safe manner and whether or not it's going to comply with the federal safety regulations. This here is the federal regulations. And there's more than one subpart in here, it's got 192, 193, 194, 195, 198, and 199. So you can see that it's very small when you look at 192, and it's performance language.

If it was not in performance language this thing would probably be 10 inches thick.

So that's why it's very important to understand that these are performance language.

And it's important for anyone to evaluate a construction, the pipeline construction to look at the standards, in order to understand how they are going to do it.

Q Well, the applicant said that they are going to satisfy the federal government, shouldn't that be enough for you?

A No. No it isn't enough. An example of that is since these are minimum requirements, you can take a company who might do minimum requirements and install a pipeline in the deserts of Arizona, those minimum requirements might be alright in Arizona, but I doubt very much if they would be alright in northern New Hampshire.

Q Is this something unusual that this Committee is doing is getting into these safety standards? Do most states not even pay attention to them and just defer to the federal government on those standards?

A No, it's not unusual.

Q What has been your experience with other states in terms of looking at these safety standards on the construction of interstate pipelines?

A I can tell you that the most recent major pipeline transmission line in our area which is the Iroquois Line, that was involved the State of Connecticut, my counterpart there and also my counterpart in New York. They had major input to those facilities.

Q And those were state people?

A Yes, they were.

Q Were they appointed by the federal government? Were they really acting as agents of

the federal government or was it a state initiative?

A They are both, at that time Connecticut was an interstate agent. New York just recently became an interstate agent, but they still got involved because they, as my discussions with my counterpart in New York, their state and their commission felt that this pipeline was in their state and they had a responsibility to the people of New York to be involved. So regardless of whether or not the federal government made them an agent, they were going to be involved in it, and they did.

Q So in your experience it hasn't been uncommon for states to become involved to provide themselves with some assurance of compliance with --

A Not at all.

Q And when you were working for the federal government did you have interaction with states that were concerned that, in fact, the design met the federal standards and wanted some input into that?

A Most certainly.

Q That would be fairly common?

A Yes.

Q Now, Mr. Marini, you made some recommendations regarding inspectors on the pipeline. Do you recall that?

A Yes.

Q Now, are you familiar with this environmental construction plan? Doesn't that already provide for inspectors?

A Inspectors in that regard, to look at whatever is required on the environmental side.

Q Are those the kind of inspectors that you are referring to in your recommendation?

A No. Totally different.

Q Well maybe you could explain to the Committee what the difference is between the kind of inspectors that you are recommending and the kind of inspectors that would be recommended in the environmental construction plan.

A Essentially an inspector, a field inspector, would be on a pipeline project. The scope of his work would involve visual inspection of pipes, fittings, components, including factory and field coding; inspection of all field vents and be sure they are satisfactory and in compliance with part 192; inspection of the trench for compliance with 192 and company specifications and good engineering practice, to ensure proper clearance and cover. Inspection of alignment prior to welding; inspection of welding operations; inspection of the lowering of the pipe; inspection of pipe jacking to ensure adequacy of coating. Observation of radiographic examination of welds and review of radiographic films; inspection of backfill material and backfilling operations to ensure compliance with 192 and company specifications and good practice; inspection of valves, assemblies, meters, and regulator stations. Inspections of all digging, filling, and pressure testing of all facilities; inspection of the activation of the system, including purging and packing; inspection of all ground interference bonds, testations, rectifiers, and other portions of the protection system. Then there's, I could go on for several other items which I think are pretty clear that someone on the environmental site would not have any experience with.

Q How important is it that there be inspection of those items? Mr. Morgan testified that they were planning on doing that type of inspection. Would that satisfy you?

A No. It wouldn't.

Q Why not?

A I guess I can answer that with firsthand experience in other projects where I've seen inspectors brought in by the pipeline company, bringing in a consultant to do some inspection for them and if it wasn't for me doing my inspection this particular pipeline would not have been put in properly.

Q And specifically, what are you referring to? Are you referring to fill material or trenching or what was this particular problem that --

A That was the problem. It was the backfilling, using improper backfilling material that was not in accordance with the company's specifications, nor the Commission's order.

Q Are you aware of any accidents that have occurred because of improper backfill material?

A Yes, but I can't really tell you the exact location of those incidences, but there have been incidences reported.

Q Have there been other incidences that you're aware of recently with regard to pipeline safety issues that have come up in the New England area?

A On transmission lines?

Q On any, yes, pipeline, I guess, pipeline. Any safety problems that you are aware of that have happened in the New England area recently?

A Not so much with the transmission lines in New England, but the closest one that we can relate to would be in Edison Township, New Jersey. A few years ago we had a major pipeline failure which has had a tremendous amount of impact on the pipeline

safety program. And also the industry. In my testimony I make reference to that. That was investigated by the National Transportation Safety Board, they have made recommendations as a result of that investigation and part of those recommendations are part of what my concerns are with this pipeline insomuch as the pipeline toughness being considered in their specifications and also key valves. In this particular applicant's proposal they do mention that they will be installing valves according to 192 based on a class location and all that. And that's minimum requirements, but I don't know of any company that would not install valves on river crossings. It's not required by 192, but I know that companies are doing that and I just don't see anyone not doing that. Also as far as valves in urban areas, I think in this particular applicant's proposal they do not mention the type of valve, I think that's very important to consider. As was the case with Edison, New Jersey, that was another recommendation by NTSB that they, the federal government, also pipeline safety look at requiring remotely operated or automatic valves.

Q You reviewed some of the testimony recently here. Did you see any mention of remote valves?

A No, I didn't.

Q Are they required by the US DOT standards?

A Not right now.

Q Are they a good idea?

A Most certainly.

Q Why?

A Well, as the case with Edison, New Jersey, I can see this happening, hopefully it's

not going to happen, but it's a possibility that if you do have a failure depending on the location, getting your people out to the site to manually turn the valve and shut down the pipeline. That can take time. In the case of Edison, New Jersey, it took quite a while to shut down that pipeline. If you can imagine a 30-inch pipeline at whatever pressures, when I was NTSB I did have one down in Texas, it was a 36-inch line and it was operating at about 900 pounds, and that did ignite. It was in a field, but it literally, well it literally barbecued people and, there was a trailer park about 300 feet away and it literally destroyed everything there. There was about 8 people killed, mobile homes were just melted, all that was left was a frame, cars were destroyed, all that was left was the frame, and these facilities were at least 300 feet from the pipeline. That's the seriousness of having a pipeline of that diameter and that pressure, you have to get out there as soon as possible, or somehow shut down that pipeline as soon as possible before it does any more damage.

Q And you've seen no mention of remote valves in the applicant's materials?

A No, I haven't.

Q What happened in Edison, New Jersey, do you know?

A That was, I think the final outcome of that was that there was third party damage. Over a period of time there was a stress crack that did finally, was the ultimate source of the failure of the pipeline.

Q What happened when the pipeline failed?

A It was unbelievable. I was involved in some of the discussions with the Office of Pipeline Safety and that was brought up at our regional meeting to discuss that. It was just a national incident. Like I said it did have major effects throughout the

pipeline industry. If you listen to some of the people on the news media that were interviewed by the news media, the people that were there, talking to the -- we had discussions with the mayor of the town of Edison, there were public hearings. Some of the testimony given by them was just unbelievable.

Q Now, Mr. Marini, would there have been any way to detect that stress crack through maintenance procedures?

A Well, I think another area that came out of that also was the use of ILI's, in-line inspection tools, and essentially those are, they are referred to 'smart pigs'. It's a sophisticated electronic technology that's being utilized, and they call them 'smart pigs'. Essentially what you do is you insert those, right now the federal regs require all new transmission lines to have pig launchers and receivers installed in their pipeline. However there are no regulations that require you to do it. I think it's just a matter of time before -- you are going to see regulations, no question about it. I think that right now that the Office of Pipeline Safety is working with industry to come up with some sort of a standard, if you will, that would cover that.

But I think that over the last 10 years we've seen this technology really come to being, it's really taken off as far as what it's capable of doing. There's a variety of these instruments, they can detect dents, gouges, ovality, corrosion, they even have an ultrasonic crack detection which they use for inspecting longitude in the welds. They are very sophisticated and they are getting more sophisticated. So you have a variety of ones that you can use.

Q If a pipeline company chose not to use this on an annual basis, for example, to inspect the pipe to make sure that it did not have any stress cracks, would that

pipeline company be out of compliance with the US DOT regulations?

A No.

Q The US DOT regulations don't cover that particular maintenance item?

A Nor would I recommend that it be done on a yearly basis, either.

Q What would be your recommendation?

A I think if I was to recommend something since people that known me, I think I am very reasonable, what I would do is in a new installation like this, I would probably use a caliper tool the first time around just to essentially check the contractor's work. And you do this prior to operation. This is also, as I said it checks the contractor's work. You can inspect a pipeline, but in no way can you do 100 percent.

Hopefully you will pick up any dents or whatever. And I am aware that companies that have done this as part of their contract that the contractor will excavate and repair the damages at his own expense. So it's kind of a check on the contractor and I think it's very effective. After that I would, probably within the next, I don't know within the next two years or possibly three, two or three years, I would go to the next step up and maybe use a geometry type of pig, and that type of pig will essentially give you a thumbprint of that pipeline, so that in the future if that's not what the regulations say, every 5 years or every 10 years, you have a thumbprint of that pipeline. So in 5 years or 10 years you do another pig run you have something to compare it with to see if there is a problem with the pipeline.

Q I think you testified as a result of some of these incidents or failures that occurred, the National Transportation Safety Board made certain recommendations with regard to the US DOT standards?

A Yes.

Q What were those recommendations?

A Two of the recommendations that came out of the Edison, New Jersey incident, the NTSB recommended to RSPA which is the Office of Pipeline Safety is under Research and Special Programs Administration, and their recommendation was to expedite requirements for installing automatic or remote operated mainline valves on high-pressure pipelines in urban and environmentally sensitive areas to provide for rapid shutdown of failed pipeline segments. The second recommendation was to develop toughness standards for new pipe installed in gas and hazardous liquid pipelines, especially in urban areas.

Q Now, Mr. Flumerfelt is in fact at public hearings, and Mr. Morgan as well, has characterized the US DOT standards as very stringent. Would you agree with that characterization of those standards?

A I don't think they are very stringent. It's really up to the operator how stringent they are going to be. Because, like I said, it's performance language, they are minimum requirements. You can be here or you can be up here, where do you want to be, you have to be at least minimum. Any company that says they are going to construct and operate a pipeline at minimal requirements, my antennas go up. That is not -- in all the companies that I have been involved with across the country, I can tell you that that is not a good situation. Do we want to be up here? I don't think so. I think you can overkill, but somewhere in between you have to find this level of comfort that is good for you, and like I mentioned before, what's good for Arizona might not be good here.

Q Would that be one reason to involve the State in the process? To make that judgment about where they ought to be for New Hampshire?

A I think so, I am not, if you read my testimony, I didn't come out and say this is what you should do. I am not telling them what to do. I am asking them to consider these areas, let us know what level of comfort they are going to give us. Then we can look at that and if we are comfortable with that, that's fine, but if there's areas of concern that go beyond that, then I think it's something that we should go further and see what we can do.

Q Thank you, Mr. Marini.

MR. KRUSE: Mr. Chairman, in view of our, not only of the hour, but in view of our ongoing objection to this testimony as reflected in our prefiled written testimony, and as indicated several times early by Mr. Pfundstein on jurisdictional grounds, I won't engage in cross-examination. And we basically object to Mr. Marini's testimony. But I will also say that I think we've resolved Mr. Marini's concerns as just expressed in the last few lines of his testimony in the sense that the Company has agreed to provide copies of construction specifications to, as they are developed and as they are completed to the PUC, which we understand to be the designee of the Office of Pipeline Safety. Thank you.

EXAMINATION BY MR. ELLSWORTH:

Q Mr. Marini, you have made certain recommendations though, I here tonight that would go beyond minimum federal safety standards, specifically a pigging schedule and certain valve locations. Valve locations, by the way, we discussed earlier today and I think the company has agreed to review that. Do you have any specific

recommendations as to recommendations the Committee should make to the applicant in view of the minimum standards and your recommendations?

A Most of the items I have addressed in my testimony. Most of them fall under a construction standard. I would really like to see that standard before going any further. I guess maybe hoping that the company will go beyond even what some of my comments have been. But I think if I was to look at some particular areas that I would recommend, it would have to be the area of inspection. And also probably what I consider as one of the most critical parts of construction, and that has to do with trenching, backfill and cover.

As far as inspection, I feel it's very necessary for us to be involved, as mentioned in my testimony, we have been in touch with the OPS and it's my understanding that they will deputize us for this project, so that we will be able to work with them. They have informed me that they will have an inspector and I told him that we will probably have an inspector also to work with him, and between us maybe we can have enough coverage to be satisfied with this type of installation.

Q I would like to expand on that before you go further. What information has OPS given you about sending their inspector to us? Do you have any sense of what period of time they will be on site and during what part, or all, of the project they will be on site?

A As of two months ago they were in the process of moving one of their inspectors up into our area. He came up to this area to look for a place to work out of his house, or possibly out of Boston. He was hand-picked by the director of the eastern region from his office. Unfortunately, he has left employment, so he will have to pick

someone else. And I am sure that's going to happen. He is very cognizant of this installation. As you know, there has been a lot of problems that arose from the Iroquois pipeline construction project. Office of Pipeline Safety has told me point blank that they will not have another Iroquois situation, and that they will be totally involved with this project. So I can pretty much guarantee you that they will have an inspector up here on this project.

