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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 1, 2010 - 1:35 p.m. DAY 1
Public Utilities Commission
21 South Fruit Street AFTERNOON SESSION ONLY
Suite 10
Concord, New Hampshire

RE: SEC DOCKET NO. 2010-01
Application of Groton Wind, LLC,
for a Certificate of Site and
Facility for a 48 Megawatt Wind
Energy Facility in Groton,
Grafton County, New Hampshire.
(Hearing on the merits)

| | |
|----------------------------------------|---------------------------------|
| PRESENT: | SITE EVALUATION SUBCOMMITTEE: |
| Chairman Thomas B. Getz (Presiding) | N.H. Public Utilities Comm. |
| Robert Scott, Director | Air Resources Division - DES |
| Brook Dupee, Bureau Chief | Dept. of Health & Human Serv. |
| Richard Boisvert | N.H. Div. of Historical Res. |
| Stephen Perry, Chief | Inland Fisheries - N.H. F&G |
| Charles Hood, Admin. | Dept. of Transportation |
| Donald Kent, Admin. | Dept. of Resources & Econ. Dev. |
| Eric Steltzer | Office of Energy & Planning |
| Michael Harrington | Public Utilities Commission |

* * *

Counsel for the Committee: Michael Iacopino, Esq.

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

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ALSO PRESENT:

- Counsel for the Applicant: Susan S. Geiger, Esq.
(Groton Wind, LLC) Douglas L. Patch, Esq.
(Orr & Reno)
- Counsel for the Public: Peter Roth, Esq.
(Sr. Asst. Atty. General)
Evan Mulholland, Esq.
(Asst. Atty. General)
Michelle Thibodeau
Spencer Culp
- Reptg. the Town of Rumney: Bernard Waugh, Esq.
(Gardner, Fulton & Waugh)
- Reptg. the Town of Groton: Miles Sinclair, Selectman
- Reptg. the Buttolph Group: James Buttolph, Intervenor
Cheryl Lewis, Intervenor
- Reptg. the Mazur Group: Richard Wetterer, Intervenor

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

2 CHAIRMAN GETZ: Good afternoon. We're
3 back on the record in SEC Docket 2010-01.

4 First, let me note -- give an
5 opportunity -- Mr. Sinclair is here from the Town of
6 Groton.

7 Did you want to make an appearance on
8 behalf of the Town?

9 MR. SINCLAIR: Just basically say who
10 I am?

11 CHAIRMAN GETZ: Yes.

12 MR. SINCLAIR: Miles Sinclair, Board
13 of Selectmen, Town of Groton.

14 CHAIRMAN GETZ: Thank you.

15 And is there anything that we need to
16 address before proceeding to the questions from the
17 Subcommittee for Mr. Cherian?

18 (No verbal response)

19 CHAIRMAN GETZ: Hearing nothing, then,
20 any questions for Mr. Cherian? Mr. Scott.

21 INTERROGATORIES BY MR. SCOTT:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. My questions revolve around the revised

1 interconnection plan.

2 In your prefiled testimony, you talk about a
3 detailed interconnect study and approval by NEPOOL
4 Reliability Committee. Do you have any idea when
5 we'll have a little bit more definition on the
6 interconnect?

7 A. On the revised feasibility study?

8 Q. Yes.

9 A. We have been told to expect to have that in late
10 February or mid-March.

11 Q. And if I could also -- so, similarly, in your
12 testimony on Page 4 of your supplemental, you talk
13 about the proposed alternate route along Route 25.
14 Is that contingent upon that study, or is that
15 independent?

16 A. No, that's independent of it. The study is with ISO
17 New England and Northeast Utilities on
18 interconnection at the 115 level; and also with that
19 is facilities at the Beebe River substation, and
20 whether an additional three-ring bus, for example,
21 can be installed. The line-route work, those are
22 routes that have been developed by the Co-Op. And so
23 we will continue to work with them on those routes.

24 Q. If I could, Mr. Cherian, also, so on that proposed

1 alternate route, questions were asked earlier by, I
2 think, Public Counsel, about wetlands impacts and
3 permitting and that type of thing. So is that
4 progressing, though? Is that a proposal before those
5 entities now?

6 A. Well, we have been working with the Co-Op on that
7 route. But as far as have they begun activities on
8 pole sets or anchors or whether there would be any
9 wetlands permits, not that I know of. I mean, it's
10 their poles. Normally they go through that process,
11 but...

12 MR. SCOTT: Thank you.

13 CHAIRMAN GETZ: Other questions? Mr.
14 Harrington.

15 MR. HARRINGTON: Yeah, just a few
16 questions.

17 INTERROGATORIES BY MR. HARRINGTON:

18 Q. So you said the system impact study won't be
19 completed until late February or mid-March?

20 A. Feasibility study.

21 Q. Feasibility study. Okay. What about the system
22 impact study then?

23 A. That would be later on in 2011, partly depending on
24 the feasibility study.

1 Q. Okay. And what are we talking about? Towards the
2 end of the year or --

3 A. Their expectation was more in the summertime for
4 that.

5 Q. And the SIS would be in the summer then. Okay.

6 Do you have a capacity supply obligation in the
7 forward capacity market?

8 A. No, not that I'm aware of, although we do intend to
9 bid into it.

10 Q. Which year do you intend to bid in?

11 A. I think we just passed the year for 2012 or 2013.
12 So, I think it was the next one coming up.

13 Q. So, 2014?

14 A. I believe they just closed for 2013.

15 Q. And do you know what your qualified capacity will be?
16 Did the ISO assign you a value yet?

17 A. I don't know. If I hazard a guess, I think for
18 Lempster it was 10 percent, or maybe 8 percent in the
19 summer, eight to 10 in the winter. But I can --

20 Q. Okay. If you could find that, because you did state
21 earlier that you expect your average capacity to be
22 around 36 percent.

23 A. Yes.

24 Q. Why would you -- then we're talking quite a bit less

1 than that for your capacity supply obligation.

2 A. It's not up to us. ISO New England determines that.
3 They only will give a certain level of capacity for
4 certain renewables.

5 Q. And staying on that theme just for a second, what do
6 you -- there's a lot of testimony in here on things
7 that your plan would avoid. You've got your carloads
8 of coal and all this other stuff that aren't going to
9 be burned. That is based on that 36-percent capacity
10 factor?

11 A. I have to take -- we took an action on it to go back
12 and provide an answer on that, whether that was
13 provided at 100 percent or factored in in that
14 capacity.

15 Q. And what do you estimate your peak capacity to be?
16 And by that, I mean during peak time. Let's say one
17 to four in the afternoons of weekdays in July and
18 August.

19 A. For those specific times?

20 Q. Yeah.

21 A. I don't have those figures, off the top of my head.
22 In terms of when our peak capacity would be, we will
23 be at 100 percent many times.

24 Q. Right. But I'm interested in -- you talk a lot about

1 displacing a lot of fuels, specifically fossil fuels.
2 And my position, I guess, is that if you perform like
3 other land-based wind projects, your capacity during
4 peak demand periods is going to be substantially
5 lower than the 36 percent that you average. So I'd
6 like to see what do you estimate your peak
7 performance to be. For example: Can you give me
8 what peak performance is at Lempster?

9 A. Are you asking -- you're asking about what is likely
10 performance during when peak load is?

11 Q. Yes. Yes. So, from, like I said, one to four, two
12 to four in the afternoons during weekdays.

13 A. It will vary widely, depending on the wind.
14 Generally from the fall into early spring we generate
15 high levels of power, and winds are generally good.
16 In the summertimes, it's going to be lower. June,
17 July, August.

18 Q. That's what I'm trying to find out.

19 A. June, July, August, during peak afternoon periods in
20 the summer, I would expect that our capacity would be
21 quite a bit lower.

22 CHAIRMAN GETZ: Do you have a profile
23 of --

24 WITNESS CHERIAN: I don't have that.

1 I think -- I mean, that's information we do have.
2 It's proprietary, but...

3 CHAIRMAN GETZ: We could make that --
4 Mr. Harrington, would you like to see that
5 information?

6 MR. HARRINGTON: Yeah, please.

7 CHAIRMAN GETZ: Well, let's make that,
8 then, part of the answer that's already coming in as
9 Exhibit 33. So it will be a little more expansive
10 with respect to capacity factors. And to the extent
11 you're seeking confidentiality for that, make that
12 request with the -- well, I assume there will be a
13 request, Ms. Geiger, for confidentiality of that
14 information?

15 MS. GEIGER: That's correct.

16 MR. ROTH: Mr. Chairman, if I may
17 interrupt for a second on that issue? My office,
18 Counsel for the Public, has in the past been granted
19 full access to confidential documents that the
20 Committee gets without having to enter into a
21 confidentiality agreement or anything like that with
22 the Applicant. We've had some discussion about that
23 in the past during this case with the Applicant. But
24 so far, what their response has been, "It's

1 confidential, we're not going to give it to you," or
2 "It's irrelevant." So I guess I would like to take
3 this opportunity to ask them to go on the record
4 saying that they are going to provide that
5 information to us along the same terms as they
6 provide it to the Committee.

7 MS. GEIGER: I think, Attorney Roth --
8 correct me if I'm wrong -- but I believe in response
9 to some technical session data requests this summer,
10 we did make some information available to you, to
11 your office, with the understanding that you would
12 maintain it confidential. I think it was wind data.
13 Is that right?

14 MR. ROTH: Right. And I was just
15 looking at the response. And the written response
16 is, "It's confidential. We're not going to give it
17 to you." And it's constantly --

18 (Court Reporter interjects.)