Q Did they lead you to believe that he will be a full-time federal inspector?

A I believe so.

Q If our Commission is deputized to provide inspection services, do you have a recommendation as to whether or not we should provide a full-time inspector to the project?

A As I mentioned in my testimony, I believe that we should provide a qualified temporary person under contract to do the inspection. Not too many people know, but there's only two and one half people in my division, and that's not many people for the amount of work that we have if you look at both pipeline safety and enforcing the one-call law for the State of New Hampshire. If I was to take one of these people, which would probably be myself, and devote my entire time up there, it would take away from my intrastate program. Every year we are evaluated by the Office of Pipeline Safety and there are certain areas that we have to cover, certain requirements in order for us to keep our status as an agent, and I think this would be in jeopardy if I was to devote my entire time up there. It would be my recommendation that we bring on a temporary person, a craft person that could do -- help us out with this inspection. I am not saying that I would totally divorce

myself from this, this is a, personally, this is a once in a lifetime opportunity.

We don't get a transmission line, interstate line like this put in New England too often. I am very excited about it and I want to be part of it, so I will be up there, but I still feel that we have to have a full-time person up there in order to oversee, inspect some of this work that's being done.

Q You said that it would be -- you expect a full-time federal inspector and you now recommend a full-time state inspector, why are two inspectors necessary and in fact, is two enough?

A I guess I am being very reasonable again. But if you look at the previous testimony we heard about the number of spreads that are in New Hampshire, both in the northern section and the southern section, it's hard to describe, but it's like an assembly line, this type of construction. They move along pretty fast. It's like a locomotive, really, it's hard to stop it once it gets going. There's so much activity going on as they move down, it's fast, I think most of the transmission lines, I think they try to put in about a mile a day if they can. That's a lot of work, that's a lot of inspection to be done, it's a lot of area to cover. A lot of the times it's difficult to get from one site to another because of terrain. It would be difficult for one person, or two people, depending on the number of spreads, number of crews. I guess I am being very light on the manpower, but there again, I don't want to overkill either.

Q If the Commission opts to assign a full-time inspector to the job, did I understand that you would recommend that it be you?

A No, sir.

Q Why not?

A As I mentioned, we have requirements under our intrastate agent status, there are certain things that we have to do during the course of the year to keep that status.

We are evaluated, and if we don't meet those requirements the Office of Pipeline Safety has the right to take away our status.

Q This is a plug for the Commission. What is our status now with the OPS, Mr. Marini?

A We are a 5A state.

Q And what's our relative standing with OPS in terms of successfully meeting your requirements?

A We are looked at as a model.

Q For what?

A For pipeline safety, throughout the country.

Q How do you recommend the Commission, or the Committee resolve this issue if you don't feel that your department has adequate people to provide that inspection service?

A Would you repeat that please?

Q If you feel that the assets of the Commission cannot be diverted to this project because of other commitments, what do you recommend the Commission or the Committee do to provide this state level inspection service?

A I think we should look for temporary personnel with qualifications. As far as responsibility of paying this person, one thing I did not mention, my division, revenues, my budget is paid for not only by the federal government, but by the intrastate operators of New Hampshire and I don't think it would be fair to expect Keene Gas or Energy North to pay the Safety Division to inspect the interstate

pipeline up in northern New Hampshire. I would recommend to the Committee that the pipeline company would absorb this cost. It's not unreasonable to ask. We are not looking to make any money on this project, and the low cost of this, I look at it as an insurance policy for the applicant. For them to be able to say they have been inspected by the State is worth its weight in gold. It's not uncommon that this is done. The State of Connecticut with the Iroquois project, in their particular case, Iroquois paid for Connecticut to hire a consultant to do inspections for them. This inspector was paid for by Iroquois, but he reported to my counterpart in Connecticut.

They set up some sort of a weekly reporting requirement. This person essentially did all the inspection for them.

Q This is a three-state, at least a three-state project. Is there an opportunity for there to be some consolidation of effort among the three states at a state inspection level in order to minimize the burden on each state or on the applicant for each state and to provide adequate consistent inspection services for the entire pipeline?

A Well, I think we can rule out the State of Maine, since they don't have a pipeline safety program. They have no gas safety person there right now. They dropped out of the program a few years ago. So, I guess we couldn't work anything out with them. The State of Vermont, they have one person there and he is pretty well out straight with his program on intrastate program.

Q Thank you. I have no other questions.

EXAMINATION BY MR. PATCH:

Q Do you have an estimate of the cost? Do you have a ballpark figure of what it would cost to hire an inspector for the duration of the construction of the pipeline?

A Yeah, and it just blows me out of the water when I look at some of these costs. But I did reach out to some transmission companies to see what I could get for costs for consultants and they ranged anywhere from \$25 up to \$60 an hour plus expenses and all that. As I mentioned, I would not look for some super PhD or that type. I think a craft person would fit the bill. I really can't give you an exact number. I asked the State of Connecticut how they worked their program out. And it is my understanding that Iroquois just said, "Here is \$100,000, not to exceed that and take care of it." And then they sent out for bids to a select number of qualified people to do the job. And it was under the \$100,000.

CHAIRMAN: Michael?

EXAMINATION BY MR. CANNATA:

Q Mr. Marini, Commissioner Ellsworth asked you to list your recommendations. I believe inspection was the first one that you recommended. Was that the only recommendation that you had or am I mistaken about your testimony?

A No, I guess the other one that we didn't expound on was the trenching, backfilling and cover. I really think that this is a very critical area. And it is pretty much performance language again. This particular area, you can weld your pipe, coat it properly, but then again, if it is not put in the trench right, if it is not backfilled right, and cover properly you can have problems. My concern is in areas where there is blasting and where you have terrain that goes up the side of a mountain or something. When you do blasting like that you have like a channel for water to rush down. Of course they have used what they call trench breakers with kind of diverts the water or slows it down so you don't get washouts. But you still

can get washouts. Sometimes what they do when they put the sand padding around, they have to put rock in there to stabilize the environment. I think that is very critical in that the rock can eventually settle and come on top of the pipe and damage the coating. I think there's ways of handling this. The company mentioned concrete coated pipe in certain areas under the roads and railroads. I think that that is a good policy. But I think that there are other areas that they could maybe utilize that type of concrete coating in areas where there is ledge and rock. That is one option. I am not saying that is the only option. There is padding machines that they have which essentially screen excavated material and put the smaller particulate around the pipe and then they slowly increase the size of it so it is a good solid environment. It is good for any washouts. The water just percolates through. You don't get washouts. That is another good method. There's different ways of doing it. I just want to make sure that the company looks into this and just doesn't throw the pipe in a trench and put six inches of sand around it. I just, with 30-inch pipe or 24-inch pipe I don't think six inches of padding is the answer in all cases. We talk about hydrostatic tests on a pipeline, this is 30-inch and 24-inch. People say, "Well, so what, you fill it with water and boost it up to a couple thousand pounds and big deal." Well, if you can imagine what a fire hose does when you load a fire hose, that hose moves. Well, that is what a pipeline does too when you load it with water. So, if you only got six inches of padding depending upon whether you are on the top of a slope or the bottom of a slope that pipe is going to move, move sideways, up and down. You can have problems. It can go up against a piece of ledge or something and cause a dent. Trench breakers, I have seen trench

breakers, some of them are sand, some are cement. They use all sorts, foam, they use all sorts of kinds. You get washouts and you get movement. When you hydrostatically test you can end up with a flat spot. It is a point loading type of thing. All sorts of procedures that I think the company should look at. In reading this I don't see anything in here that gives me that good feeling. Hopefully when we have the opportunity to look at a construction standard maybe there will be some reference to some of these areas of concern.

Q Mr. Marini, you mentioned earlier as a result of the Edison, New Jersey incident that A, the use of remote controls or automatic valves was being contemplated on a national basis and that tougher standards were being considered. Do you have any recommendation on -- we did talk about replacement of valves and the company is willing to sit down with the PUC and come up with a plan that satisfies that. Do you have any recommendations regarding tougher standards?

A Well, there again, I am in a position where I really don't want to tell the company what to do. Here we have a property of the pipe that I think is very critical. As I mentioned, in the last ten years this has really come to be one of the hot items in the pipeline business. It is an area that there are no standards. Presently there is, as I mentioned, the Federal Government along with industry, I think API, are working on developing these standards. I know for a fact that most transmission lines take into consideration toughness when they specify the specifications for the pipeline. What is good for New Hampshire? I really don't -- unless I can sit down and look at the areas that we want to look at, we were talking about urban areas, homes and businesses close to the pipeline. Is that an area where toughness should

be looked at, where we can give those people a little more higher level of comfort? That is a possibility. I think class location -- when you design your pipeline and you look at class location, I think by going up a class; you have class 1,2,3,4, if you are in a two, maybe go three, or three go four in your design. That is a possibility. But to give you an example, the Iroquois Pipeline, their requirements for toughness, they doubled the toughness commonly specified for pipelines of similar diameter. Why they doubled it, I don't know. But if you talk to people in the industry that is probably one of the best pipelines around. Do we have to be at that level? I don't know. I do know that there should be some consideration given as to toughness.

Q Mr. Marini, let me ask you about contract incentives. Are you aware of any contract incentives which may be put into construction of this project whereby contractors would be paid bonuses if they reach certain milestones? And in general what do you think of those incentives?

A Well, normally there aren't incentives. The only incentive is, they usually have penalties for not completing the project on time.

Q Would you consider then a penalty in a contract, one which might push a contractor to do his work in another manner that he might not normally do, such as not backfill properly?

A Well, the thing is to stop it before it happens. Once it is backfilled you really don't know what is there and that is the problem. I am a firm believer in inspection. To me that is one of the most important things you can do in making sure that you are getting what you are paying for. If you don't have an inspector there

to watch the contractor as he installs that pipeline, you don't know. Once it is backfilled, out of sight out of mind. You don't know what you have got under there unless you have actually seen it go into the ground.

Q And what you have stated is that contract penalties are the norm in the industry. And would you consider then that if that is the norm it strengthens the case for additional supervision or inspection?

A Well, sometimes penalties aren't great. Sometimes when you have penalties -- my concern about this project is the small window that we have for construction. We are looking at 1998. We are looking at from April until November. We have to get that pipeline in. And if things don't go right, if we don't have our marbles lined up, if the company doesn't have everything laid out for the contractor to address everything that could possibly happen, and I can tell you there will be changes in the field and if there aren't procedures to handle those changes in the field, then there is going to be delays and if there is delays we are going to have problems. The closer you get to the end of that construction window the more problems you are likely to have. And that is something I really don't want us to get into, that position.

Q Commissioner Ellsworth asked you a question regarding a commercial for the Commission and you responded that New Hampshire was a model for various aspects at OPS. You did not include the dig safe program. Can you inform the Committee also the other aspects in which New Hampshire may in fact lead the nation and act as a model for gas line safety?

A As I mentioned before, the Commission has allowed me to participate on the national scene, and with the National Association of Safety reps and also NERUC's Staff

Subcommittee on Pipeline Safety. In that capacity I have done a substantial amount of work for OPS. They have contracted myself and various people. I chaired several committees to do work for the Office of Pipeline Safety. As a result of that it helped me to do my work better in the state of New Hampshire. And when we developed our One-Call State Statute we were able to essentially have a good handle on the rest of the country and what they were doing and what they were doing wrong. And we were able to bring into New Hampshire a very strong dig-safe law, a very fair one I think.

It has some teeth to it and that of course the teeth is enforcement and that is the finding aspect of it. But, our particular dig-safe law has no exemptions and that is unheard of in the majority of statutes across the country. There is always somebody that has lobbied for an exemption. State DOTs are probably one of the largest contractors in each state. There are numbers of one-call laws in our country that exempt DOTs. We do not exempt DOTs. Municipals, they are exempted. We do not exempt municipals. We don't exempt anyone. That is one of the reasons we are looked at as being the model.

We also, in the last couple of years Congress had allocated certain monies for one-call systems to enhance them. I have taken that opportunity to request monies. Of course you have to specify for what reason. In our particular case it was to help the municipals. As you know, municipals do have problems with money. The State of New Hampshire if you impose a monetary burden on a municipal you have to find a way to reimburse them for that. In our one-call allocations I was able to pick up some money and give it to the municipals to help them participate in a better manner with our one-call law. As a result of that I was just informed about two weeks ago that

at a hearing down in Puerto Rico, the National Transportation Safety Board and the Office of Pipeline Safety, there was a hearing involving a gas explosion in Puerto Rico that killed 35 people last November. Part of their testimony down there involved the lack of one-call notification system in Puerto Rico. One of the directors from the Office of Pipeline Safety put on record that the State of New Hampshire is a model in their one-call law and their enforcement. And also they are very innovative in developing programs to enhance their program.

Q One last line of questioning, Mr. Marini. And I refer you to your attachments to your testimony from the National Transportation Safety Board. In paraphrasing your earlier testimony if I may, would it be a fair paraphrase to indicate that you read the memo from the National Transportation Safety Board to say that the regulation and design of pipelines of the future would be different than in the past regarding valves and toughness standards?

A Oh, most certainly. It is just a matter of time where you are going to see regulation.

Q And your concern is that you would want this pipeline to be the pipeline of the 1990s rather than the 1890s?

A That is correct.

Q For the record, did the company that was involved in this incident in Edison, New Jersey, it was Texas Eastern Transmission Corporation, was it not?

A Yes.

Q Would you please explain to the committee the affiliation of Texas Eastern may have had with any of the applicants here, if you know?

A I am not sure right now because of all the merges that have been happening just who is who anymore.

Q Is not Texas Eastern part of the old PanEnergy System?

A I believe so.

Q Which is now part of the Duke Energy System which we just had testimony filed today is really one of the participants in front of us today?

A I believe so.

Q Would you expect that the applicant would be very much in favor of addressing these types of issues, in your opinion?

A I would think so.

Q Thank you.

CHAIRMAN: Any other questions from the Committee?

(No response)

CHAIRMAN: Any follow up?

MS. LUDTKE: Mr. Marini concludes the public counsel's presentation. I believe we are going over to the applicants at this point. But if you have a minute I think it might be useful to take up the matter of exhibits. I would like to move in our prefiled testimony as an exhibit and it can be Public Counsel Exhibit No.1. And I would also for the Committee's convenience like to move in a complete set of public counsel's data requests and responses which are now packed in a box in front of the table. You can mark those as Public Counsel's Exhibit 2. And in addition I would like to also move in as public counsel's exhibit

the agency data request as well. And I will supply the Committee with a copy of the agency data requests. And you can mark that as Public Counsel's Exhibit 3. And I would move that they be admitted as full exhibits.

CHAIRMAN: Any objections?

MR. IACOPINO: Just so we don't lose things can we make the Haley and Aldrich report 1-A?

MS. LUTKE: Sure, that's part of the public counsel's testimony. It is a separate volume. And in addition to the public counsel's testimony there is also the view shed which maybe should be 1-B and 1-C. They are the charts. If it would be of convenience to the Committee I would volunteer Justin to put a complete set of the FERC data requests and responses that we have together for the Committee. We have the files in the office and if the Committee would be interested in having a set available for its review during its decision-making process I will also enter those as an exhibit and offer to supply the Committee with that material within the next several days.

MR. IACOPINO: While we are doing that can I, on behalf of Shelburne move their exhibits in as full exhibits at this point?

MS. LUTKE: I don't object to Shelburne's exhibits coming in as full exhibits.

MR. KRUSE: I guess before taking a position on the Shelburne exhibits I would like to see if we are going to have a problem with our exhibits. And would move the admission of all of our listed exhibits including those two that were added as numbers 74 and 75. We can strike the items referred to as

reserved and I will prepare a revised list which reflects only the substantive documents on the table. And with the exception of Exhibit 62 which we will withdraw, which is a draft environmental site investigation having to do with Pease International Trade Port which we -- first of all it is a draft and shouldn't be a part of the record at this point anyway. And secondly we understand from the Attorney General's Office that it has advised the EFSEC formally that PDA will not seek to impose any conditions to be added to the anticipated EFSEC permit for this project. In lieu thereof, PDA will exercise its authority and its landlord proprietary capacity to enter into a sublease with other property transfer agreement with pipeline applicant, thereby require conformance of the federal and other requirements applicable to Pease.

MR. IACOPINO: I don't have any objection to the plaintiff's exhibits going in. The only problem I have is for those exhibits which are not complete at this point.

MR. KRUSE: And there is one that -- well, there is another one that you don't know of that is incomplete and that has to do with the threatened and endangered species. There is another volume of material that should have been incorporated before and while on the redaction table didn't get in. But I also haven't submitted it yet to the Committee as a whole. That is part of Exhibit 34 and I was going to ask John Auriemma to identify that later on.

MR. LUTKE: If I could speak briefly about Exhibit 34. Attorney Kruse gave me a copy of Exhibit 34 today. He left it on the table.

MR. KRUSE: No, excuse me, that was last night, and

that is not the only Exhibit 34. That is part of the Exhibit 34 folder.

MS. LUTKE: Public counsel received this last night. It is dated April 1997. We've had a confidentiality agreement in place since December.

MR. KRUSE: It was a mistake and I acknowledge that on behalf of myself and the company.

MR. IACOPINO: The other concern I have is yesterday I think, or the day before when I think Mrs. Patterson asked the company for a list of all the exhibits showing what was originally disbursed to all the members of the Committee and what was new, and we were told we were going to get it. When do you anticipate us getting it?

MR. KRUSE: You will get it. I received this morning the product of initial efforts by our administrative assistant who has had a lot to do with the documents to date and our intern who has been working with us. I need to go back through it all to make sure that that list is accurate because I have had obviously some contact with the documents as well. So, I have such a list, but I need to go back through it and make sure it conforms with my understanding about how much we have supplied to each member of the Committee. And I understand that is the concern. I won't second guess the reason for that, but I know that the Committee wants to know whether or not and to what extent all these materials have been distributed to each member of the Committee as opposed to having been filed perhaps with the chairman or perhaps as opposed to having been already supplied directly to the public counsel.

MR. IACOPINO: I can tell you that the reason I objected it originally was because members of the Committee had asked me to see if we could determine that because they were having a difficult time in searching for the exhibits in their own files. They didn't want to be searching for something that they never got.

MR. KRUSE: I can appreciate that. I have a draft here and I --

MR. IACOPINO: Can I get back to Shelburne for a minute? The only reason I attempted to be courteous to that is because I don't represent them, was that they did not want to come back anymore. They would not be here to make the offer of their own exhibits, that's why I protect it at this time.

MR. KRUSE: That's fine. We don't really have any objection to their exhibits. The statement on logging on Hogan Road was a little unusual in the sense that it wasn't part of the pre-file, but I don't see any prejudice in having that submitted.

MR. IACOPINO: Then we can accept their exhibits into the record as full exhibits?

MR. KRUSE: Yes, sir.

MR.

ELL

SWO

RTH

:

Add

iti

ona

lly

,

Mr.

Iac

opi

no,

in

vie

w

of

the

com

pan

y's

wil

lin

gne

ss

ear

lie

r

tod

ay

to

pro

vid

e

us

wit

h

the

rep

ort

s

tha

t
we
dis
cus
sed
ear
lie
r I
wou
ld
sug
ges
t
tha
t
we
res
erv
e
thr
ee
exh
ibi

t
num
ber
s,
one
for
the
con
str
uct
ion
spe
cif
ica
tio
ns
tha
t
are
req
uir
ed
und

er

par

t

192

. 30

3,

a

sep

ara

te

exh

ibi

t

num

ber

for

the

ope

rat

ing

and

mai

nte

nan

ce

pla

n

as

req

uir

ed

und

er

192

.60

5

and

a

thi

rd

exh

ibi

t

num

ber

for

the
eme
rge
ncy
pla
n
whi
ch
is
req
uir
ed
und
er
par
t
192
.61
5.

MR. IACOPINO: I think that would be appropriate to reserve numbers. We can call them SEC exhibits.

MR. KRUSE: If I may, Mr. Chairman, our understanding was that they would be submitted to the PUC as delegate of the Office of Pipeline

Safety and not be submitted as exhibits in this proceeding as a whole. Therefore, just from sort of an accounting and paperwork standpoint I am not sure they belong on this Committee's exhibit list.

MR. ELLSWORTH: Do you object to them being part of the exhibits of the Committee's docket?

MR. KRUSE: Well, we do. We were initially concerned about the jurisdictional issues that have been raised, but the other part of our concern that is related to that is that there is proprietary information associated with these documents. They should not be part of the public record, nor do we think subject to a determination of the Committee with respect to compliance with federal standards.

MR. ELLSWORTH: Let's take one thing at a time. Could you help us understand what part of either of those three reports will require confidentiality?

MR. KRUSE: I will need some help on that.

MR. IACOPINO: Mr. Chairman, can I be heard on that?

CHAIRMAN: Yes.

MR. IACOPINO: Mr. Ellsworth, my understanding that these three documents are not documents that are going to be presented in the very near future.

MR. ELLSWORTH: That's right.

MR. IACOPINO: They will be down the road someplace.

MR. ELLSWORTH: That's right.

MR. IACOPINO: Rather than having them as exhibits in this proceeding perhaps it might be better if they were required as a condition of any certificate that might issue that they file those with the Commission, with the PUC prior to some time limit, like prior to operation or something.

MR. ELLSWORTH: That's really exactly the reason why it seemed to me appropriate to put it in this docket. That if we issue an affirmative decision conditional upon the receipt of that and then the record never shows their receipt we will never have any reason to lift the condition and give final approval to the application. And if we don't put them in this docket, but rather give them only to the Commission then the Commission will either have to open a docket of its own to maintain some control over it or they will be lost to any record.

MR. PATCH: Mr. Chairman, I support Commissioner Ellsworth. I think he has a good point on that. And I would think any concerns about confidentiality could be addressed through a Motion for Protective Order that the company would submit along with any portions of those three exhibits that they were concerned about. I don't know why it can't be addressed that way.

MR. ELLSWORTH: It was not my intent to argue whether there should be confidentiality. If confidentiality is needed I am certainly amenable to that and would recommend it to the rest of the Committee. My concern was rather to its historical storage and its use in lifting any conditions that might be imposed on the initial approval.

MR. IACOPINO: My only concern is that we are going to get that far after this proceeding is closed and a decision rendered.

MR. PATCH: But, I think as Commissioner Ellsworth points out there may be some conditions that the Committee would impose which could be implicated or could involve some of the reports that we are expecting from the company, so I think he has a good point.

MR. ELLSWORTH: Even if I am not a lawyer.

MR. PFUNDSTEIN: Excuse me, Mr. Chairman.

CHAIRMAN: Yes.

MR. PFUNDSTEIN: If I could quickly restate the offer made by Mr. Morgan, was to supply those three documents that he described when they were complete, which as Mr. Iacopino has accurately explained would be sometime here in the future with the federally delegated, or the federal designee of the Officer of Pipeline Safety, which we understand to be the PUC. I also understand the need to do two things, one have some mechanism to keep them and more importantly have a mechanism which shows that to the extent that you put in your certificate a condition that we do that, that we did it. And I can address the second one for you. I can guarantee you that if there is a condition in the certificate that issues from this Committee saying that we file those documents with the federal designee we will track that and make everyone very aware of the fact when that has actually been done. So, I don't think we have a problem from the standpoint of being able to establish that we did what we said.

CHAIRMAN: We have provisions for a compliance reports as well to the Committee.

MR. PFUNDSTEIN: Yes, but, Mr. Chairman, that wouldn't

surprise me.

MR. PATCH: So, does company still have an objection to supplying them or to reserving exhibits for that then?

MR. PFUNDSTEIN: We don't have an objection to supplying them in the fashion that we explained, Commissioner Patch.

MR. PATCH: But, do you have an objection to reserving exhibits for them?

MR. PFUNDSTEIN: In this proceeding because of the jurisdictional issue. We don't have an objection to giving it to the federal designated representative. We do have an objection for reasons we have explained ad nauseam today of handling it the way that it was just suggested. It may sound like semantics, but it really isn't.

MR. PATCH: I guess it does. You are suggesting that just the matter of filing them may be considered in some way to waive your jurisdictional argument? I mean, all we are asking is that they be filed not just with the PUC, but also with the Site Evaluation Committee and that we reserve some exhibits for this.

MR. PFUNDSTEIN: Actually, Mr. Chairman, it is my understanding that under the Federal Law that the designee of that office is entitled to take those documents and review those documents, however due to the reasons outlined concerning the Natural Gas Pipeline Safety Act, this committee and its role under 162-H does not, so respectfully we would disagree on the state of the law in that regard then.

MR. GARTRELL: Could I ask, just procedurally; would not the Commission acting as the designee of the OPS not open a docket to act on this pipeline project?

MR. ELLSWORTH: Well, we could. And we had a little side bar discussion with Commissioner Geiger that may be as an alternative. If there is valid reason why they should not be made exhibits here, and I honestly fail to understand why they shouldn't, that as an alternative we could open a docket at the Commission and the Commission could review it as we had agreed to here today and the Commission could submit a report to the Committee acknowledging that you had done what you said you were going to do. But that again, opens another docket, does not give us a central repository for everything surrounding this issue and it seems to me that a central repository would be helpful for everybody in the future.

CHAIRMAN: Michael?

MR. BRYCE: Mr. Chairman, perhaps maybe somebody could help my confusion. It is my understanding that at least some of these documents are going to be distributed to every town along the pipeline, that they are public documents. Are we in a position where the applicant will not file public documents with the Committee?

CHAIRMAN: My understanding of the argument was simply that they didn't want to have them as exhibits, as reserved exhibits. That they are more than willing to provide them, but not that they be as exhibits. Am I correct in that interpretation?

MR. PFUNDSTEIN: Yes. Consistent with what we had stated.

CHAIRMAN: Right, that there could be conditions in the certificate requiring that they be submitted.

MS. SCHACHTER: We haven't, as a committee, adopted or rejected the position that we have heard repeatedly addressed regarding this jurisdictional contention. And I would presume that as a committee we would be interested, if we made it a condition, in seeing not only that something was filed, but that whatever was filed was adequate or addressed our essential concerns. And I presume it will be such. I would think that we would want to reserve the right if we were going to make that a condition at all to look at the document and to determine adequacy. And on that basis I think it should be part of the record.

MR. BRYCE: Mr. Chairman. On the basis of what they are proposing the fact of follow up on that prior standard, just the fact that they are filing means that they have fully complied regardless of the content, correct?