19 CHAIRMAN GETZ: Well, let's address
20 the issue of confidentiality this way: At a break,
21 I'd ask counsel, Mr. Iacopino, to work with the
22 parties. My inclination and understanding of this
23 type of material, it's been -- it is proprietary and
24 probably merits confidential treatment. To the

1 extent parties are going to get it or not, the
2 attorneys or part of the Department of Justice may
3 need a confidentiality agreement. So I'd just ask
4 Mr. Iacopino to work with all of the parties to see
5 if we get an agreement on a procedure on who gets
6 confidential information and how it will be handled.

7 MR. ROTH: Thank you.

8 MR. HARRINGTON: Just a couple more
9 questions.

10 BY MR. HARRINGTON:

11 Q. The decommissioning fund agreement that's in your
12 draft agreement provided with Groton, do you have an
13 expected date when that will be finalized?

14 A. I'm looking at Mr. Sinclair. I would say within 30
15 days.

16 Q. Okay. And I'll probably get the name of this
17 department wrong. But there was some filing that was
18 rejected by historical -- anyone help me out here?

19 CHAIRMAN GETZ: Division of Historic
20 Resources.

21 MR. HARRINGTON: Right.

22 BY MR. HARRINGTON:

23 Q. They said that was not complete, and it was returned,
24 basically. When do you expect to have that completed

1 with whatever is missing on it and sent back in?

2 A. I think Dr. Luhman's going to address that since
3 she's the person who's been working on those issues.

4 Q. Okay. And on the new line, there's going to be, you
5 said, probably no more than 200 feet of new 115 kV
6 line.

7 Now, you also mentioned something about
8 easements there. Are these new easements or --
9 'cause I thought you were saying they were going to
10 go on existing poles, and then you were talking about
11 H-poles, which probably aren't there if it's a new
12 line. So can you just explain that a little bit?

13 A. Yes. There's three different aspects of this --
14 there may have been confusion -- discussion of the
15 line. One is a short portion from the site to Route
16 25 that we're looking into as a result of concerns
17 that were expressed by folks in Rumney and by the
18 Co-Op about coming down Groton Hollow Road.

19 Q. Excuse me. So you are or are not coming down Groton
20 Hollow Road?

21 A. We are -- well, our alternative does not go down
22 Groton Hollow Road, the alternative we submitted in
23 the supplemental. That's one portion. Now --

24 Q. Let's just stick with that for a second.

1 A. Yes.

2 Q. Do you have the easements that you need to run that
3 line? Because if you're not going down the road, I
4 suppose there'd have to be new easements.

5 A. Yes. They're not completed yet.

6 Q. Okay. Do you have a date for that or estimate?

7 A. I would say probably within 60 days.

8 Q. And then go ahead with the rest of it then.

9 A. So that's, you know, one portion of the line. And
10 it's, again, at distribution 34.5. Once it gets to
11 Route 25, we are a pole attacher on Co-Op poles from
12 there to Beebe River Substation, or in that area.

13 Q. So, no easements would be needed there.

14 A. That's correct.

15 Q. Okay.

16 A. Then, either within or with some other land that we
17 would acquire in the area of Beebe River Substation
18 is where we would put the step-up voltage facility.
19 And that would be a piece of land that would abut the
20 existing 115 private-way corridor that runs through
21 the state.

22 Q. So, that 200 feet you're talking about would be
23 connected from the step-up transformer to the
24 existing 115 line?

1 A. Yes, sir.

2 Q. And that would require new easements as well then, or
3 purchased land?

4 A. Yes.

5 Q. And again, those haven't been done yet?

6 A. No.

7 Q. Okay. Do you anticipate finalizing the SIS before
8 you do that so --

9 A. I think we would finalize the feasibility study. And
10 the feasibility study is studying an alternative that
11 had already been studied, so we don't expect to find
12 any surprise there. It's an alternative that was
13 proposed by Northeast Utilities. So, presumably,
14 they're most comfortable with that or more
15 comfortable with that. So I would anticipate that we
16 would move forward with -- once we have the
17 feasibility study, because that's going to determine,
18 hopefully, which of those step-up facilities or ring
19 bus can be located in Beebe River Substation; and if
20 there's not enough room, then where else can we go.

21 Q. And so you would anticipate -- we're talking here
22 sometime in the early spring then, trying to attain
23 the easements at that time.

24 A. Yes.

1 Q. Now, is that -- you mentioned that was studied
2 before. Is that one of the six proposals that was in
3 the original submittal that came with the prefiled
4 stuff?

5 A. The original proposed feasibility study was in June
6 of 2008, and it looked at interconnection at 230 kV,
7 at 115, and at 34.5.

8 Q. Do we have copies of that?

9 A. Don't know. It's a document with ISO New England and
10 NU and Groton Wind. I don't know if we submitted
11 that.

12 Q. Well, maybe, if you're saying that that contains the
13 basic idea of what you're going to propose now to be
14 actually done, it would be helpful if we did have a
15 copy of that to at least give us something better to
16 deal with than what we have right now, which is
17 nothing.

18 A. Well, it's an initial feasibility study to look at
19 the universe of potential ways to interconnect the
20 project. From that, we amended the feasibility study
21 to focus on the 34.5 kV option. And that's what came
22 out, with a number of five or six different options,
23 five or six different ways to connect at 34.5.

24 Q. Just one last question. I'm sorry for repeating

1 this. I didn't write down your answer. The
2 historical, the department of historical sites or
3 whatever, when did you think you were going to be
4 re-filing with them? That was the document --

5 A. I'm going to let Dr. Luhman answer. I don't think
6 we're re-filing. I think it's a question of
7 formatting of data information.

8 MR. HARRINGTON: That's all I have.

9 CHAIRMAN GETZ: Thank you.

10 Mr. Boisvert.

11 INTERROGATORIES BY MR. BOISVERT:

12 Q. In regards to the Route 25 portion, the upgrades
13 there, will the Groton Wind Project be paying for the
14 upgrades? Who has financial responsibility for
15 upgrades on the Route 25 portion?

16 A. We do.

17 Q. So you would be paying for it?

18 A. Yes.

19 Q. And will you be including that area in additional
20 historic resources surveys?

21 A. I'll let Dr. Luhman answer that. Again, we're an
22 attacher to Co-Op poles. So I'm not exactly sure how
23 that works. I'll let Dr. Luhman address that when
24 she comes up.

1 Q. Okay. And same question at the substation.

2 A. And the same answer for the substation. I'll let her
3 address that as well. I'm not that well versed in
4 those areas.

5 CHAIRMAN GETZ: Other questions?

6 Mr. Hood?

7 INTERROGATORIES BY MR. HOOD:

8 Q. I have a follow-up to this morning's talk about the
9 restoration of any of the public roads that went
10 on -- that got damaged during construction or hauling
11 any of the equipment getting these facilities up.

12 I assume that would be the same for any
13 driveways or things along the side that happened to
14 get damaged as a result of any of this work; you'd
15 put them back to kind of a pre-existing condition if
16 they got damaged as well?

17 A. Yes. And we're going to have a letter of creditor
18 bond with the Town of Rumney that will be released
19 only upon inspection of roads and acceptance by the
20 road agent in the town when we're done with
21 construction.

22 Q. And I also had the question -- you're going to be
23 doing some blasting. If you get complaints later on
24 from private owners or anything about they have

1 cracks in their foundation or cracks in their
2 driveways now, or interior walls got damaged somehow,
3 how would you plan to respond to those? Or how would
4 you check to see whether you felt your guys were
5 responsible for the damage or not, and how would you,
6 I guess, compensate them for it?

7 A. Well, we have, first of all, to hire a licensed,
8 experienced blasting company for any blasting, you
9 know, companies that are familiar with and have
10 experience with regulations which require response to
11 any and all complaints, seismology, that type of
12 data. I know we had one or two complaints on the
13 Lempster project, followed up with a formal paper
14 report on each of them. So we're definitely going to
15 address any complaints, if there are any.

16 Q. Thank you.

17 CHAIRMAN GETZ: Dr. Kent.

18 INTERROGATORIES BY DR. KENT:

19 Q. Earlier this morning, Mr. Cherian, you spoke about
20 bringing Rumney emergency personnel to Lempster. Was
21 that for observation by the Rumney people, or was
22 that a workshop of some kind or training?

23 A. Maybe a little bit of both. It coincided with an
24 annual review with the Town of Lempster Fire

1 Department, all right, because over a couple years
2 you have a couple different personnel. And so we
3 invited Rumney Fire and EMS up there to participate
4 at the same time. And it was a review of equipment,
5 safety procedures, the operations of maintenance of
6 the building, review of all the fire safety and
7 safety manuals, going inside of one of the turbines
8 and some follow-up documentation.

9 Q. Was that visit at that time or shortly thereafter --
10 did that lead to an agreement with Rumney on
11 emergency issues?

12 A. I think it was independent of the agreement. But I
13 had offered, some time back, to Rumney Fire to come
14 up to Lempster and do a review for themselves. So it
15 may have contributed to it, but it was independent of
16 the agreement.

17 Q. So at this point, Rumney is comfortable with the
18 emergency procedures?

19 A. Yes, I believe so.

20 Q. The interconnection, I am curious about the impetus.
21 What was the reason for moving?

22 A. For moving the route?

23 Q. Yes, coming off the project property.

24 A. Two reasons. It was not what we wanted to do, but

1 there was two major reasons for that. We've had a
2 lot of meetings in the Town of Rumney. And both
3 residents in Rumney, as well as the board of
4 selectmen, have indicated a strong preference to not
5 run lines down Quincy Road, which was our original
6 proposal. So, you know, we've heard those
7 complaints.