MR. PATCH: Well, I think the question of adequacy --

MS. SCHACHTER: I think there is a question of how we frame the conditions.

CHAIRMAN: But, will the PUC be reviewing it for adequacy when it is submitted? In the same sense that a wetlands issue that arises is --

MR. PATCH: I think the problem is that to the extent that there is a condition imposed by this committee, it is this committee that should make that review, not a sub-group of this committee. I think Debora Schachter is right. I think we don't know if they will comply with the condition and I think it

should be part of this document.

MR. PFUNDSTEIN: Mr. Chairman, perhaps, I know there had been some discussion yesterday concerning the utility having a post-hearing brief filed by the parties that wish to submit something in that format. We would be happy to brief that issue as part of the filing that we would like to make next week with the Committee and including that would give you an opportunity to look at in a little bit more detail what I have been trying to orally explain over the last couple of days. And obviously it would give the other parties or your staff an opportunity to do likewise. That may be helpful in resolving this sort of discussion. So, we make that offer.

CHAIRMAN: The question is, do you want to decide it now, or -- we are planning to have a meeting with legal counsel next week. Do you want to decide it now or do you want to wait until that meeting?

MR. PATCH: Or, as Mr. Pfundstein, I think what he is suggesting is after the briefs have been submitted, which might even be after that point, that we wait until then.

MR. IACOPINO: My problem with the briefs is that time is passing and unfortunately our due date is not passing, or is coming up too quick.

CHAIRMAN: Yes, I don't think we can wait that long due to the urgency of the applicant.

MR. PATCH: But, these exhibits are not going to come in until the end of the year or sometime in the beginning of --

MR. IACOPINO: I think if we are going to have briefs

that have been delayed a time to put this decision together that we suspend the proceedings until -- for that period of time that it takes for those briefs.

MR. PFUNDSTEIN: Mr. Chairman, on that issue, I have had some informal discussions with participants in the proceeding. I understand, or perhaps it was even said yesterday when I was out of the room, that you all wanted to get together I believe on the third, which is next Wednesday. I am proposing that we be in a position to file what it is that we wanted to file by Tuesday so you would have the opportunity, or Mr. Iacopino at least would have the benefit of whatever we were able to put together on that schedule.

MR. PATCH: Mr. Chairman, I suggest that we take this issue under advisement and move on so that we can finish at some reasonable hour tonight. We still have three witnesses. And I would even suggest that we consider doing all three as a panel if there is a possibility of doing that instead of --

CHAIRMAN: If we set this issue aside, have we finished with the exhibits for the applicant?

MR. KRUSE: If there is no objection to what I moved then I guess we have.

MS. LUTKE: I am not formally objecting to the admission of the exhibits because I think the Committee is in a position where it has to consider all the information due to the FERC proceedings, so I don't think there is grounds for keeping information away from the Committee's consideration. But I do want to put on the record that there was highly irregular and improper provision of materials in this instance starting back at the beginning of the project and

continuing all the way through. The State's experts spent four months of their time just chasing after paper and were unsuccessful in the end in obtaining enough paper to provide a substantive review of many of the issues. So, this is a continuing process that continues after the hearing. And I want to put that on the record and I think that the Committee understands that after three days of listening to late filed testimony, to looking at exhibits that came in two or three or four or five days before the hearing or on the day of the hearing or are now coming in after the hearing, and I think it has created tremendous problems in having an orderly and constructive hearing. Thank you.

CHAIRMAN: Thank you.

MR. ELLSWORTH: And I am still unclear as to the disposition of those three reports. Are we going to discuss it amongst the Committee, or can we make that resolution tonight?

CHAIRMAN: Well, I think Doug's suggestion was that we defer it until the meeting with legal counsel on Wednesday the second. But are we in agreement as far as all the other exhibits are concerned for the applicant?

MR. IACOPINO: I understand all the exhibits that have been presented at this point are admitted in evidence as full exhibits.

CHAIRMAN: Right.

MS. LUDTKE: I have an additional exhibit that Ms. Lamm left me when she left and I would like to also enter that as an exhibit for the Committee's consideration on Ms. Lamm's behalf. It is a aquifer map of the river. If that could be marked as her exhibit.

MR. CHENEY: I also will have one exhibit. It will be Applicant's Exhibit 76, which is just a red line to show you what has been updated in Mr. Mohn's testimony so that we don't have to go through it when he finally gets on the stand.

MR. CANNATA: Mr. Chairman?

CHAIRMAN: Yes.

MR. CANNATA: Can we have a poll of the parties to insure that these are the last exhibits, the last marked exhibits to be admitted?

CHAIRMAN: Are there any more exhibits?

MR. KRUSE: This portion of Exhibit 34 is what I was referring to before which is part of the results of rare and threatened or endangered species information that I would add to Exhibit 34.

MR. IACOPINO: Has that been distributed to --

MR. KRUSE: No, it has not been distributed. It occurred to me in this connection with respect to making sure that each member had the materials and not just relying on central locations. When in doubt, I could just simply supply additional copies of these materials to every single member of the Committee. That may be more reliable in some instances in trying to research precisely when it was that certain things were filed. If that makes sense to you I will err on the side of providing additional copies.

CHAIRMAN: I think that at this stage of the game that the Committee needs copies of things as they come in.

MR. KRUSE: So for example on this thing, I would

propose to make copies available to every member of the Committee. Not right this minute, but as part of -- and as Ms. Ludtke said, it is indeed dated April 19, 1997.

MR. IACOPINO: This is going to be 76, huh?

CHAIRMAN: Right.

MR. KRUSE: Mr. Evans really is -- his testimony could be contributed to by other panelists, but his testimony is unrelated to Mr. Flumerfelt and Mr. Auriemma. And for purposes of planning I will tell you that my plan with respect to Mr. Auriemma, unless there is another question that emerges, is simply to have him introduce himself and sponsor his testimony.

MR. ELLSWORTH: Mr. Kruse, I will ask the question that I sometimes ask the Commission. How old will I be when these three have finished their testimony?

MR. KRUSE: Well, not much older.

MS. LUDTKE: I would like to know whether there was any pre-filed testimony filed from Mr. Evans.

MR. KRUSE: I thought we had already discussed that on the record. Does the Chair wish to hear more argument on Mr. Evans's situation or are we --

CHAIRMAN: No. We heard the reason previously.

MS. LUDTKE: Then the answer is, no?

MR. KRUSE: Pardon me?

MS. LUDTKE: Then the answer is, there has not been any

testimony filed on behalf of Mr. Evans in this proceeding. Is that correct?

MR. KRUSE: That has been stated before, yes. Other than what you might glean from the date of request.

MS. LUDTKE: Which date of request might those be?

(No response)

BRENT EVANS

having been previously sworn

testified as follows:

EXAMINATION BY MR. KRUSE:

Q I believe, Mr. Evans, you are already sworn in?

A Yes.

Q Would you give us your full name, please?

A Brent H. Evans.

Q What is your business address?

A 1001 Louisiana, Houston, Texas.

Q And you are employed by what company, sir?

A I am employed ICAD Technology as a consultant to El Paso Gas Energy.

Q Could you give us a very brief rundown of your educational background and your professional background, sir?

A I got an undergraduate's degree at the University of Kansas in civil engineering with a major in geotechnical. And I have post-graduate studies performed at the University of Houston in geotechnical. I am licensed by three states. I have over 19 years experience, diverse experience in a number of areas: highways, municipals,

site plans, hydrology, hydraulic structural, of course geotechnical. I have about eight years in the gas industry and about four years experience in the New England area, domestic and international, on-shore, offshore.

Q And your particular role in the project, sir?

A Well, I have performed many tasks in project management in a number of diverse areas because of my background. But, probably one of the more specialized areas that we are here today for would be geotechnical and probably river crossings.

Q Geotechnical is defined as involving the study of the sub-surface conditions?

A Yes.

Q Have you had an opportunity to review the pre-filed testimony of Haley and Aldrich?

A Yes, I have.

Q I want to refer you to some aspects of that testimony. First, the concern expressed by Haley and Aldrich with respect to geotechnical work done for Simms Stream, Lyman Brook and the Upper Ammonoosuc.

A Let me preface my comments by, I like the work that Haley and Aldrich did and I respect the people that did the work. They are highly qualified. If I have any criticisms of them, I don't want those to be misinterpreted. They are individuals to be respected. They did deliver a good product.

Back to your question. On Simms Stream we have performed a geotechnical field investigation there and that was to ascertain where the bedrock was. And that has been performed and it wasn't included in the Critical River Crossings Report. That is included as a lesser important river crossing. Phillips Brook? Was that the one?

Q Yes. I am sorry, no. It was Lyman Brook.

A Lyman Brook. That work has been performed to get to the depth of bedrock or to verify that there was an absence of bedrock or presence of cobbles and boulders.

That work has been performed. The other one, is that Ammonoosuc?

Q Upper Ammonoosuc.

A That work has not been performed because of access problems, be it, as I understood it, landowner permissions or whether physical constraints. You couldn't get there at that particular time. It will be performed.

Q The geotech work that you have indicated has been done on Simms and Lyman Brook, is that available?

A It is available. It is available.

Q With the company in Houston?

A No, we have a consultant. We chose a consultant specific to the area and he -- in fact, it is listed on there, their qualifications of being familiar with the area. Probably one of their greatest strong points is I think they have investigated sites that went over 90 pounds within 10 miles, or 90 locations within 10 miles of the alignment. So that consultant, who is CEH, or under the Jacques Whitford umbrella, they have performed the work. They have the work. They have the results.

Q I think one of the concerns about the absence of geotech was the determination as to what the bedrock was, whether there might be any need for blasting in these water areas. What did the results, to your knowledge, of the geotech studies at Simms and Phillips reveal?

A That there is no -- the bedrock isn't -- I forget which one, was a 14-foot depth on one of them and well over, I think it is a depth that couldn't be easily measured by

the seismic methods. At any rate it would not be within the crossing.

Q Now, you have referred to geotechnical reports regarding critical water body crossings that have been prepared to date, or at least in terms of submission to this Committee. Is that report at Exhibit 50?

A It looks to be.

Q There was an additional set of reports regarding New Hampshire borings and proposed work which we have marked at 51. What does that encompass?

A This appears to be just proposed additional work by our consultants to complete their comprehensive geotechnical evaluation.

Q And lastly, while we are at it, we have Exhibit 52 which pertains to the Piscataqua River Interim Crossing Report. Is that correct?

A This looks to be it, yes.

Q Now, going back to the crossings pertaining to the three water bodies that were identified by Haley and Aldrich as not having sufficient geotech, can you explain to the Committee the methods of crossings that were planned and whether or not the additional geotech has made any difference in that decision?

A Well, in particular on the Piscataqua, this is just --

Q We are not there, yet. We are just dealing with those first three, the Simms, Lyman and Upper Ammonoosuc.

A Those crossings are proposed for an open cut and the information that has been collected will support that. In one of them, I forget which one, it would appear to preclude anything but an open cut.

Q For your future reference in testimony let me get you Exhibit 53, which are the

Crossing Plans. And I call your attention to the Haley and Aldrich testimony regarding the Powwow. I think you had a clarification you thought you should mention to the Committee regarding their commentary on that.

A Well, this goes back to the comments that I want to preface. I get the impression we are talking about, we are in very close agreement the way that this may be coming out is to someone who is not real familiar with this it may appear that we are farther apart than what we actually are between us and Haley and Aldrich. But there are some things that you have to key in on. For example, on the Powwow River they recognized that the presence of cobbles and boulders is a problem in a directional drill. And Mr. Dobles, again, they both had just impeccable qualifications, made the statement that you can try to dodge the cobbles and boulders which is true to an extent. But when you see the presence, it is the amount of cobbles and boulders. It is the thickness of them. It is the prevalence of them that, as Mr. Marini would say, sets off the alarms in your mind. When you see the same information at borings, as they point out, so far apart, in fact one of the recommendations is you ought to get another boring closer to the Powwow River to be able to make this kind of judgement that you are making. When you see that same information so far apart and in the same geologic setting, I would disagree with the statement that Mr. Dobles said that it was something that could be done somewhat easily, especially at the Powwow River. And where the bedrock is in relation to the surface, all the things that can go wrong. You can drill under a boulder and then it collapse on you. You can hit it and then have to try and go around it only to hit another one, the length of the crossing and all of it enters into these things. So, for that reason because of the

borings we took there at the Powwow River I have to disagree with them on their conclusion that additional information was needed. I think that they support us in our findings of the prevalence of the cobbles and boulders there, they just would like some more information to go on to a definite statement, to agree with us. I believe that is what they are saying, but I am speaking for them.

Q And so what is the plan for crossing the Powwow, what method?

A A push pull.

Q And why is it that any additional test boring would not be of assistance in confirming that decision?

A Well, the geotechnical evaluation is not very complicated. In the borings logs all your attention has to be drawn to it. There are words like gravel, boulder, cobble, the thickness. And you can get a quick evaluation. When you see two borings that, as they are cited, they are pretty far apart, when you see the same information in those same borings to the same degree then you get the impression that that's what you would be encountering all along the way.

Q Now, referring to the Androscoggin, and I think particular of mile post 59 crossing, I think there is commentary by Haley and Aldrich with respect to whether the information would support the plan.