8 Another important part of it is New Hampshire
9 Electric Co-Op, which owns the poles along Groton
10 Hollow Road, was unable to find full documentation
11 for easements for those poles and anchors. They
12 found some, but not all. So there was, I guess,
13 murky history of those poles, since they predated the
14 creation of the Co-Op. They had, therefore, also
15 recommended we acquire easements to come off the
16 property to get to Route 25 and had originally
17 contacted a few landowners to inquire about their
18 interest in easements and passed that information on
19 to us. So those two reasons are the reasons for the
20 change in the proposed route.

21 Q. Did I understand that you said the new poles were not
22 your responsibility, but New England Co-Op's?

23 A. Once we get to Route 25, we will be attaching onto
24 Co-Op poles.

1 Q. But what's on your property, they're your poles.

2 A. Yes, sir.

3 Q. Correct. So you'd be responsible for any
4 environmental, historic work?

5 A. Yes, we would.

6 Q. So we will be seeing that material at some point?

7 A. Yes. It is possible that those poles would later
8 become Co-Op property, but it's not something we're
9 proposing at this time.

10 Q. Are you replacing culverts on Groton Hill Road --
11 Groton Hollow Road? Excuse me.

12 A. Not on the public portion, no.

13 Q. So the work you're doing in response to DES is up on
14 the private section of that road?

15 A. Yes.

16 Q. Okay. Thank you. And on Groton Hollow Road, do you
17 anticipate having to trim any limbs on trees to get
18 your heavy loads through?

19 A. No, we don't anticipate that now.

20 Q. Thank you.

21 CHAIRMAN GETZ: Dr. Boisvert.

22 INTERROGATORIES BY DR. BOISVERT:

23 Q. Quick follow-up regarding questions about damage on
24 the private property. I'm a little unclear in your

1 response. You said you'd hire experts in blasting
2 and so forth. And there's also the question I've
3 heard at the public hearing about just the vibrations
4 from passing trucks and so forth. If there is a
5 claim made for damage to private property, what will
6 the response be?

7 A. I'll give you, I guess, an example from the Lempster
8 project and the state regulations, as I understand
9 them. One is that there was a blasting plan that's
10 required that gets approved by the state. And I
11 believe it's required to be submitted to the Town of
12 Groton under a draft agreement. Second is advanced
13 notice that we have to put into the newspapers of the
14 blasting contractor, to inform people in the area of
15 blasting and what the whistle tones are going to be.
16 Those also include in those announcements phone
17 numbers where someone can call. When a complaint is
18 filed or somebody calls, then the blasting contractor
19 has an obligation within a certain number of hours to
20 respond with a site visit to that person's house and
21 inspect and eventually write a report.

22 Q. But my question is, if there is damage, what will
23 happen?

24 A. They are responsible to pay damages if there is

1 damage.

2 Q. So it's the subcontractor that carries the burden.

3 A. Yes. It's something we impose in the contract.

4 Q. You say a certain number of hours. Is this like 12
5 hours, 48 hours?

6 A. I don't know what the state regulation is, right
7 offhand. But it requires that it can't be, you know,
8 a month later or something like that. There's an
9 initial response requirement. I can say 48 hours,
10 but I don't know exactly. I have to look up the
11 regulation.

12 Q. Okay.

13 CHAIRMAN GETZ: Other questions?

14 Mr. Steltzer.

15 INTERROGATORIES BY MR. STELTZER:

16 Q. Yes, you mentioned that in your background that you
17 are the project manager for Iberdrola Renewable in
18 New England. How many projects have you overseen in
19 that position?

20 A. I've been with Iberdrola for three years, and I've
21 worked on the Lempster project and this one. And we
22 have some early-stage projects elsewhere in New
23 England.

24 Q. And prior to your time there, what -- could you just

1 elaborate a little bit more on your experience in
2 developing other wind projects.

3 A. Prior to working for Iberdrola, I worked for an
4 engineering company in Manchester and worked on a
5 number of wind projects in New England. I worked on
6 wind projects in Texas. And I worked on a number of
7 hydro projects, some in Oregon and California and a
8 number of other states.

9 Q. Based on your experience there, could you shed some
10 light to the Subcommittee about the potential risk
11 there is of fire from wind turbines?

12 A. Well, I can tell you that we have, I think, some
13 1,000 wind turbines in operation in the U.S. And,
14 you know, safety of our equipment and personnel is,
15 you know, the most important element of running a
16 wind farm for us. From my knowledge, there is
17 minimal risk of fire because of the number of back-up
18 systems, redundant safety systems. I think for more
19 detailed information, I think our witness, Mr.
20 Devlin, tomorrow can give you more information, since
21 he's the head of operations for us for all of our
22 wind farms.

23 Q. Regarding the comments by -- about the oil and how
24 much oil is contained within these turbines, do you

1 have information on either the quantity or what type
2 of oil it is? It's my understanding that it might
3 potentially be a mineral-type oil.

4 A. I know that at least one of those answers is in the
5 original application, as far as the quantity. I
6 think we can look that up while here. It is a
7 transformer oil that is --

8 WITNESS CHERIAN: Thank you.

9 A. Quoting from Volume 1 of the application, Section
10 E.6.b, "The only potentially hazardous materials on
11 the site include approximately 155 gallons of
12 hydraulic and lubricating oils stored in the south...
13 approximately 116 gallons stored in the grounding
14 transformer..."

15 Q. And that is per turbine then?

16 A. Yes.

17 Q. And what safety measures have you done to incorporate
18 it into the project to ensure that that oil is
19 contained in case any sort of spill occurs?

20 A. The project is required to have a federal permit,
21 under EPA. It's the Spill Prevention, Control and
22 Countermeasure, or SPCC plan. That's required to be
23 submitted to the EPA, as we have one for the Lempster
24 project. SPCC plan will describe what are the risks,

1 what are the hazardous materials, what are the
2 management approaches, what are the vectors for
3 contamination if there was a spill, and what are the
4 secondary containment measures, and what are the
5 emergency-response arrangements that are in place.
6 So the SPCC plan, as described in the application
7 will be submitted to the EPA as part of the facility.

8 Q. In your experience with past projects that you've
9 developed, have there been conditions that you've put
10 into an agreement with other municipalities about
11 additional support for fire suppression in case there
12 were to be a fire?

13 A. Not in my experience. There's never been a need.
14 One is that the systems are internationally
15 certified. They come with their own fire-suppression
16 systems and alarm systems and back-up systems. And
17 there's not that much of a threat or risk they bring.
18 So I'm not familiar with any requirement to have
19 additional equipment provided.

20 Q. To your knowledge, do those international standards
21 meet the building codes for -- that are being
22 enforced in the state of New Hampshire for fire
23 suppression?

24 A. I don't know the answer to that, off the top of my

1 head. I do know that we've had -- and I think Mr.
2 Devlin will speak more to this tomorrow. But we did
3 have some gentleman from the New Hampshire Fire
4 Marshal's Office at Lempster recently for a review of
5 the safety and fire systems there, as well as for the
6 safety certification and design certification
7 documents. And I think Mr. Devlin will speak to that
8 more tomorrow.

9 Q. Okay. Thank you.

10 CHAIRMAN GETZ: Thank you. Mr. Dupee,
11 did you have questions?

12 MR. DUPEE: Just one question.

13 INTERROGATORIES BY MR. DUPEE:

14 Q. Can you tell me why you chose to go -- downgrade a
15 34-1/2 kV line to 112, 115?

16 A. It was not by choice. We wanted to go by 34.5
17 because we know that the cables can do it. We've had
18 other projects that size. And it would be less
19 expensive. 34.5 had been reviewed initially by
20 Public Service of New Hampshire and found to be
21 feasible. In fact, there were some five or six
22 alternatives that were described by them of different
23 ways to interconnect 34.5 to either Ashland or Beebe
24 substations.

1 Subsequent to that, we were informed that PSNH
2 had done some additional internal studies, and they
3 had concerns that interconnecting 48 megawatts at
4 34.5 as a direct interconnection -- they had concerns
5 about that, putting that much power that's variable
6 into a distribution substation.

7 So we spent some number of months trying to
8 identify and discuss and address those concerns, and
9 ultimately made the decision to just refile per their
10 recommendation to connect at 113.

11 Q. Thank you.

12 CHAIRMAN GETZ: Mr. Scott.

13 INTERROGATORIES BY MR. SCOTT:

14 Q. Hello, again.

15 A. Hello.

16 Q. Obviously, the Site Evaluation Committee has some
17 experience, as obviously you do, with the Lempster
18 Wind Farm; and as such, a lot of the Subcommittee has
19 sat through those hearings also.

20 On the Lempster Wind Farm, would you consider
21 that a success, as far as the company --

22 A. Yes. Absolutely.

23 Q. With that, are there any -- obviously, I assume, just
24 like anything else, you do something once, you have

1 lessons learned and then you move forward and
2 incorporate those.

3 Is there anything different that you expect to
4 see moving forward, assuming you move ahead with this
5 project, as far as construction or operation?

6 A. Different than Lempster?

7 Q. Yes.

8 A. Well, Lempster we were able to build in one year,
9 working through the winter. And I'm not sure we'll
10 be able to do that for this project, just given by
11 the size and some portion of the roads that are more
12 complex. We have an existing main stem road that's
13 at this project that's a logging road. So that
14 helps. But it being two ridges instead of one, it
15 makes for a longer construction timeline.

16 I think there's a number of lessons from
17 Lempster that's going to help when we build, if we
18 build Groton. And a lot of that is because Lempster
19 was the first wind farm built in the state, so there
20 was not a lot of contractor experience. I think some
21 of the time and technical expertise we invested in
22 our local contractors in Lempster are going to help
23 us on this project.

24 I think besides that, you know, we've gone

1 through this process before with DOT on hauling
2 permits, on working with local fire departments. So,
3 you know, I think we have established a reputation
4 and a working project that has been a success that
5 has helped us on this. For example: By bringing the
6 fire marshal and the Rumney Fire Department up there,
7 that's been a benefit. We think it's a learning
8 model that's helped us during Groton.

9 Q. If memory serves me, the Committee spent a lot of
10 time on noise issues during the hearings for
11 Lempster. Has that been an issue? Has noise been an
12 issue at Lempster?

13 A. No, it hasn't.

14 Q. And similarly, I'm looking at the Groton -- the
15 proposed Groton agreement. I understand it's not
16 done yet. And there's some conditions regarding
17 noise at residences and that type of thing. I can
18 give you a cite if you want.

19 A. No, I have it here.

20 Q. But my short question would be, if -- what happens if
21 the noise criteria there are exceeded? I don't
22 really see that in your proposed agreement. What are
23 the ramifications?

24 A. I believe the agreement requires us to respond to

1 complaints, report them to the board of selectmen. I
2 assume they will ask that this agreement become part
3 of our permit, which would mean it would be a state
4 requirement; so the Committee could get involved at
5 any time in a complaint about noise or any other
6 issue.

7 Q. And again, I'm looking at Page 9 at the bottom,
8 Section 11. Thank you.

9 CHAIRMAN GETZ: Thank you. Other
10 questions? Mr. Steltzer.

11 MR. STELTZER: Yeah, one other
12 question along those lines.

13 INTERROGATORIES BY MR. STELTZER:

14 Q. Am I correct in understanding that the proximity of
15 residents on the Groton project has more homes that
16 are closer compared to the Lempster project?

17 A. No, it's not correct. The closest home in the
18 Lempster project I think is about 1300 feet, and the
19 closest in Groton is I think more than twice that. I
20 think it's 2700 feet.

21 Q. And some of my question was around the sheer quantity
22 of residents around the project and whether there
23 were more homes in the Groton project that were in
24 closer proximity than the Lempster project, not just

1 an individual home.

2 A. I guess if you looked at, you know, a 5-mile radius,
3 there's more people that live within 5 miles of a
4 turbine in Groton than within 5 miles of a turbine in
5 Lempster.

6 Q. Thank you.

7 CHAIRMAN GETZ: Mr. Scott.

8 INTERROGATORIES BY MR. SCOTT:

9 Q. Sorry. I promise this is my last one.

10 Also during the Lempster hearings, we talked
11 quite a bit about the possibility of ice throws and
12 that type of thing. Again, I'm looking at the
13 proposed Groton agreement. You do have a requirement
14 for fencing, I believe, and gating. Are there any --
15 in your experience with the Lempster wind farm, have
16 there been issues with ice throws? If so, the
17 distances of ice throws --

18 A. There have not been issues with ice throws that I've
19 heard of. In any ice storm, there's ice sloughs off
20 of the blades. The Town of Lempster asked us to
21 install signs, because there are people that go
22 around the gates and take sleds up, whatever. But
23 I've not heard of any issues or any problems.

24 Q. Thank you.

1 CHAIRMAN GETZ: Dr. Boisvert.

2 INTERROGATORIES BY MR. BOISVERT:

3 Q. Real quickly. When I asked you about the damage to
4 private property, you answered in regard to blasting.
5 I just realized you didn't address the question
6 regarding vibration from trucks and similar kinds of
7 potential damage to private property.

8 A. I guess I haven't heard of situations like that.
9 But, you know, I'll add to that to clarify.

10 If there was damage to a person's house as a
11 direct result of vibrations from trucks working on
12 our project, then we would mitigate or compensate for
13 that. Groton Hollow Road is used on a daily basis by
14 heavy trucks, logging trucks. And there used to be
15 gravel trucks came through there as well. So I think
16 we'll be adding, certainly, to that volume for a
17 short period of time.

18 CHAIRMAN GETZ: Other questions? Mr.
19 Iacopino.

20 MR. IACOPINO: Thank you.

21 INTERROGATORIES BY MR. IACOPINO:

22 Q. Mr. Cherian, I just want to follow up on one of the
23 questions you were asked before from the other side
24 of the room.

1 Have you had to modify -- in Lempster, have you
2 had to make any of the modifications with air
3 conditioning or whole-house fans that are part of the
4 conditions of that certificate?

5 A. No, we haven't.

6 Q. Okay. And in Lempster, does the Lempster facility
7 comply with the National Fire Code, NFPA 850, which,
8 as I understand it, governs generation of
9 electricity?

10 A. I don't know that fire code myself. I think that's a
11 question for Mr. Devlin tomorrow.

12 Q. Okay. The other question I have is about the
13 proposed alternate route that is now contained in
14 your supplemental prefiled testimony at Page 4.

15 From hearing the conversation here today, I'm
16 sort of getting the impression that that's becoming
17 the preferred route. Which route is the preferred
18 route from the Applicant? To go down Groton Hollow
19 Road or to use this alternate route that is off of
20 Groton Hollow Road?

21 A. We would prefer to go down Groton Hollow Road because
22 it would be cheaper and easier. It's existing poles.
23 They might have to be replaced, but it's an existing
24 right-of-way. The alternative is at the strong

1 suggestion of numerous people in Rumney and New
2 Hampshire Co-Op.

3 Q. Do you believe the alternate route is consistent with
4 Section 2.10 of the agreement with the Town of
5 Rumney? I'll give you a copy right here.

6 A. Yes.

7 Q. The way that I read that, it sort of requires you to
8 come off of Groton Hollow Road.

9 A. It does appear like that. And Mr. Waugh's not here
10 anymore. The purpose of that section is the Town
11 wanted to express -- wanted to have in the agreement
12 that they opposed our proposed use of Quincy Road.
13 It certainly was not to encourage us to come down
14 Groton Hollow Road. Because we held a meeting with
15 the board of selectmen and the residents of Groton
16 Hollow Road, and that issue, among others, was
17 discussed.

18 Q. Why didn't this just say that the power lines will
19 not go down Quincy Road then?

20 A. They had asked us for a statement that says power
21 lines will not go on Quincy Road. But until the
22 Co-Op is done the work, the line planning, there
23 could be reasons for -- technical reasons that
24 becomes infeasible. So we didn't want to be in a

1 position where we had a certificate, potentially, and
2 no way to get the power to the substation because of
3 one route or the other being considered infeasible.
4 The Co-Op originally came up with at least seven or
5 eight different proposed routes that they developed,
6 Quincy Road being one of them, Route 25 being another
7 one. So we kind of went from one of their six or
8 seven alternatives to another -- or includes another.

9 Q. Switch gears a little bit with you here. What
10 exactly were the studies that Public Service did that
11 caused them to come back to you and say that you --
12 that they did not want you to interconnect with
13 34.5 kV?

14 A. They are internal studies that we have not -- that
15 have not been made available to us. All we were told
16 is that there was concern about that amount of power
17 at that voltage and that it was -- it exceeded the
18 most -- the highest amount that they had
19 interconnected, 34.5.

20 Q. And when is the first time that Public Service
21 expressed any reservations about connecting at
22 34.5 kV?

23 A. They first -- well, they expressed a preference for
24 115 sometime over the summer, all right. So it had

1 been studied. And they produced their report, which
2 I think is in the application, in September, which
3 identified four or five ways in which we could
4 connect at 34.5. And I don't know the exact date
5 when that came out, all right. We did spend a number
6 of months trying to work with PSNH. And at some
7 point we informally got involved with the Public
8 Utility Commission to try and understand what were
9 the technical concerns, because we had planned and
10 submitted to interconnect at 34.5 and were led to
11 believe it was technically feasible. So it was a
12 concern of ours as well. But those studies we were
13 told were internal studies, and we do not have copies
14 of them.

15 Q. Are you aware of any other reason, other than these
16 internal studies that you've not had access to, that
17 Public Service has expressed any reluctance to
18 connect at 35 -- 34.5?

19 A. No.

20 Q. Who did you -- you say you met with folks from the
21 Public Utilities Commission. Was that just in an
22 informal manner, or was that in the context of some
23 formal docket?

24 A. It was informal. And our goal was to obtain a copy

1 of the study or studies. Normally, if technical
2 concerns are raised, parties will evaluate those
3 concerns and see whether they can be addressed
4 through additional equipment or upgrades, or whether
5 they are insurmountable. So we didn't feel we had
6 the ability to evaluate those concerns because it was
7 just stated as, no, you cannot do this, when
8 previously it was judged to be feasible.

9 Q. Let me ask you this: The step-up transformer that
10 you would have to construct to interconnect at
11 115 kV, can you please tell the Committee the size
12 and the dimensions of that type of structure?

13 A. I don't have it, off the top of my head. That might
14 be one I can follow up, as far as what it might look
15 like. It depends on whether it includes a three-ring
16 bus or just the voltage step-up. There's two
17 different pieces of the interconnection.

18 Q. Do you know what the size of each of those might be?

19 A. I don't. I would guess if the two of them were
20 together, as far as the footprint, it would be, you
21 know, an acre or so footprint. Then you add in,
22 typically, fencing and gravel or grass around it.

23 Q. And when you say "an acre," is there an actual
24 building inside this footprint, or are these just big

1 pieces of equipment?

2 A. Oh, it's pieces of equipment. There's no building.

3 CHAIRMAN GETZ: Mr. Iacopino, do you
4 suggest an exhibit for --

5 MR. IACOPINO: Yeah, I would. If the
6 Committee would like to obtain the size and
7 dimensions of the proposed step-up transformer
8 facility, I think that would be a good request for
9 the Committee to make.