A Right. Again, I got to believe without speaking for them that we are talking about the same thing. But if you are not real familiar with them, with this work, probably their key words are on the top of page 1-14. They recognize the problems that are there, but they say not to suggest a HDD crossing would necessarily be subject to excessive high risk. The risks that we evaluate there are, in our opinion,

excessively high. And I think if you read between the lines they recognize that there is a high risk there. They are drawing the line at what is excessive, what is high? And that is what I would like for the Commission to be aware of. I still stay with our recommendation.

Q And what is the material, the evidence of the nature of the material that leads you to conclude that the plan as in place is the best one, referring to page 1-13?

A Oh, I guess it is the first, second, third, paragraph over a lot of bedrock, "Cobbles and boulders were encountered," see at NH 42, one boring, another boring, a third boring, bedrock was encountered, starting a depth of 31 feet, 11 feet and a half a foot. When you see that kind of variation at three different borings that is where you start drawing the same conclusion.

Q They raised a question about the existence of four borings as suggestive of an intent to cross by some other means. What is that all about?

A We have, the geotechnical consultant just collects the data. They are not the directional drill crossing consult or are speaking to open cuts. We have, Willbros Engineering, that is in their charter. That is in their scope of work, to be doing the actual design at the crossings. Along those lines, the person that had done initial fill reconnaissance, and keep in mind that his reconnaissance was going in parallel efforts with other activities that were going on, had determined that he would do four borings at that location in case it were to go to a directional drill.

It is difficult to explain unless you go out in the field, but you may make presuppositions of a boring program just based on the particular extreme river that you would be coming to, which has nothing to do with the quality of the stream or the

necessity of a directional drilling like that. So, that fellow at that crossing had specified the four borings.

Q I refer you now to their commentary on the Upper Ammonoosuc. I believe that is at 1-11.

A The key words are on page 1-12, "As previously indicated HDD and cobbles and boulders can be problematic." If you don't read between the lines, it goes on and it says, "A boulder lift may be feasible." I disagree. We looked at what they have evaluated and we have come back with our recommendation as it is. Anyone can just look at the boring holes and when you see words like, boulders, cobbles, gravel, those are measures that are not conducive to directional drills.

Q With respect to the Squamscott River, I think at 1-16, there are questions raised about the availability of boring results from other sources.

A I think that may be a little bit of confusion. What page is that on?

Q 1-16.

A I think that may be just more confusion to be cleared up. I believe that Maritimes Northeast had done borings there. And if I am reading them right they were saying that they recognized, they had heard that someone had done some work there and they were in effect asking us for that work, which I personally don't have a problem with giving them.

Q Are you satisfied with the extent of boring information that you have to make the determination as to the crossing at Squamscott?

A Yes.

Q And what is the method of choice at Squamscott?

A The method being proposed at Squamscott is I am sure, directional drilling.

Q Now, let's go to another section of Haley and Aldrich's report where they make certain recommendations with respect to construction methodology. And in particular reference to the use of clean bank run gravel or crushed stone for back filling trenches in a water crossing. Can you explain first of all, mechanically what goes on in a water crossing and how the dirt is typically managed both from the standpoint of digging it up, storing it and putting it back?

A Well, in an open cut the material would be excavated and hopefully placed on the bank in most predominant cases. You can get some sedimentation in the spring when you are doing that. And then of course the material has to go back in. What Haley and Aldrich is proposing is clean bank run gravel as a method of trying to minimize the sediment when the backfill is being replaced. When you look at the overall situation that material had to have come from somewhere. It was excavated from somewhere. It was transported along the way and deposited also as a method of being placed back in the trench. The excavated material you take out of the trench has to go somewhere and it is presenting another problem. It has just been our experience that the best way, and I think the DEIS confirms that, or reinforces our belief that the best way of crossing in an open cut is to get in and get out as quick as you can and the transportation and the movement in of the gravel and the disposal of the excavated material works against that. Furthermore, in the studies we have seen we haven't seen a demonstrative benefit from that.

Q Let's go back. What is it that Haley and Aldrich is concerned about based upon your understanding of their report? What is the issue here that would lead them to

recommend using clean bank run gravel or crushed stone to backfill?

A As I understand it they are trying to minimize the amount of material suspended back into the water going downstream during that fill.

Q What happens to the material that is spilled or that is suspended in the water as it goes downstream?

A It typically settles out. Well, in the majority of the cases it settles out as you can demonstrate by a sediment transport calculations. As well as like any major rainfall event where it is not uncommon to see the rivers turn muddy after any rainfall event.

Q So, what does the company do to minimize the spillage of soil and the suspension in the river during this process?

A What we do to minimize it is to a course of doing it in the dryer conditions. We also try to get in and get out as quick as possible, and that predominantly takes care of the problem.

Q Do you always put the spoil on the side, on the bank?

A Not always. If it is a long enough, wide enough river, it could be even placed in the river, side cast for the time being because that decreases the amount of travel time back and forth and hence more material being deposited in the water.

Q They refer, I think, to use of various devices, including silt curtains downstream, sediment mats, siltation fences. What use of those devices does this company make?

A Well, we don't use them or rely on them very often if at all, except perhaps at some very isolated situations because again, you can demonstrate that the typically by sediment transport calculations and the amount of sediment that that stream is

exposed to is small or very closely related to what you would have during other rainfall events or other runoff events going in there. And further more, the habitat which is in that area is typically long gone because of the construction activity for the time being. So, we don't use those very often. The effectiveness of them is limited.

Q Is their effectiveness effected by the flow of the stream?

A Sure, yes it is.

Q In what way?

A Well, of course you can't put a turbidity screen over a very fast or even a deep flowing river because you can't hold back much water. They are just very difficult - - it is a good idea which has it limitations, and most of the time they are limited.

Q Haley and Aldrich has recommended that there be a plan for drilling mud containment. Do you agree?

A Yes.

Q There is commentary in Haley and Aldrich regarding blasting. Have you reviewed that material?

A Yes, I have.

Q What is your reaction to their recommendations in this regard?

A I would agree that -- I agree with the comprehensive blasting program. And apparently I have not understood that that's exactly what they wanted all along. We could have provided them with something like that very easily months ago. We did not know that they were wanting a whole program. The program that I saw that had been referenced from Iroquois?

Q There was reference to Iroquois made in their report.

A Would be, is very close to what we would have anticipated, had been anticipated all along except for a few areas. One of those areas being monitoring, including an area up to 300 foot.

Q An area of 300 foot for what purpose?

A For purposes of blast, pre and post blast monitoring. We would disagree with that.

Q Why?

A Well, if you read their plan, and again, if you read between the lines it is a good suggestion for addressing -- to being equipped to addressing any validity of any landowners perceived. You made mention earlier today about perceived safety of a perceived problem or when a crack that had always been there is, and never noticed. It would possibly, possibly help to do that, but it has been our experience that that wouldn't be necessarily. And so, we are proposing to stay with the 200 foot. Understand that the pre-blast tests are not -- it is not incumbent upon the landowner to have to ask for it. They will be contacted and offered it. Did you understand that? If they are home. I can't commit to a whole program at this hour, but it would be in our best interest to contact as many people as we possibly could. We would be foolish not to. We have a Construction Conditions Report that predicts where our blasting will be well in advance. So, it would be to our own best interest to contact them.

Q So, what are some of the main features of what is typically done in connection with blasting protocol by Tennessee or by the company?

A I am sorry.

Q What are some of the things that are done in connection with blasting protocol that is consistent with what you think Haley and Aldrich was suggesting?

A About really the only difference between what Haley and Aldrich was proposing, they had a number of consultants under a consultant. What we usually do is we hire a seismic crew to do the monitoring of the closest well or structure during the blast. We hire a blasting expert to advise the superintendent there as to the particulars of the charges, the blasting program that the contractor brings up to a particular location. So, the blasting expert is hired as a separate consultant. So, we got the seismic crew that is a separate consultant. We got this pre-blast and postblast structural and water well testing people that are hired as separate consultants. Something tells me I am leaving out one consultant that I can't think of right now. And all that goes on as independent verification to verify what the contractor's blasting sub would be coming into. Again, that would be in our own best interest to do that.

Q Now, there had been concerns raised by North Country Council and elsewhere about the adequacy of soil studies along the route generally for purposes of identifying geologically what there is to deal with. Is the draft Construction Conditions Report, Exhibit 31?

A Yes.

Q Can you explain to the Committee to what extent geotech work has been done as reflected in that report?

A You understand there is no -- as Mr. Marini said, the FERC guidelines are performance oriented. The responsibility is on you. There is no set criteria of what you have

to do to investigate geotechnically a crossing that they would interested in. You would provide that information and undoubtedly you will get the question, how do you know you can directional drill this crossing proposing. Commissioners, we took this a step, many steps further in an attempt to know to an accuracy of 10 percent continuously along the whole route. A percent of blast rock, padding conditions, like Mr. Marini was talking about, back fill, would it be imported, would you be using a padding machine like Mr. Marini was talking about? Would you be able to put it back in? The importance of this is, you can see the level of accuracy that the consultant went into when you see that he did it to a tenth of a mile. That is like 500 foot accuracy. And look at how he broke down the units. I don't think any one unit is over I think a half a mile or something like that when he changes. And look at the subtle changes he put in. Look at what he -- the field investigations that he did to support what he put in here, and how far apart those were. There was no -- the intent was that there would be a field test at no more than two foot- I am sorry, no more than two miles and on order of one mile all along the pipeline, assuming that the conditions were not extremely consistent.

Q In terms of the scheduling of this type of work and its completion as it relates to applying for a permit, or for other authority, how is a pipeline project different from a highway project?

A Well, and I think, how is highways and bridges? Of course those are federal funds and they have -- the Highway Administration has a setup for where you are customarily testing and where you are customarily exploring. And if you look at the cost per linear foot of a highway versus a transmission line that is where they become totally

different.

A more appropriate barometer would be, what kind of geotechnical investigation, and again, they did a good job, but my question to Haley and Aldrich: What kind of geotechnical investigation of this effort have they seen on any utility job? That is a fairer measure. What kind of geotech related effort on any kind of related utility job; long distance water, long distance sewer lines? I doubt if you can even see them.

Q I have no further questions. Thank you.

EXAMINATION BY MS. LUDTKE:

Q Mr. Evans, let me see if my notes are right. Haley and Aldrich raised some criticism about not being able to review river crossing plans for Simms Brook, Upper Ammonoosuc and Lyman, is that correct?

A Yes, ma'am.

Q And you said the ones at Simms and Lyman had been completed?

A Yes, ma'am.

Q And Upper Ammonoosuc is not?

A No, ma'am, that has not been done. It has not been field investigated yet.

Q And that was due to access problems, I think that was your testimony?

A I believe the problem as I understood it was a field access on one, I hope I am right, and physically getting in at a particular time of the year on the other hand.

Q Actually, I have some photographs of the Haley and Aldrich visit to the Upper Ammonoosuc that you may be interested in.

A Yes, ma'am.

Q And I will show you photo number 15. You have been provided a copy of that in a prefiled testimony. And I will call your attention to the orange flags which look like markers right next to the Upper Ammonoosuc, and I think they are the cultural resource markers. Do you want to take a look at that? On the opposite side.

A Now --

Q See those orange flags there?

A I see the orange flags in the foreground and I guess I see some, I am going to guess, do I see some stakes in the background?

Q You may. And that would indicate to you, wouldn't it, Mr. Evans, that you had access to that river?

A Again, I am telling you, that as I understood from our geotechnical consultant, I thought they had a landowner permission problem on one side and physical problems of like fog or something at that particular time on the other side.

Q Well, they had enough access to put the orange flags up on one side and the stakes up on the other side, isn't that correct?

A Listen, I am not sure that these are the geotech folks. You may be right. I don't know if they are the geotech, or if they are ours or if they are surveyors, or --

Q Wouldn't that suggest to you, Mr. Evans, that there was not an access problem on the Upper Ammonoosuc? Those the type of orange flags that your company uses to stake out the right of way, doesn't it?

A Well, Leslie, there is a timing problem here. I don't know exactly when the geotechs were there or could have been there on the one side and went on this other side. So, what I am telling you is I don't know about there being a timing problem such as

these folks were able to go there and our folks weren't at that particular time.

But, I am trying to assure you and the commissioners that we are committed to getting that information. We would want it ourselves, or course to fill in the rest of this.

Q Before you came and testified to the Committee tonight about the reason why you hadn't provided this information that you should have provided at the time of your permit application did you check with anyone to determine what the reason for not doing the work on the Upper Ammonoosuc was, or did you just invent something when you got up there to testify?

MR. KRUSE: I will object to the characterization of badgering the witness unnecessarily.

CHAIRMAN: Rephrase.

BY MS. LUDTKE:

Q Mr. Evans, before you came and testified as to the reasons as to why you hadn't done the work that was required for your permit did you check with anyone to determine why it hadn't been done?

A At what time, Leslie?

Q Before you came and testified under oath to this committee?

A Oh, yes, ma'am.

Q Who did you check with?

A I believe it was Tom Parker with Cas, Weichler and Hill (ph) when we reviewed the criticism by Haley and Aldrich.

Q And did he tell you at that time that he had been denied access to the Upper Ammonoosuc?

A That is what I am trying to relate to you, yes. That is my understanding, yes.

Q What is that understanding based on, a conversation with him?

A Yes, ma'am.

Q When was that conversation?

A I believe this Saturday.

Q Would the orange flags there indicate that that might not be the case, raise some question in your mind?