10 CHAIRMAN GETZ: Then let's hold
11 Exhibit 35. And also include with that some
12 specifications with respect to the H-frame poles and
13 other information about the 115 kV line.

14 (Applicant's Exhibit 35 reserved.)

15 So, other questions, Mr. Iacopino?

16 MR. IACOPINO: I have one other line
17 of questioning, Mr. Chairman.

18 BY MR. IACOPINO:

19 Q. I want to go back now to the alternate route, the
20 alternate to Groton Hollow Road to get down to
21 Route 25.

22 How many landowners would be involved in
23 obtaining easements to run that particular route?

24 A. Two.

1 Q. Do you know who they are?

2 A. Yes.

3 Q. Are they people who are already involved in the
4 project?

5 A. No.

6 Q. How many total landowners are you involved with for
7 the entire project site?

8 A. Including those potential easements?

9 Q. No, just -- actually, let me limit it to the already
10 defined site, not the alternate route.

11 A. Three.

12 Q. Okay. Who are they?

13 A. The three landowners are: Green Acre Woodlands, then
14 Yankee Forest and the Smith Family.

15 Q. And who are the two landowners, if you choose to go
16 the alternate route and not go down Groton Hollow
17 Road?

18 A. Well, since the easements are not completed, I'd
19 rather, you know, keep that information confidential.

20 Q. Okay. But you provided us with a diagram that shows
21 where it's going to go. I mean, the ownership of
22 land is public record.

23 A. One is a family called Sheehan, and the other family
24 name is Langford.

1 Q. And have you already commenced speaking with them
2 about the possibility of obtaining easements?

3 A. Yes.

4 Q. If you have to interconnect at 115 kV, if that turns
5 out to be what your studies wind up showing and what
6 Public Service requires, other than obtaining
7 easements if you need to go the alternate route, and
8 identifying the exact geographic location of your
9 step-up transformer, is there any other major
10 construction work or permitting work that needs to be
11 done?

12 A. No.

13 Q. Have you entered into negotiations with any owners of
14 property for the possible location of your step-up
15 transformer?

16 A. Yes.

17 Q. And has -- I just want to back up a minute.

18 Has Public Service totally ruled out
19 interconnecting at the Beebe station at 115?

20 A. At 115?

21 Q. Yes.

22 A. No.

23 Q. Okay. So it's still possible that you might just use
24 their site.

1 A. That's right.

2 Q. Are you getting resistance on that idea from Public
3 Service?

4 A. Initially, they did not think there was enough room.
5 In the last conference call that was held, they
6 seemed more open to the idea. Part of the current
7 feasibility study is to evaluate the Beebe
8 Substation.

9 Q. At the beginning of this proceeding, the Chairman
10 laid out some possible things that this Committee
11 could do, given the fact that your interconnection
12 and the actual group of your, whether it be
13 distribution or transmission line, seems to be in
14 some question, given the re-filing of a request for a
15 feasibility study. Does the Applicant have a
16 particular preference as to which of those options it
17 would like to see the Committee undertake?

18 A. Well, I think and hope we will demonstrate through
19 the course of this week that we provided as much
20 information as we're able to at this time. The
21 interconnection process is always iterative. It
22 rarely is a hundred-percent nailed down, and often
23 there's major portions of it that are still being
24 negotiated. The Lempster interconnection agreement

1 was six or eight months after the Committee approved
2 the project, and there was a lot of details that were
3 discussed, including details on substation upgrades,
4 after the certificate was completed. And that's just
5 a reflection that ISO New England moves at their own
6 pace. And there was a lot of other studies.

7 We would have preferred to not have to re-file
8 the feasibility study, because we not only wasted the
9 money we paid for the earlier one, but it set us back
10 quite a bit on the schedule. And we had gone forward
11 and submitted our application on 34.5 because reports
12 that we saw said that was feasible. So, you know,
13 it's been difficult for us as well. However, a 115
14 interconnect has been studied already. It's
15 considered to be feasible. Doesn't mean that the
16 full facility study and the SIS is done yet. But
17 that was encouraged by Northeast Utilities/PSNH, so
18 that makes us optimistic that that could be done. I
19 don't feel that there's inadequate information
20 because -- except for adjustment in the route of 20
21 poles or so. The route is essentially the same to
22 get to the Beebe area, and it is still going to be an
23 attachment onto current utility poles.

24 Our purpose in adjusting the route to get to

1 Route 25 was, again, not our preference, but it's to
2 be responsive to a lot of comments received from
3 folks in Rumney, from expectations and demands from
4 the Rumney Board of Selectmen and from -- and from
5 guidance from the Co-Op, who are the ones that
6 initiated easement discussion with other landowners.

7 Q. But let me ask you this question, though, from the
8 Committee's standpoint: How is it that you would
9 recommend that the Committee study the impacts,
10 whether they be environmental, historic sites, or any
11 other of the statutory impacts that the Committee is
12 required to study, when we don't really know whether
13 you will be using this alternate route that -- even
14 though it only requires 20 poles, it goes through
15 untouched, all greenfield. It's all new
16 construction; correct? How would you suggest that
17 the Committee exercise its duty to study the
18 environmental and other impacts of that route, as
19 well as the environmental and other impacts,
20 including historic sites and whatnot, for the new
21 step-up transformer station that you may be required
22 to build? How can the Committee do that without
23 knowing where these things are going to be? And what
24 would be your recommendation to the Committee on how

1 to deal with that, understanding their statutory
2 obligation?

3 A. Well, I think in terms of the new poles along
4 easements, we have the responsibility to provide that
5 information to the Committee on what wetlands or
6 wildlife impacts there may be, if any, and what, if
7 any, cultural or historic resources may exist there.

8 In terms of the substation, the voltage step-up
9 facility, we're not going to be the owner of that.
10 So it's a little bit -- I don't know the ins and outs
11 of the regulation on it. We will be paying for its
12 construction, but we probably will not be overseeing
13 its construction, and we will probably not own it.
14 We will be -- we'll have to pay for the construction
15 of it for Northeast Utilities. And I would assume
16 that local permitting would be used for wetlands or
17 zoning or what have you. But it's not our facility
18 to own.

19 Q. So I take it by your answer, you feel that your --
20 that this application is still ready for complete
21 review by the Site Evaluation Committee?

22 A. Yes, sir.

23 Q. I don't have any further questions.

24 CHAIRMAN GETZ: Other questions?

1 (No verbal response)

2 CHAIRMAN GETZ: I have a couple of
3 follow-ups, Mr. Cherian.

4 INTERROGATORIES BY CHAIRMAN GETZ:

5 Q. First, Mr. Roth asked you some questions about the
6 agreement with the Town of Rumney, and specifically
7 Section 7.5. Do you have that?

8 A. Yes.

9 Q. And the section says, "Construction and repair work
10 on Groton Hollow Road shall not result in the
11 widening of the existing traveled way of said road."
12 But then there's a proviso about "may authorize such
13 temporary measures." And perhaps he was pursuing
14 what may be an ambiguity in the language, whether it
15 means it shall not result in the temporary widening
16 of the -- or it may be permissible to have a
17 temporary widening, but may not result in a permanent
18 widening.

19 But two things: One, as I understood you to
20 say, you didn't expect even there to be a temporary
21 widening?

22 A. That's right.

23 Q. And there was a question about potential fill, I
24 believe. Is that the gravel fill? Is that your

1 recollection from the questions?

2 A. I think that was an example. I think he asked what
3 would be a temporary -- what would be a temporary
4 change.

5 Q. Okay. Did you have any particular location in
6 mind --

7 A. No.

8 Q. -- where there might be --

9 A. We don't anticipate any work on the road at all.

10 The question, as I remember it, was what would
11 be -- what is a temporary -- what is a temporary
12 measure? What would that mean? And I said an
13 example we could give that we had at Lempster was a
14 gravel fill on the inside of a turn on a public road
15 that was there temporarily during construction and
16 then taken out.

17 Q. And that would be more than might support the
18 integrity of the road itself, but it would actually
19 be raising the road potentially, as a hypothetical?

20 A. No. The example I gave was on a corner that's off
21 the travel route. Because of the length of trucks
22 that cut across that corner, is to fill a corner with
23 gravel, but not to change the roadbed itself.

24 One of the requirements in here is to have a

1 third-party engineering firm evaluate the condition
2 of the road as it is. They could find that there
3 were some culverts ready to fail, and so we would end
4 up having to address those, you know, if they're
5 further impacted. That's part of the agreement with
6 the Town of Rumney, is to evaluate the road in its
7 current condition and then after construction is
8 done.

9 Q. Okay. And then the other thing was responding to Mr.
10 Iacopino about the 34.5 kV to 115 kV issue with PSNH.
11 You indicated that you had met with the Public
12 Utilities Commission. And let's clarify that. You
13 didn't meet with the any of the three commissioners;
14 is that correct?

15 A. Yes, I'll clarify that. Correct. We met with Public
16 Utility Commission Staff --

17 Q. In the Electric Division?

18 A. -- and the Public Utility Commission Attorney in the
19 Electric Division, yes, just to ask them to serve as
20 facilitators because we -- for communication between
21 Groton Wind and Public Service New Hampshire on this
22 issue of interconnection at 34.5. We did not file a
23 complaint. It was to get kind of third-party
24 assistance.

1 Okay. All right. Any further questions from
2 the Subcommittee?

3 (No verbal response)

4 CHAIRMAN GETZ: Hearing nothing, then
5 any redirect? Ms. Geiger.

6 MS. GEIGER: Yes. Mr. chairman, could
7 I just have a moment with the witness to confer?
8 Thank you.

9 (Discussion between Attorney Geiger
10 and the witness.)

11 MS. GEIGER: Mr. Chairman, I think I
12 have just a couple questions for Mr. Cherian, and
13 they're prompted largely by questions from the Bench,
14 from Dr. Boisvert. And I believe, if I'm remembering
15 correctly, he had some questions about activities and
16 was concerned about impacting private property.

17 REDIRECT EXAMINATION

18 BY MS. GEIGER:

19 Q. And so what I'd like you to do, Mr. Cherian, is, I
20 believe in response to one of those questions you
21 indicated that there was some logging activity that
22 was occurring in and around the project site; is that
23 correct?

24 A. The area's been commercially logged for a number of

1 generations, and it's pretty extensively logged now.

2 If I can use the aerial map, this is the area
3 that's under lease. Green Acre Woodlands is a
4 commercial forester, and they've been logging this
5 area for a number of years. Yankee Forest is also a
6 commercial forester. Smith Family is privately
7 owned, but they also log.

8 It also may be worth noting, some of these
9 fairly substantial cuts --

10 CHAIRMAN GETZ: Well, let's step back
11 for a second. Let's get on the record what exhibit
12 this is, and then I think you're going to need to
13 give some better narrative description of where
14 you're pointing to on the map, because otherwise it
15 will be impossible to reconstruct from the transcript
16 what you were speaking about.

17 A. Okay. This is Exhibit 8?

18 Q. Correct.

19 A. Looking at the project site, in the middle area of
20 the map, the area that is leased by the project --
21 it's contained on a number of other graphics in the
22 application. The aerial shows a number of sections
23 that have been logged over the years, and there's
24 currently logging activity on an active basis that

1 goes on throughout the project site. The primary
2 road listed as Groton Hollow Road is a private road
3 in the town of Groton, runs up the middle of the
4 project site. It is a private logging road that
5 Green Acre Woodlands uses to pull logs and chips out
6 of the site. They run semi trucks up and down here
7 on a regular basis.

8 The second thing I pointed out was looking to
9 the southwest portion of the aerial photo. It is a
10 couple of -- a huge area of clear-cut that was
11 recently logged. There's also another area in the
12 northwest section that's been clear-cut in the last
13 year or so, just to give you an idea of land use.

14 I think one or two other things I'll point out
15 in the northern end of the map, near the area where
16 Groton Hollow Road meets Route 25, there are a number
17 of large, active rock and gravel quarries, as well as
18 a pretty substantially sized RV park. To the
19 southeast, primarily east, is the Tenney Mountain Ski
20 Area.

21 I think the idea was to provide a little more
22 data on some of the land uses in the area.

23 MS. GEIGER: Thank you. I don't have
24 anything further.

1 CHAIRMAN GETZ: Okay. Any questions
2 from the Subcommittee?

3 (No verbal response)

4 CHAIRMAN GETZ: All right. Hearing
5 nothing, then you're excused, Mr. Cherian. Thank
6 you.

7 WITNESS CHERIAN: Thank you.

8 (WHEREUPON, the witness was excused.)

9 CHAIRMAN GETZ: I guess what I'd like
10 to do now is move on to -- Mr. Hecklau?

11 MS. GEIGER: Correct.

12 CHAIRMAN GETZ: From the witness list,
13 it indicated that there did not appear to be a large
14 amount of cross-examination for Mr. Hecklau. So my
15 intention would be to go through his direct and his
16 cross-examination and then take a recess and then go
17 on to Dr. Luhman.

18 MS. GEIGER: The Applicant would call
19 John Hecklau to the stand.

20 (WHEREUPON, John Hecklau was duly
21 sworn and cautioned by the Court Reporter.)

22 DIRECT EXAMINATION

23 BY MS. GEIGER:

24 Q. Mr. Hecklau, could you please state your name for the

1 record and spell your last name.

2 A. My name is John Hecklau. Last name, H-E-C-K-L-A-U.

3 Q. Mr. Hecklau, by whom are you employed and in what
4 capacity?

5 A. I'm employed by Environmental Design and Research.
6 My official title is currently executive
7 vice-president of EDR Environmental Services, LLC,
8 which is part of a group of companies referred to as
9 EDR. In that capacity, I oversee our environmental
10 services division. And we look primarily at
11 environmental impact permitting, natural resource
12 management-type issues. We've worked on various
13 transmission and power generation projects, oh, for
14 the past 20-plus years, including 15 commercial wind
15 power projects in New York State, six of which are up
16 and operating now, and several projects out of New
17 York State, including the Cape Wind Project in
18 Massachusetts, the Mountaineer Project in West
19 Virginia, and the Meyersdale project in Pennsylvania.

20 Q. And Mr. Hecklau, have you ever testified before the
21 New Hampshire Site Evaluation Committee before?

22 A. I have not, although I have provided testimony on
23 visual impacts to the New York State Public Service
24 Commission and to the Rhode Island Energy Facility

1 Siting Board.

2 Q. And are you the same John Hecklau who submitted
3 prefiled testimony that was included with the
4 application that was filed in this docket?

5 A. I am.

6 Q. And do you have any corrections or updates to your
7 prefiled testimony?

8 A. Just a couple minor ones.

9 On the second page, this reflects a
10 reorganization of our companies. Where it indicates
11 that I'm the environmental division manager with
12 Environmental Design & Research, P.C. on Line 8 on
13 Page 2, that should now indicate my new title, which
14 is executive vice-president of EDR Environmental
15 Services, LLC, which, along with Environmental Design
16 & Research Landscape Architecture and Engineering,
17 P.C. make up the EDR companies. EDR is how they
18 refer to it.

19 And then, similarly on page -- or excuse me --
20 Line 21 on that same page, where I indicate I'm the
21 environmental division manager, I would replace that
22 by saying executive vice-president of EDR
23 Environmental Services, LLC.

24 Q. And Mr. Hecklau, with those corrections, if I were to

1 ask you the same questions today under oath as those
2 that are contained in your prefiled direct testimony,
3 would your answers be the same?

4 A. They would.

5 Q. Thank you.

6 MS. GEIGER: The witness is available
7 for cross-examination.

8 CHAIRMAN GETZ: Thank you.

9 Mr. Sinclair, do you have any
10 questions for the witness?

11 MR. SINCLAIR: None.

12 CHAIRMAN GETZ: Mr. Wetterer?

13 MR. WETTERER: Yes.

14 CROSS-EXAMINATION

15 BY MR. WETTERER:

16 Q. You're responsible for the photographic simulations
17 that we've seen showing how the turbines will look --

18 A. Yes, sir.

19 Q. -- and the terrain. And we can assume that those are
20 accurate?

21 A. Yes, sir.

22 Q. They appear to be quite large from a number of
23 locations. When the -- if the turbines are actually
24 built, we will not see them larger than in your

1 simulations?

2 A. The simulations are, in our experience, are very
3 accurate when compared to a simulated view compared
4 to an actual built project. Having said that, your
5 eye always perceives things differently than a
6 photograph. So they're as accurate as we can make a
7 photographic simulation.

8 Q. And also, of course, something that's moving catches
9 your eye more than something that is static also.

10 A. Correct. Though, as I indicated in the visual impact
11 assessment, movement with wind turbines is generally
12 perceived as a positive by most people who view them.

13 Q. I have some charts that I have taken from the
14 application. I'm not sure what page they came from.
15 But they have site lines drawn down to show areas
16 where things will be visible from.

17 A. Sure.

18 Q. And I'm looking at them, and they don't appear to
19 show the turbines at the correct height. There's a
20 scale on the side here that shows lines at 100-foot
21 intervals.

22 A. Right.

23 Q. And the turbines appear to be 250 feet high.

24 CHAIRMAN GETZ: Well, yeah, let's see

1 if we can identify --

2 BY MR. WETTERER:

3 Q. These lines are 100 feet apart and --

4 CHAIRMAN GETZ: Mr. Wetterer, if we
5 could hold for a second? I just want to make sure we
6 get this all on the record.

7 Do you recognize these documents? And
8 cite us to the records so we can look at them as
9 well.

10 WITNESS HECKLAU: Yes, sir. They're
11 cross-sections that I believe were figures within the
12 impact assessment, which was Appendix 24 to the
13 application, I believe.

14 BY MR. WETTERER:

15 Q. This is another view that shows the turbines,
16 including the blade, showing at about 300 feet high.
17 In actuality, they show --

18 (Court Reporter interjects.)

19 Q. They show the turbines as being approximately
20 300 feet high, whereas in reality they're close to
21 400 feet high. So that would change the site views
22 to include a larger area that the turbines are viewed
23 from, can be seen from.

24 CHAIRMAN GETZ: Well, we need to take

1 a second so we can identify exactly where you're
2 getting these documents from, and then we can take a
3 look at them ourselves.

4 MR. WETTERER: Okay.

5 WITNESS HECKLAU: Yeah, these are --
6 the figures that the gentleman is referring to are
7 the cross-sections which were Figure 9 in the visual
8 impact assessment that was included as Appendix 24.

9 MR. IACOPINO: And just for the
10 record, this would be in Applicant's Exhibit 3, which
11 is the third volume of the application.

12 WITNESS HECKLAU: Yeah, I have to
13 concede. Those do look like they're presented at
14 300 feet rather than 400 feet.

15 CHAIRMAN GETZ: Well, let's hold on
16 for a second because we have yet to find these
17 documents. So we're looking at Figure 9, sheet -- is
18 there a sheet number? Is that right?

19 MR. IACOPINO: Mr. Hecklau, do you
20 know what sheet number --

21 WITNESS HECKLAU: The ones that were
22 presented to me don't have a sheet number on them,
23 but I can figure that out. One would have been Sheet
24 2 of 5.