A I don't know what you are asking. Are you asking if the geotech people were physically there or -

MR. WILBUR: If I may. Basically we had permission and access to those properties when those stakes were put there. The landowners subsequently would not allow access with a big piece of equipment to do geotechnical borings. On the other side there was some load restrictions on the road at the time.

Q Mr. Evans, do you know whether these restrictions on access were ever communicated to public counsel in the number of meetings we had when we requested the site specific information on river crossings?

A I can't tell you that one way or the other, Leslie.

Q Do you know whether this information was ever communicated to Haley and Aldrich or a schedule was ever given to Haley and Aldrich as to when these plans might be received?

A I'm sorry, it's a little late, Leslie but plans of what?

Q Of the Upper Ammonoosuc crossing?

A I would like to make it clear that we had -- there's no initiative for us to hold

this information back anymore (inaudible) to get it to you as soon as possible. We tried very hard to do that. So, did I understand your question?

Q Forget that question. I'll go on to the next question. You raised some issues with regard to the Haley and Aldrich recommendations on the Powwow. Do you recall those?

A Yes, ma'am.

Q Haley and Aldrich isn't the only one that asked for extra borings on the Powwow, is it?

A You may be right. Was it the town of Kingston, possibly?

Q Wasn't it the FERC? Didn't the FERC ask you as part of a data request, to produce extra borings on the Powwow?

A You may be right but I do not -- if that's what you say, you probably got information on it, then --

Q That wouldn't surprise you?

A Well, Leslie, you've seen this vast information that we've gone through and you're probably seeing what we have to go through with the FERC so, a request like that, no it would not surprise me.

Q Do you know if you provided those extra borings at the FERC's request?

A I doubt it. I doubt that that additional boring on the Powwow had been done. If they need it then we'll give it to them.

Q And the total number of borings you have on the Powwow is two borings, right?

A Well, actually it was one boring, I think right at the river and one back from it. Is the front one 17?

Q 1 of 7. So you'll add a total of two borings?

A Yes. At a farther distance than what we would prefer. Yes, ma'am.

Q And it's your testimony that based on those two borings alone you can make those judgements?

A I think that they're real good indicators. And if it's determined it's an issue then I have no problem -- well, you say the FERC asked for additional borings so we're going to have to give it to them, sure.

Q So you're willing to give the extra borings to the FERC but you're objecting if the Committee were to impose that condition?

A No, ma'am, I'm not.

Q You wouldn't object to that condition then?

A No, ma'am. Not at all.

Q Now I think you also testified that you really weren't aware that the State wanted this information regarding blasting?

A No, I knew they wanted blasting and -- it was the understanding of what was being requested is getting us to the point where we are right now. We could have -- that exactly what they were suggesting or is exactly what I had in my mind since two years ago. Exactly what I had in my mind. But that's not what we understood in the request. It said, "Give us specs, give us specs." It wasn't like a blasting program.

Q When you get requests --

A I'm sorry. I'm sorry to interrupt you, Leslie, but also we thought it was coming across kind of clear in the ECP where we're saying we'll do pre-blasts, we'll do post-blasts. I'm sorry, I had to finish with that thought but that's what was in our minds.

Q So that was just a misunderstanding?

A Yes.

Q Was that because you were reading between the lines and not reading the lines themselves?

A If you read the requests it's like, "Give us specs, give us specs" and so we gave you, "Here's a spec." I think if you read at the top it says "Specification". It wasn't like, "Give us a program of the mix of the consultants you're going to use and how you're going to verify and assure your program." It was like, "Tell us the answer that we have in our minds but you --" as it comes across in one or two requests.

Q Well, Mr. Evans, certainly you're not denying the fact that the public counsel and Haley and Aldrich probably asked you for blasting information four, five, six times?

A That's right. That's what was frustrating, Leslie, because the same request was coming back. "Give us specs, give us specs" and we give you information. Leslie, we're staying up like late at night like you all were. And if we only knew exactly what you had in mind. And here we are at the end, we could have given you that two years ago.

Q It never occurred to you, when you had some question after getting these requests six times, to get in touch with someone and say, "I've given you this. If it isn't what you want what can I supply you?" It never occurred to you to do that?

A Leslie, I looked forward to meeting you --

(Laughter)

CHAIRMAN: By the way, I've had some conversations with my 7-year-old daughter that remind me of this.

(Laughter)

A -- and we would get the same requests over and over again without any real significant variations to them. And further more, we would tell you -- we would say -- you'd say, "Give us some geotechnical information." and we'd say, "We'll give it to you in the spring '97" and you'd go, "We're still waiting on that geotech information." We'd say, "We'll get it to you in the spring of '97" and you'd go, "Okay, when are you going to give it to us?" and we said, "May 31st."

Q You just didn't understand what they wanted. That was the problem.

A The terminology between the specifications you're asking and a blasting program with the consultants that make that up, there's a big difference in the description of that. Actually, Leslie, look at what we gave you. It's a spec. Read it, it's a spec. It's different from a blasting program with the different consultants to guarantee the integrity of it. Furthermore, that kind of stuff is a responsible part (inaudible) would have done it. They would have done that with their own assurances.

Q I'm not going to read you all the letters, Mr. Evans. I do think that if you had that level of confusion in your own mind, a telephone call might have been worthwhile. Did that ever occur to you?

A I don't have a -- Leslie, we were bewildered by your flood of requests. It's not usual for us to get like 145 in one shot and something in another shot. It's not -- I mean, after we -- on the heels of sending something in to you we'd get the request for like the same thing. You're asking now, would a phone call -- should we have called you and tried to clarify that? I guess, in my own defense I'd have to say, I wouldn't have tagged a great deal of success to that phone call for clarification

because it didn't look like we could understand exactly what you asked for. Or if you knew what you really wanted to ask.

Q Mr. Evans, you know that I'm not an engineer but you know that Haley and Aldrich are engineers and if you couldn't have gotten the answer from me, do you think you might have been able to get it from them?

A Leslie, I didn't know Haley and Aldrich was reviewing the information until what? April 16th, our meeting?

MR. RICHARDSON: I don't know. 18th?

A I didn't know they were reviewing the geotechnical information. You said they were like -- they were going in January.

Q No one told you they were at meetings with representatives from your company in January?

A No one told me that they were reviewing the geotechnical stuff. I thought the geotechnical information we were giving to you, you were somehow trying to evaluate on your own.

Q Is the Committee really supposed to take that testimony seriously, Mr. Evans? That you thought I was personally evaluating this geotechnical information when Haley and Aldrich had numerous meetings with your company and was sending bills to your company for cost related to doing a peer review of your project. And you thought I personally was doing it until April?

A I doubted that you personally were doing it. I thought someone within DES who would be somewhat familiar with geotechnical would have been doing it, yes, ma'am.

Q Now you also talked about a stream crossing method you used, which is 'get in and get

out as quickly as you can'. Do you recall that method?

A Yes. Well, I wouldn't like to coin that phrase.

Q That was your phrase, I think.

A Out of expedience, a convenient way of explaining, yes, ma'am.

Q Are you aware of any state standards or regulations that endorse the 'get in and get out as quick as you can' method of stream crossing for turbidity control?

A In itself would be -- oversimplify the state standards.

Q So you're not aware of any state standards that endorse that particular method for stream crossing, are you?

A Leslie, at 10:00 until 10, it would be difficult for me to cite you any state standards but I'm sure that they are very well regulated. I would expect, if this jurisdiction is like any other, that they would be well thought out and more involved than just that.

Q Mr. Evans, you testified about some blasting specifications in your general construction conditions report and you, I think, said that you had them for every tenth of a mile on the route. Do you recall that?

A No, what I was -- I was saying that if you look at the accuracy that the consultant did, he reported to a tenth of a mile. The investigations were typically, typically done, I thought, something on the order of about -- a field investigation be it (inaudible) or seismic or boring, something beyond just beyond the premises and saying this feature looks like it will be this and then -- it would be on the order of about a mile or two miles, typically, Leslie.

Q Well, I just pulled a sheet out at random from your table report and I'll direct your

attention to the last column on this sheet. This milepost begins at 59 on the sheet and ends on 73. Why don't you tell me according to this, how many field explorations were conducted in this area? This is sheet 4 of 14 on your Construction Conditions Report.

A I understand what you're talking about. I think that there was a access problem or a timing problem on that. I know I'm sounding like a broken record on access or time. The section you're telling me about is -- if they have something there and they don't show an entry then they relied on the wealth of the record information that they cited in their report also. Also keep in mind that these people are very familiar with geology and soils of the area. We were very fortunate to get one of the principals of the company to be doing the field reconnaissance. Leslie, he was -- Haley and Aldrich, if I understood them right, they were going out and doing field reconnaissance. Their evaluation was based on nothing than more than going out, being familiar with the soils and the geology and just visually looking at it. If I understood what they were saying that's what they're basing their evaluation on.

Q Haley and Aldrich isn't the applicant, are they? They were conducting a peer review. Didn't you hear them testify to that yesterday?

A Yes. I know exactly what you're saying. The point I'm trying to make is that I'd like that to be a demonstration of how much more went into is. That's the point I'm trying to make. Did that come across for you? Was that understood?

Q Mr. Evans, I had a question for you though and you didn't really answer the question I asked you because the question I asked you said in the 14 miles displayed on this, how many field investigations were conducted?

A Is that the milepost 59 to 72 or something?

Q Yes.

A If there is no entries then that means none and they used record information and reconnaissance.

Q So the Committee, you didn't want to leave the Committee with the impression that you were conducting these field investigations at every tenth of a mile, did you?

A Leslie, I didn't say they were done at a tenth of a mile. I said the accuracy of where they broke up their sections, as you can see, it's reported to a -- a station reported to a tenth of a mile, that's where the accuracy of this -- begins one segment, end another. The field investigation work, of where we're really taking a sample, actually taking some soil, would have been on the order of like one to two miles.

Q And in this 14-mile stretch, there weren't any.

A Yes, and if that's, as you say, the case, then we will be filling that in. We aren't going to -- it would be foolish for us to take the information we got there and not complete and go on with the kind of accuracy we've gotten so far in the terms of field investigation.

MR. IACOPINO: When might we receive this?

A I think Commissioner --

MR. IACOPINO: No, I'm a has-been.

(Laughter)

A The information here is not -- is far in excess of what the FERC would require and we're trying to demonstrate that it's --

MR. IACOPINO: I'm not interested in what FERC would require. I'm interested in -- you were asked for some information, you gave us incomplete information and you say you'll fill it in. I say, "When would you expect us to receive that?" After we decide the case or before?

A It is not uncommon for geotechnical evaluations to be performed just based off record information.

MR. IACOPINO: I really don't want to get into a debate about that. All I want is a simple answer to my question. When do you expect us to receive that? Before we make the decision or after?

MR. PFUNDSTEIN: Mr. Chairman, if I might interject. Mr. Iacopino, could Mr. Evans consult with some other people in the company to provide this response?

MR. IACOPINO: May we proceed?

CHAIRMAN: Is he ready to answer?

A The geotechnical work will be continuing throughout the summer. Undoubtedly it -- wherever there be a line change in the line. I'll make every effort to get the geotechnical consultant to perform field sampling, if you will, by the 15th, in that stretch. I cannot promise that.

MR. IACOPINO: I guess I just want to say that public counsel is extremely generous to ask you five times for the same information. There are some of us who would have asked for it once, we didn't get it, we would put it on the record and we would ask the Commission to act accordingly. And acting accordingly would be to dismiss the petition. That's what some of us would do. So I

think that when you're in an Administrative Hearing such as this, when counsel is trying to elicit information and doesn't get it and does it five or six times, she doesn't deserve or nobody deserves an answer that "We'll supply it in the future" or "We thought you were asking for something different" or "We didn't understand what you were asking for." Personally, I don't think that's proper. I'll let it rest at that.

CHAIRMAN: And we also say that we were scheduling a meeting on the 14th to make a decision and your answer was that you'd have it to us by the 15th, which is after the date that we were trying to make a decision.

A Is that unacceptable, Chairman?

CHAIRMAN: We're going to need it sooner. Given the expedited time frame that your company has asked for, we need the information, for the tenth time.

A Understood.

MS. LUDTKE: I have no further questions.

MR. IACOPINO: I have no questions.

MR. PFUNDSTEIN: Excuse me, Mr. Chairman? We will supply the appropriate recommendations on how you address that issue for your consideration.

We apologize for any difficulty it may have caused.

JOHN FLUMERFELT

having been duly sworn by Attorney Kruse

testified as follows:

EXAMINATION BY MR. PFUNDSTEIN:

Q Would you please state your full name and business address for the record?

A My name is John M. Flumerfelt and my business address is 1075 Forest Avenue,
Portland, Maine.

Q What is your current business or profession?

A Vice President of Granite State Gas Transmission, Inc.

Q What is your involvement with the applicant PNGTS?

A I serve as director of government and public affairs for the PNGTS consortium.

Q Did you participate in the preparation of prefiled testimony which has been marked as
Exhibit or entered as Exhibit 10?

A Yes, I did.

Q I show you a copy of what I purport to be Exhibit 10 and ask you if that's the
testimony.

A That is correct.

Q Is it a true and accurate to the best of your information and belief?

A Yes, it is.

Q Would you like to make any corrections or additions at this time?

A No, I have none.

Q There were two questions that came up during the course of this proceeding that
Committee members asked that you may be able to fill in very briefly on. One was a
question from Chairman Patch [sic] concerning the issue of, I believe, retail gas
sales at Wausau. Could you respond to that, very quickly please?