1 MR. ROTH: They're approximately Page
2 60 through 63 of this report.

3 CHAIRMAN GETZ: And so if we're
4 looking at Sheet 2 of 5, that's correct, Mr. Hecklau?

5 WITNESS HECKLAU: Yeah.

6 CHAIRMAN GETZ: And --

7 WITNESS HECKLAU: And the other one
8 looks like -- wait, that's 2 of 5. And the other one
9 looks like... it's 5 of 5.

10 CHAIRMAN GETZ: And if I understand
11 correctly, say on Sheet 2 of 5, would it be on the --
12 to the left of the middle there's a -- it looks to be
13 two turbines at the -- near a peak?

14 WITNESS HECKLAU: Correct.

15 CHAIRMAN GETZ: And it looks like view
16 lines going down and to the right; is that correct?

17 WITNESS HECKLAU: That's correct.

18 CHAIRMAN GETZ: And then, is the point
19 that Mr. Wetterer is making is that the heights from
20 the viewpoint are actually greater than they appear
21 to be on the map -- or on your profile?

22 WITNESS HECKLAU: Yeah, I think the
23 point -- just to kind of put the figure in
24 perspective, there is a vertical exaggeration on the

1 figure to try to emphasize the -- or to make it
2 clear, you know, where visibility might exist.
3 That's why the topography appears exaggerated on the
4 vertical scale.

5 But the point that the gentleman was
6 making is that if you look at the vertical scale on
7 the left, it's ticked off in hundred-foot increments.
8 And if you go from the base of one of the turbines to
9 the tip, it appears to be that they were drawn at the
10 300-foot height as opposed to closer to a 400-foot
11 height, which was the proposed one. I believe he's
12 correct.

13 BY MR. WETTERER:

14 Q. So my question would be in terms of that, that your
15 photographic simulations, are they done to simulate
16 towers that are 300 feet or 400 feet high?

17 A. No, they're 400 feet high.

18 Q. Because it would make a big difference, in terms of
19 where they're visible from.

20 A. Yeah. The simulations are based on an actual model
21 of the project that's built, and built to the
22 dimensions that the project developer's given us. So
23 those would show turbines with a blade tip height of
24 399 feet.

1 This is a separate exercise, these
2 cross-sections, which are primarily meant to show
3 along a selected line of sight where openings in the
4 forest canopy or where topography would block out
5 views. So, despite the fact that the height of the
6 turbines isn't illustrated accurately, the places
7 where the visibility will occur as indicated in this
8 figure are still basically accurate. They are the
9 gaps in the vegetation that exist on the site lines.

10 Q. If you draw lines from the tip of the turbine blade
11 at 400 feet and connect to the topography, you would
12 actually be able to see the turbines at a closer --
13 like some of the diagrams show that the turbines
14 would only be visible from the -- it would be the --
15 facing kind of west, they'd be on the north side of
16 Route 25.

17 A. Hmm-hmm.

18 Q. But actually, you'd be able to see them from the
19 south side of Route 25 if they were drawn to the
20 correct scale --

21 A. Yeah. Again --

22 Q. -- and the lines drawn down?

23 A. -- if you're talking about the simulations, I can
24 tell you with assurance that those simulations --

1 those turbines in the simulations are 400 feet tall.

2 Q. Well, I'm talking about the cross-sections now. So
3 the cross-sections as they are drawn show that the
4 turbines would not be visible from as large an area
5 as they actually would be if they were drawn to the
6 correct scale.

7 A. That may be true in places. But if you look at the
8 figures themselves and look at the sight-line
9 projections, you see what's primarily limiting the
10 views are stands of forest vegetation. And it's
11 those gaps in the forest vegetation where the
12 visibility is indicated. Some of those may be larger
13 if it was a taller turbine illustrated in the
14 cross-section.

15 MR. WETTERER: Okay. I think that's
16 all the questions I have.

17 CHAIRMAN GETZ: Thank you. Ms. Lewis?

18 MS. LEWIS: I just have a few, please.

19 CROSS-EXAMINATION

20 BY MS. LEWIS:

21 Q. I wondered if you had done any studies on the actual
22 number of homes, because the studies were all done in
23 percentages, and there is an awful lot of farmland or
24 national forest land that's uninhabited. I wondered

1 if you had any solid numbers on residences and how
2 many will be able to view the turbines?

3 A. We don't have that kind of information. But we did
4 provide -- we did provide a figure in response to one
5 of the early discovery requests that overlaid U.S.
6 Census Bureau population blocks on top of the
7 topographic viewshed. And I believe that's a part of
8 the record. And that shows, in general terms, how
9 the viewshed interacts with places where there's a
10 higher density of residents.

11 Q. I had a question on Page 101 of Appendix 24, if you
12 could turn to that. The Viewpoint No. 180, you have
13 written in your narrative that you believe it has a
14 lower viewer sensitivity at this location, which that
15 large picture is of, view No. 180. And I wondered,
16 because that view is coming into a rotary, wouldn't
17 this be a surprising contrast? And why would you
18 consider it to have a lower sensitivity at that
19 location?

20 A. I think the contrast is, you know -- the result of
21 the analysis is that the contrast is strong. That's
22 what the numerical scoring showed. But in terms of
23 viewer sensitivity, that's usually thinking in terms
24 of viewers who are in a location to enjoy the view or

1 to not have the view interrupted by a new facility.
2 So in a park or a residential setting, you generally
3 consider viewers to have higher sensitivity than in a
4 heavily used road corridor, where not only is the
5 expectation of scenery may be lower, but the focus is
6 on the road and driving rather than, you know, the
7 adjacent scenery.

8 Q. I guess, since you mention that, because your focus
9 is on the road, isn't that going to create somewhat
10 of a problem when you just go into that rotary, and
11 all of a sudden those turbines are right there? That
12 can be a difficult rotary, anyway. And I would just
13 think that may be a major safety issue.

14 A. I can't really address highway safety. But I do know
15 that this question came up when we were in the field
16 at one point, and it was pointed out that in this
17 direction, which is really the only direction on the
18 rotary where you can see the turbines, I believe that
19 the right-of-way is granted to the travelers in this
20 direction and that the individuals in the
21 right-of-way have to yield. So, not to say that that
22 eliminates the concern, but I think it lessens it.

23 Q. I just had a question on the various locations where
24 the pictures were taken.

1 How did you decide where on the property itself
2 to take the picture from?

3 A. Well, our standard practice is that we confine our
4 photography to publicly accessible vantage points.
5 We don't go onto private property. We look at a
6 study area, typically anywhere from 5 to 10 miles in
7 size around the turbines. So the logistics of
8 getting permission to access private property would
9 be a problem. And also from a visual standpoint,
10 it's public resources, typically, those with some
11 acknowledged significance that are the focus of the
12 analysis. So, typically our views would be from
13 roadside vantage points or other places that we could
14 get to without going onto private property.

15 Q. Okay. And my last question is on Page 104, No. 5.
16 You specifically talk about a rural community, as
17 well as vacationers, and their impact on the
18 nighttime skies. And you mention a few different
19 things that will have more of a significant adverse
20 effect. And in particular, you state a rural
21 community; No. 2, vacationers; and also those that
22 currently experience very dark nighttime skies. And
23 to be quite honest, we fit into all three of those.
24 And therefore, I wondered what type of mitigation has

1 been considered in such a rural community like ours,
2 and the fact that we do have very dark nighttime
3 skies that we enjoy.

4 A. Yeah. I think the primary mitigation that you can
5 propose with nighttime lighting is to minimize -- go
6 for the absolute minimum number of lit turbines that
7 the FAA requires. And that's something that is sort
8 of -- you know, that's something you can't ignore.
9 You have to light these structures in accordance with
10 the FAA guidelines. So, on this project, there's 11
11 turbines out of 24 that I believe are proposed to be
12 lit. So that's probably the primary thing you can
13 do. Beyond that, there are some lighting fixtures
14 that have a more directed narrow beam. I don't know
15 if that's proposed on this project or not, but I do
16 know that that's something that is proposed on some
17 projects.

18 MS. LEWIS: Okay. Thank you.

19 CHAIRMAN GETZ: Thank you. Mr. Roth.

20 MR. ROTH: Thank you.

21 CROSS-EXAMINATION

22 BY MR. ROTH:

23 Q. Following up on one of Mr. Wetterer's questions, when
24 he asked you about the difference between the

1 cross-section height that was provided for the
2 turbines, you said that it's still basically
3 accurate. And by my figuring, you're off by as much
4 as 25 percent. If you've got a 400-foot structure,
5 and you're only accounting for 300, isn't that, I
6 mean, mathematically where you're at? And how can
7 you say that when you're off by as much as 25 percent
8 you're still basically accurate? That just doesn't
9 sound right to me.

10 A. Well, I think the basis for my saying that -- and
11 first of all, I'm not trying to pretend this wasn't a
12 mistake. It was. But if you look at those figures
13 and you just visually look at what difference it
14 would make on those lines of sight if you went up
15 another hundred feet, what I'm saying is basically
16 you will be looking at more or less the same areas of
17 visibility. And I think it reflects the fact that
18 you're already up at a height, where if you've got a
19 break in the vegetation you have the opportunity to
20 see the turbines. I think the additional height, as
21 I said, has the potential to increase that. But I
22 think the basic areas where visibility is indicated
23 in these figures, you know, would be the same if it
24 was at a 400-foot height. And we can --

1 Q. Well, let me ask you about that a little further.

2 A. Sure.

3 Q. In your report, you indicated that -- and forgive me
4 if I'm being a little bit loose with how I define
5 these. But as I understand it, you said, based on
6 your analysis, without taking into account
7 vegetation, in 49 percent of the project area,
8 however you define that, the turbines would be
9 visible. Is that -- did I summarize that correctly?