A Yes, I recall the question. PNGTS is in the business of interstate transport of
natural gas only. We do not sell gas or any other services other than gas and

interstate transport, the transportation thereof. It is up to our customers to obtain their gas supplies from any source that they can using our pipeline as the transportation path.

Q There was another question. I believe it came from the Committee counsel, Mr. Iacopino, concerning the status of the requisite Canadian permits. Can you very briefly update the Committee on the status north of the border?

A Yes, I recall the question. The Canadian applications necessary for the upstream facilities required to provide service into the top end of PNGTS are on file in front of the National Energy Board of Canada. Our current information is that we expect timely decisions in time to have those facilities in service in 1998 as required to meet our needs.

Q I nothing further for the witness, Mr. Chairman.

MR. PATCH: Can I follow up with a response to the question that I had asked?

EXAMINATION BY MR. PATCH:

Q Has Wausau or have any other customers that are proposing to take gas right off the transmission line or off of the -- maybe I shouldn't say that, but particularly Wausau, have they asked questions of your company with regard to what the appropriate procedure is to follow in order for them to get gas? Have they asked whether they need to get it from a state approved local distribution company? Have they asked any questions like that?

A I'm not aware of any questions directed at PNGTS about that particular matter. In our marketing contacts with them we're certainly aware, to some extent, sort of on a

arms length basis, that they're involved with negotiations with third parties. I wouldn't even know who they were necessarily in terms of the provision of those gas supplies. We would assume that it's their responsibility to do business with any gas supplier and that that gas supplier would have to obtain whatever necessary approvals and upstream commitments would be required. That's totally on their side of the equation.

Q So, if they were to ask that question then you'd essentially say that's not something you're involved in and that's something they need to check with state authorities or federal authorities or their lawyers or whoever it is?

A I'm not sure that we're even aware of any issue in that respect. I'm also aware that Wausau has hired very competent consultants to guide them through this very complicated process.

EXAMINATION BY MR. ELLSWORTH:

Q Mr. Flumerfelt, along those lines, has Wausau asked you to construct the intertie between the main pipeline and their facility?

A Oh yes. Their expectation is that we will build everything up to the meter, up to and including the metering facilities.

Q Will that line be, in your opinion, a facility of PNGTS or will it be owned by Wausau or the other intertie requestors and be a private line in your opinion?

A No, I'm fairly confident that that is a facility as part of this application that will be part of PNGTS and part of the FERC jurisdictional facilities up to the meter.

Q Would you then retain operating and maintenance responsibilities and safety responsibilities for those interties as well as the main pipeline?

A Yes, it would. As we would for any of our own facilities.

Q Thank you.

FURTHER EXAMINATION BY MR. PATCH:

Q Do you consider that to be a transmission line, right up to the meter, or a distribution line at any point?

A Entirely a transmission line of interstate commerce. FERC jurisdictional facilities all the way up until the customer takes over with downstream facilities.

Q What do you base that?

A They are a part of our FERC Section 7-C application.

Q So as long as you put it in the application then it's considered FERC jurisdiction, from your perspective?

A That would be my understanding. We are getting into an area where I might need advice of our FERC counsel, but that is my understanding, and I will be happy to run that by him, but that is my opinion at this point, yes.

Q I think the issue that is of interest to us is that our state statutes, RSA 362.2 specifically requires that if a pipeline provides service to the public, then it's an intrastate LDC responsibility and comes under our jurisdiction. We are just interested in the distinction that's made between that authority and responsibility and here where you are serving a single pipeline, and we would just like to be sure that the lines are clearly drawn between the two and that the understanding is clear as to which is which.

A It is clear in my mind that if everything up to and including the customer's meter that we have applied for to provide them service is part of our facility and will

operate under intrastate commerce under our Section 7-C certificate.

MR. PFUNDSTEIN: Mr. I am sorry. I just wanted to -- I have some information on that as well. The, I don't know what day it was but as the result of Mr. Craven's testimony, I know some questions have been raised in his mind along the lines that Chairman Patch and Commissioner Ellsworth were raising about what are they supposed to be doing. All I know is that the issue has been raised with them, and where they are going with it I don't know, but they certainly are aware that they should examine it.

MS. SCHACTER: I had a question about the National Energy Board of Canada. I am not at all familiar with the certification process of Canada, but wondered whether there will be -- whether you expect any conditions of a general nature as opposed to site specific nature that may be imposed through that body in the interval that remains for deliberation by this body?

A I really don't have any information to answer that question. We have two Canadian partners involved as equity sponsors of the PNGTS project. They are each intimately involved and responsible for obtaining those necessary approvals, I am just not close enough -- I have a general sense of what the timing of the proceeding is, but I assume the NEB is very similiar to FERC and that they certainly have conditioning authority. At the present time we don's see any red flags. We are told that everything is proceeding on schedule.

EXAMINATION BY CHAIRMAN:

Q Along that same line of questioning, the Provinces have a fair amount of power in Canada, more so than states do even in the United States and I know for example, the

Province of New Brunswick is involved in the maritimes issue, permitting issue. Can you fill us in on the Province of Quebec and any activity that's occurring at the Provincial level?

A Quebec is now engaged in environmental regulatory proceedings on the facilities that are shown on this map that would tie in from Pittsburgh, New Hampshire to La Chenin (ph), Quebec. My understanding, based on representations from our Canadian partners, is that the NEB will basically utilize the Provincial environmental report as the environmental report and approval, hopefully, for the project and that the NEB will give final certificate approval with tolling methodologies, terms and conditions, et cetera.

Q Thank you.

A And we expect the Provincial proceeding to last through the rest of the summer, NEB hearings, we are told, we should expect sometime in September or October. Sometime in the fall/early winter time frame.

Q That sounds consistent with what I've heard as well.

EXAMINATION BY MR. CANNATA:

Q That would be for exporting gasoline out of Canada? Do you have an export license?

A What we would have would be the certification of Canadian facilities at the hardware necessary to provide gas transportation service into the top PNGTS. I am not really sure, again we don't do gas supply, we don't sell or deal with the commodity other than we transport it on behalf of others, so I am not sure what those arrangements specifically would be. I would have to refer you to different expertise. We need a Presidential permit as part of our federal certification application to co-mingle in

parallel with that to have an import license, I believe would be the correct way to put it in layman's language anyway. And FERC has recently indicated that they will issue a Presidential permit upon issuing a certificate.

Q Would the project be licensed to send gas in the other direction at some point in time?

A I am not sure. I don't think there are any physical restrictions, we will just have a one-way meter, I believe at the border. The project is definitely designed to import gas in terms of gas flow from Canada, off the TransCanada system into the United States.

Q But I am thinking in terms of market pressures, Alberta Gas goes to \$20 a cubic inch and Maritime's -- Portland Gas is much more attractive, there's a market opportunity.

A In terms -- on a backhaul basis or a displacement basis, the pipeline could be used to provide economic transactions in either direction, irrespective of the gas flow. Maybe I misinterpreted your question originally. Just like the Granite State system is used today. So in other words, PNGTS not only has the potential benefit of bringing gas off the existing pipeline grid, but if Maritime's is constructed, we interconnect at Portland there's an opportunity on a backhaul basis through displacement to provide Sable Island Gas up through PNGTS into Quebec and onto the Canadian grid if that proves to be economic for shippers of that service. We have had no inquiries, that's hypothetical at this point, of course.

Q Thank you.

EXAMINATION BY MR. ELLSWORTH:

Q Focusing on the construction of the northern section it would be your responsibility,

if I remember the record correctly?

A PNGTS's responsibility.

Q What presence will be available for comments or complaints from the public during the construction phase of the northern segment?

A That's probably a better question directed at Mr. Wilbur, but I will take a shot at it, and I will certainly be happy to stand corrected. During construction the construction phase will be turned over to a design/build contractor, as I think you've heard testimony on. We will have various levels of inspectors available to make sure that we are getting our money's worth out of our contractor, conditions are met, et cetera. In addition, land agents will be available to make sure that all of the landowner issues that are reflected in all the different easement conditions, whether it's stack the firewood over here or make sure you save this tree, the land agents will be the point of contact during construction, with all the landowners.

Q And to the extent that those, that relationship is found wanting by any customers, and there are complaints that are offered to agencies such as ours, what mechanism do you suggest would be in place so that we can communicate with your company?

CHAIRMAN: Not that we would ever expect any complaints about land agents, but --.

A I don't feel qualified to answer that question. I would be happy if you would take testimony from some of the rest of the team.

Q Let me expand the question then.

A I think that's a good question, I am actually quite interested in the answer. I am just not familiar with that answer.

Q Well, let me expand it, then maybe you can give us an answer to all. My next question would have been, upon the operational phase, which PNGTS will be responsible for in the north country, what presence will be available and what mechanism is available for complaints and comments to be received? And my last one would be, since you are responsible only for construction in the southern tier, the same question, what mechanism exists for contact?

CHAIRMAN: Mr. Wilbur, you are under oath.

MR. WILBUR: Yes, I understand that. During the construction phase of this project, both in northern and southern parts, any complaints with land agents that the landowners have should be directed to myself at the PNGTS field office in Portland, with the 800 number, and I might as well put it on record. It is 1-800-633-1721. Once the project is complete and it's in service, at that point, ongoing complaints and so forth would be handled through the operating company PNGTS on the southern part of the line, the Maritimes if the definitive agreements ultimately say that they will be the operator, I think that's the plan and I can't give you a name at this point, as far as who to contact.

A We have not fully determined exactly how, from PNGTS's perspective the operating company is going to be staffed. Whether that will be Granite State personnel, or that it would be subcontracted to some other party. That's still in the process of being looked at.

CHAIRMAN: Any other questions from the Committee? Public counsel?

EXAMINATION BY MS. LUDTKE:

Q Mr. Flumerfelt, are you aware of an agreement that the pipeline company has with public counsel that has actually been approved by the Committee for retaining experts to assist public counsel?

A Yes, I am aware of that.

Q And are you also aware that there have been some problems raised with regard to payment of the experts' billings from -- by PNGTS?

A No, I was not aware of that.

Q Are you aware of significant delays in payments up to two or three months on some of the experts' payments?

A No, I am not aware of that.

Q Are you willing to have the Committee impose the condition that all payments to public counsel's experts be made in full before any certificate is granted?

A I would like to discuss that with matter with the project team, but certainly I would like to have the feeling that we are paying our bills, I am just not aware of that situation.

Q Could you discuss it and let me know whether you'll agree to that condition?

A Yes, we will do that. Would you like me to do that right now?

Q Yes.

A You will be paid promptly and in full. I understand now what the problem is.

Q Thank you. Now, as Vice President of Governmental Affairs, you have made numerous presentations at public hearings, is that correct?

A That is correct.

Q And at a public hearing in Exeter in September of 1996, do you recall being advised

that there were some problems with a field agent? Land agent?

A I don't recall the specific incident, but I am certainly aware of those issues.

Q And that was a Mrs. Bergeron who complained at that hearing and she subsequently testified here. Did you hear what she had to say?

A Yes, I did her Ms. Bergeron's testimony.

Q And she testified that the land agent that was causing some problems was a Mr. Ford, do you recall that?

A Yes, I do.

Q And let me read to you what you said in response to Mrs. Bergeron's complaint in September of 1996, you said, --

MR. CANNATA: Could I have a page reference?

Q It's page 112 on the 9/9/96 Exeter public hearing transcript. Let me start then in the middle of that paragraph. It says, "what Roger wants to hear but we definitely appreciate that feedback and we followed through on it very aggressively because it gives us a bad name and it's hard enough to do a project quite frankly, without that kind of inappropriate behavior." So can you describe what you did specifically to follow through on that in a very aggressive manner on that complaint?

A I can't really answer the question, that's a personnel issue that was under Mr. Wilbur's jurisdiction. I think there's been quite a bit of testimony on that matter.

Certainly we do care very much about the actions of any of our field agents. We look into it, but it's up to us, I think, to determine whether or not it was inappropriate behavior or not, and it's up to us to impose appropriate action.

Q And is Mr. Ford still working as a land agent in the field for your company?

A I honestly don't know.

Q Now, you also discussed the abandonment of the 6-inch Granite State line at the hearing in September, do you recall that?

A I am willing to submit that that's --

Q This is on page 24, let me read you what you said at that time, you said, with regard to the abandonment of the 6-inch line, "I think to the Commission, the important point about the abandonment of the existing Granite State facilities that really allows us to squeeze in as much as possible inside that existing right-of-way and reduce the amount of additional cleared area that will be necessary as opposed to laying it parallel and creating a new construction and permanent easement next to the existing facilities." Do you want to see that?

A No, I'm willing to submit that that's correct.

Q And we had testimony today that, in fact, there was no difference in terms of the amount of easement you were asking for whether you laid the pipeline inside or outside the existing easement, do you recall hearing that testimony?

A Yes, I do.

Q Did you ever try to make a correction to this Committee or to the public regarding that matter?

A My understanding of the situation now and as I think we heard in testimony, is that the only change in that was when we went to the 30-inch from the 24-inch, we moved over a little bit and that the six inch line was no longer "in the way", there was no change as a result of that in total width of the work space. I think my initial comment still stands that utilizing the existing right-of-way and being able to

abandon that line, makes it that we can get tighter. For example, if we were going to keep the 6-inch line in service, we would probably require a more significant offset. I would have to defer to engineering on that. Just like we want to be at least x number of feet away from our live 10-inch lines, if we were to keep the 6-inch line in service we would probably require additional offset from that, therefore widening the right-of-way to some extent potentially.

Q Well, this certainly creates the impression that it's not going to be an additional 35 feet on the outboard side to expand the right-of-way. That's what you're asking for now, isn't it?

A I honestly can't expand upon the testimony that Mr. Morgan gave on that this morning.

Q In fact, in your answers to the data request you estimated the width of the right-of-way in December to be between 35 feet and 70 feet, do you recall that?

A No, I don't recall, and I'm really not the right person to talk the numbers with.

Q I will represent to you at that time your estimate of the width of the right-of-way was between 35 feet and 70 feet. Do you agree?

MR. KRUSE: Agree to what?

Q Do you want to see the estimate, Mr. Flumerfelt?

A If it's in the transcript, I believe I said that.

Q It's in the data request, I will represent to you.

MR. KRUSE: Is it a data request that Mr. Flumerfelt responded to?

MS. LUDTKE: I don't know because, although I asked for a specific identification of the witness who responded to each data request it wasn't

provided.

MR. KRUSE: Perhaps we can identify the author if you could show us which one.

MS. LUDTKE: I don't think it's that important, I just think there's an impression left that the extension of the right-of-way would not be significant because of the removal of the line. Do you agree that that impression might have been left by what you said?

A I had been -- I regret if we left that impression. In all of our public communications on these matters, we have been extremely careful to point out that when we are using an existing right-of-way that it is not a no impact situation that there is frequently, if not always, some additional widening of that right-of-way which varies depending on site specific impacts, and site specific conditions. I had been very careful to do that, so as not to leave the impression in people's minds, which I find is very typical, that utilizing existing right-of-way means that there is no tree clearing or no impact, and we certainly did not want to leave that impression.

Q I have nothing further.

EXAMINATION BY MR. IACOPINO:

Q Just to follow up on Commissioner Ellsworth's line of questioning. Would you have any objection to having the telephone number of your service representative published in each phone booth in Rockingham and Coos counties?

A I don't think so. Can you just explain what you mean by service representative?

Q Someone who can -- someone who would be available to take complaints or to render

information to members of the public who have a question about your operation.

A I think it would be very appropriate at this stage in the development of PNGTS to have a yellow pages listing under PNGTS with a toll free number.

Q In each telephone book published each of the two counties, you agree, sir?

A That would be fine. I don't think that would be inconsistent with standard operating procedure, and now that we're moving more into the operation phase of the pipeline, I think that's very appropriate.

Q I take it you commit to that now so we don't have to recommend the condition being imposed?

A Yes. Let me also point out that we have distributed a lot of information along the right-of-way with the names of specific contacts and toll free numbers. All of our field personnel have little 3x5 cards, if they're right-of-way people are doing archy work or they leave it on their trucks so there's identification of who they are working for, typically it has my name or Mr. Wilbur's name, some contact because not all of our field personnel can answer everybody's questions.

Q Just so I am clear, I don't mean just during the construction phase, I mean permanent because after the line is built if someone has a problem on the right-of-way or needs to be in touch with the company, they would have a source of information of where to call.

A Sir, I can only speak for PNGTS, can I just make sure that Maritimes doesn't have a problem with that for their section?

I believe we have a commitment from both parties.

Q Very good. That's all I have really.

MR. CARPENTER: I have a question.

EXAMINATION BY MR. CARPENTER:

Q This is a request, actually. Mr. Flumerfelt, could we get one of these copied on a larger map so we can stop squinting at that 8 ½ by 11 mitigation plan map?

A Which one, the largest map?

Q Yes, the one that shows the red -- the ketchup and the mustard.

A We would be happy to do that.

Q The second thing is I might ask that following up on what Mr. Iacopino has said, that you might put that toll free number on some of your line crossing markers, so that people can pick it up there.

A That would definitely be standard operating procedure. It may be a different number, if we have an emergency -- a 24-hour emergency dispatch.

CHAIRMAN: Thank you.

JOHN THOMAS AURIEMMA

having been duly sworn by Attorney Kruse

testifies as follows:

EXAMINATION BY ATTORNEY KRUSE:

Q Would you give us your full name and business address?

A John Thomas Auriemma. Business address is El Paso Energy, Houston, Texas.

Q You are under oath already, in this proceeding?

A That's correct.

Q By whom are you employed?

A I am employed by Mustang Engineering as a direct contract consultant in the El Paso

Energy Office.

Q What role have you played in the PNGTS pipeline project?

A My title on the project is Project Environmental Coordinator. I am responsible for all environmental activities associated with the project.

Q Can you give us, very briefly, your professional background?

A Yes, I've been working in the gas industry for roughly seven years. I have been doing permitting, environmental assessments of many other facilities for over 10 years now.

Q I am showing you what's been marked as Exhibit 10, updated pre-filed direct testimony, did you participate in the pre-filed written testimony, which includes your name along with Messrs Morgan, Trettel, and Wilbur?

A Yes, I did.

Q And is that testimony true and accurate to the best of your knowledge and ability?

A Yes, that's correct.

Q Do you need to make any corrections or modifications at this time?

A No.

Q Thank you, I have no further questions.

CHAIRMAN: Counsel for the public?

MS. LUDTKE: No, we don't have any questions.

CHAIRMAN: Questions? Committee members?

Questions, Tom? Thank you very much.

GERLY MOHN

having been duly sworn by Attorney Cheney

testified as follows:

EXAMINATION BY MR. WILBUR:

Q Please state your full name, your business address.

A My name is Gerly L. Mohn, my business address is 1284 Soldiers Field Road in Boston, Massachusetts.

Q And what is your current position Mr. Mohn?

A My current title as related to these proceedings is President of Maritimes Northeast Operating Company.

Q Could you briefly explain the relationship between M&N Operating Company and Maritimes and Northeast Pipeline, LLC?

A Maritimes and Northeast Operating Company is the entity that has been established to operate in this particular case, the joint facilities, particularly those facilities that are in New Hampshire.

Q I would like to show you Plaintiff's -- sorry, Applicant's Exhibit number 10. Is this your pre-filed testimony?

A Yes, it is.

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

A Yes, sir.

Q Are you aware that in February 1997 Mr. Gonzales of PanEnergy filed pre-filed testimony in this proceeding?

A Yes, I am.

Q And his testimony concerned operational issues?

A It did.

Q Does your testimony differ in any material respects from that testimony?

A Only in very, very minor respects.

Q In that regard, I have prepared what's been marked as Applicant's Exhibit number 76, which is a red-lined version of Mr. Mohn's testimony. Mr. Mohn, does this document indicate the changes in your testimony from the earlier testimony submitted by Mr. Gonzales?

A Yes, it does.

Q Along with your testimony was a resume?

A Yes, sir.

Q And does Applicant's Exhibit number 76 also indicate the updates to your resume?

A Yes, it does.

Q And a correction?

A Principally the change is in a year that I became also responsible for operations of Texas Eastern facility in addition to those of Algonquin.

Q Do you adopt the testimony that is set forth in Applicant's Exhibit number 10?

A Yes, I do.

Q No further questions.

EXAMINATION BY MS. LUDTKE:

Q In reviewing your testimony, I noticed that it did not mention remote valves, are you familiar with remote valves?

A Yes, I am.

Q You heard what Mr. Marini had to say about them?

A I did.

Q And do you have plans to put remote valves on the pipelines?

A We have been in an active discussions with PNGTS engineers regarding installation of remote control valves. Our plan at this point is to utilize remote control valves, along the pipeline in the densely populated areas. Particularly where they exist in the joint pipeline segment.

Q Do you plan on filing verification of that with this Committee at some point?

A Those will be included in the detailed plans and specifications that Mr. Morgan has committed to provide the PUC.

Q When will a determination be made as to whether you are going to commit to the installation of those remove valves?

A I believe I just said that we have plans underway to install or to define the exact location of those valves, and I believe I intended to commit in that statement.

Q Thank you. Nothing further.

EXAMINATION BY MR. IACOPINO:

Q Mr. Mohn, in your testimony the added part to Gonzales' testimony, line five on, I believe, it's the third page, second page, you mentioned the Haverhill lateral

A Haverhill? Yes, I did.

Q Do we have anything in the record showing the alignments for that?

A That's a design question. I defer to Mike to provide you an answer.

MR. WILBUR: I believe we have lineman sheets we can check to ensure that that's there, the Haverhill lateral. The lineman sheet and the information is in the file.

CHAIRMAN: Can you check right now while we're

continuing the questioning?

MR. WILBUR: Yes, sir. Yes the drawing number for the Haverhill lateral is PTE-AL-HAV-1-001 entitled "The Haverhill Lateral".

MR. ELLSWORTH: Is any portion of the Haverhill Lateral in New Hampshire?

MR. WILBUR: Yes, sir. It takes off in Plaistow and goes approximately four-tenths of a mile down to the border.

A Excuse me Mike, my testimony says six-tenths.

MR. IACOPINO: What is it's size?

MR. WILBUR: 20-inch.

Q I am informed that the environmental data has been filed with the DEIS?

A Again, it's a design matter, but I assume that's the case.

Q That's all I have.

EXAMINATION BY MR. ELLSWORTH:

Q Mr. Mohn you represent Maritime and Northeast?

A That's correct.

Q The questions that we asked Mr. Morgan earlier regarding the submission of various documents, I guess particularly the construction phase related to PNGTS. Will there be different operating and maintenance plans for the Maritime and Northeast southern segment, than, for instance, there will be for the PNGTS operations in the northern segments?

A Yes, there will.

Q Will you provide those to us as has been offered by PNGTS?

A The commitment made by PNGTS with regard to providing those for PUC review certainly stands for the Maritimes operation as well.

Q And if I asked you the same question about emergency plans would your answer be the same?

A Yes.

Q Thank you.

MR. IACOPINO: And I guess the same question, oh, you did make the commitment, as to telephone numbers.

A Yes, we plan to have a significant local presence in New Hampshire with our offices in Boston and so on. I really don't envision difficulties in being available to review those kinds of things.

MR. ELLSWORTH: Can we persuade you to have your major headquarters in New Hampshire?

A You would have to take that up with my bosses.

MR. IACOPINO: I thought you were the president?

(Laughter)

A We all have bosses.

CHAIRMAN: Any other questions? Thank you.
Are there any more witnesses from the applicant?

MR. KRUSE: None, Mr. Chairman.

CHAIRMAN:: Would you like to offer closing statements?

MR. PFUNDSTEIN: Mr. Chairman, the applicant would waive

making a closing statement at this time. We have represented to the Committee that we will file on Tuesday some sort of memo briefing a couple of issues that came up today. The only thing that we would say is we very much appreciate the investment of time and energy that this Committee and your staff have invested in this project. Having been on the other side of it, we know what's been involved, and we do sincerely appreciate that. I mean that, both on behalf of the company and myself, and partners personally thank you.

MS. LUDTKE: Public counsel waives a closing.

CHAIRMAN: Town of Shelburne?

MR. CARPENTER: We will waive closing. We will file additional documents that we were asked for expressly in our presentation.

CHAIRMAN: How soon will those be coming in?

MR. CARPENTER: Probably will be towards the 4th, or shortly thereafter. I've got to get Dr. Danforth back from Scotland.

MR. KRUSE: At the risk of generating another cycle of paper, can we have an opportunity to respond if we think it's necessary to Shelburne's additional material?

CHAIRMAN: Yes. It's reasonable. What time frames do you want to use in terms of deadline for material? What did we set?

MR. IACOPINO: We set the 4th, Friday.

CHAIRMAN: Friday the 4th.

MR. CARPENTER: I think we can make that. We can certainly transmit it electronically by that date.

MR. PFUNDSTEIN: I haven't heard a better offer than the one I made. I think Mr. Iacopino would it be better to have what we would file on Tuesday as I indicated, or would you like it on the 4th?

MR. IACOPINO: I'd like it on Tuesday.

MR. PFUNDSTEIN: Tuesday is fine, thank you.

MR. CANNATA: Mr. Chairman, what's the response date, should that be required by the applicant to respond to the Town of Shelburne's submission?

CHAIRMAN: If they are intending to respond to all of the items by Tuesday, correct, or not?

MR. GARTRELL: As I understand it, Mr. Chairman, Shelburne was asking to file their follow-up submission by the 4th, I guess the question is, how much time do we have after that within which to respond, if we choose to?

CHAIRMAN: Given the time frame requested by the applicant, I think we will probably need to limit it to only a couple of days, does that sound reasonable?

MR. PFUNDSTEIN: If they file on Friday, if we want to respond you will have it Tuesday, the following Tuesday.

CHAIRMAN: The difficulty we face, and I think what we are going to need to do is move your date up a bit, agencies are supposed to submit their final conditions by the 7th, and the submissions would be important to receive before then. So we'll need to, I think, move the date up and ask that

everything be delivered to us by the 2nd with a chance to respond by the 4th. It's not much time, I realize, but I don't think it will be that difficult to respond, it shouldn't take much time.

MR. RICHARDSON: Logistically we can't file it on the 4th because all the doors will be locked.

CHAIRMAN: Then I guess that would mean we would have to have it in by the end of the day on the 3rd.

MR. CARPENTER: I assume electronic filing will still be acceptable?

CHAIRMAN: Yes. Any other comments for the Committee, comments? Thank you very much.

OFF THE RECORD