10 A. Yeah, it was about -- that was the viewshed analysis.

11 Q. Right.

12 A. And that was about right, yeah. It's about the --

13 Q. And in many instances, I think, as I understood it,
14 that would be a blade tip -- simply a blade tip
15 visible somewhere; right?

16 A. It could be. The viewshed analysis is based on the
17 maximum height of the turbine, on the blades extended
18 at the 12:00 position. So --

19 Q. Correct. Okay. Now, if -- when you did your
20 viewshed analysis and, for example, all of these nice
21 charts and graphics, did you use the cross-section
22 analysis that --

23 A. No.

24 Q. -- which you now tell us was a mistake?

1 A. No. There's basically three different analyses that
2 are done, each done independently of the other. The
3 viewshed analysis is largely a GIS exercise. And the
4 data that's put into the software that does that
5 analysis is not reflected in any way on the
6 cross-section. The cross-section is a hand-drawn
7 representation --

8 Q. I understand. I'm actually thinking about this the
9 other way. Was the cross-section information fed
10 into your GIS --

11 A. No.

12 Q. -- to produce your GIS results?

13 A. No, sir.

14 Q. Okay. That's all. That's all I need on that.

15 Going back to the question that Ms. Lewis asked
16 about the rotary. And maybe this is just -- are you
17 from New Hampshire?

18 A. No, I'm not.

19 Q. Okay. I think people in New Hampshire understand
20 that when you approach a rotary, the vehicles in the
21 rotary have the right-of-way, not the vehicles
22 approaching the rotary. And is there something
23 different about this rotary that you're aware of?

24 A. I'd have to turn to Ed, who's more of a local person.

1 WITNESS HECKLAU: But I know when we
2 were out there for our site visit with the Town of
3 Plymouth, I thought somebody pointed that out --

4 CHAIRMAN GETZ: Well, let's not start
5 having any cross-talk here.

6 A. That's my basis for having made that statement.

7 Q. So you don't know the answer, whether --

8 A. I don't know the answer definitively.

9 Q. Okay.

10 A. I mean, we could check -- I could check on that and
11 get, you know, a more definitive answer.

12 Q. Okay. And you mentioned technology described as a
13 directed narrow beam.

14 A. Yes, sir.

15 Q. Is this something that the FAA would approve for
16 installation on a structure like this, as far as you
17 know?

18 A. Yes.

19 Q. Okay. All right. Now, back to what I was planning
20 to ask you.

21 A. Okay.

22 Q. Now I'd like to turn your attention to Appendix -- or
23 Appellant's [sic] Exhibit 5, which is in appendix --
24 which includes in there Appendix 42, which is a map

1 of the interconnection route.

2 MR. IACOPINO: It's the supplemental
3 volume of the application. It should be bound in a
4 white binder, and it's Appendix 42 contained in that
5 volume. And that's been marked as Applicant's 5.

6 BY MR. ROTH:

7 Q. Is it fair to say that you haven't seen this document
8 before today?

9 A. I've seen a map like this that the Applicant sent to
10 me just within the last week.

11 Q. Just within the last week?

12 A. Yeah.

13 Q. Okay. And is it fair to say that you haven't
14 conducted any visual impact assessment about any part
15 of that route since you first saw it?

16 A. That's correct.

17 Q. Okay. Now, in your report you discounted the impact
18 of electrical system by saying that the poles are
19 essentially the same height as the trees or shorter;
20 correct? Do you remember that?

21 A. I think you mean -- are you referring to the on-site
22 electrical lines or the line that would run off site?

23 Q. Well, you tell me. It's your report.

24 A. Well, our report only looked at the on-site

1 facilities --

2 Q. Okay.

3 A. -- the turbines, the buried and above-ground lines on
4 site down to the switchyard on Groton Hollow Road.

5 Q. All right. Now, so we're talking about the on-site
6 electrical poles.

7 A. Okay.

8 Q. Correct? Is that what your report deals with? Did
9 I --

10 A. If you can cite a place where it says that, I'd like
11 to see it. I just can't recall that I actually
12 mentioned that.

13 Q. Actually, you know, while I kept reasonably good
14 notes about what I was referring to, I don't have a
15 cite for it.

16 Well, is it your understanding that the visual
17 impact of on-site poles would be diminished because
18 of the presence of trees?

19 A. Yes.

20 Q. Okay. So that's -- now, when you were doing that
21 analysis, did you -- and, you know, looking at it
22 from perhaps, you know, the visual points, where
23 you're over there in Rumney or on Route 25 and you're
24 looking up at the project, did you conduct any

1 modeling or any analysis for your report or otherwise
2 to determine whether cuts and fills and clearings
3 required for electrical lines or access roads or
4 crane pads or culverts or any of that kind of stuff
5 would have a visual impact on the surrounding
6 landscape?

7 A. Yes.

8 Q. You did?

9 A. Yeah. In fact, there are -- I think it says in the
10 Methodology section, that where things like roads and
11 clearing associated with them would be visible, it
12 was shown in the simulations. So there are a couple
13 simulations where, if you look, you can see there are
14 cleared areas around the base of the turbines, or
15 there's shadow lines where forest vegetation has been
16 cleared.

17 Q. Okay. Now, maybe I'm going down the wrong road here,
18 because I just -- I'll do the best I can. But if you
19 look at Table 2 of your report, which is Appendix 24,
20 and that's Applicant's Exhibit...

21 MR. IACOPINO: Three.

22 MR. ROTH: That would be the initial
23 volume with the appendices. So is that 3?

24 MR. IACOPINO: Appendix 24 is

1 contained in Applicant's Exhibit No. 3.

2 MR. ROTH: Okay. Thank you.

3 MR. HARRINGTON: Do you have a page
4 number on that?

5 WITNESS HECKLAU: I'd say 51 maybe.

6 MR. ROTH: Fifty-one.

7 BY MR. ROTH:

8 Q. Now, this is your viewshed results summary. And
9 isn't it true that none of these results of your
10 viewshed results summary refer to anything but
11 turbines that are visible?

12 A. Correct.

13 Q. Okay. So, where -- I mean, maybe this is an
14 open-ended question. Dangerous, of course. Where's
15 the results of the visual impact of clearings and
16 cuts that are visible from below?

17 A. The only place where that's shown would be in the
18 simulations, to the extent that those are visible.

19 Q. Okay. So in your generalized -- in your general
20 analysis of the visual impact, whether it's
21 significant or insignificant, you only considered
22 whether a view of a turbine was actually there.

23 A. That's right.

24 Q. Okay.

1 A. Because the turbines are by far the significant
2 visual component here. Anything -- any pole that
3 might project above the tree tops would be very minor
4 in comparison. So the focus was the turbines.

5 Q. But would you consider a large cut for a road an
6 interruption in an otherwise open forest? I mean,
7 you've seen these -- this map here, for example. I
8 know it's not totally fair. But let's see. This is
9 Appendix -- or Appellant's [sic] Exhibit 8. It's the
10 map right behind you there, if you want to look at
11 it. Now, that's an aerial.

12 A. Yeah.

13 Q. But you look at Mr. Bardsley's clear-cut there. You
14 know, that's pretty graphic. That's kind of a --
15 would you call that a significant visual impact?

16 A. Well, in an aerial view, yes. But --

17 Q. What if you were driving past it?

18 A. Well, I guess where I was going to go with that is
19 that, you know, I drove all around it. And from
20 anywhere that I could get to and document
21 photographically what the view towards the site look
22 at, you would have no idea that that clear-cut's
23 there. So the fact that it's there and it's visible
24 in the aerial doesn't necessarily mean it's visible

1 from ground level. And if you'd like to look at the
2 simulations --

3 Q. No, I actually wouldn't. I'm just trying to make a
4 point with cross-examining you. I'm not really
5 trying to figure out that part of it. But what I
6 want to know is whether in your assessment of the
7 visual impacts, where you essentially handle turbines
8 only -- I think we got the answer -- you didn't
9 include the visual impacts of road cuts, because I
10 think as you testified, or your testimony is, they
11 don't matter because they're not really a big deal.
12 Isn't that what you said?

13 A. No, that's not what I said. I said we showed that
14 kind of clearing in the simulations wherever it would
15 be visible. So what I was going to suggest is there
16 are a couple examples I could point to, if you'd like
17 to see that.

18 Q. No. I've asked the question and I've got my answer.

19 Okay. Now I want to bring your attention to
20 Public Counsel Exhibits 12 and 13, which -- I don't
21 mean to be rude. I just want to get through my
22 questions and get to the answers. Your time for
23 explanation was in your testimony. And I'm sure
24 others will give you opportunity to explain yourself.

1 Now, looking at these two, let's start with
2 Public Counsel Exhibit 12. Do you recall at the
3 technical session where we talked about Loon Lake,
4 and you agreed to go out and do -- I thought we had
5 original -- the original idea was for you to go out
6 on the lake if you could. And apparently you weren't
7 able to do that. But you did this view -- these
8 viewshed analyses, which are 12 and 13; correct?

9 A. Correct.

10 Q. And can you tell us what Loon Lake is and where it is
11 in proximate location to the project?

12 A. What it is? I'm not sure what you mean by "what it
13 is."

14 Q. Well, where is this in relation to the project? And
15 if you could find it on that map behind you, all the
16 better. But I don't think you will. I recall that
17 at the tech session we all had a terrible time trying
18 to find it. But...

19 A. Well, if you look at the viewshed map -- I'll just
20 turn to this one as an example. Within the visual
21 impact assessment Loon Lake is labeled, and it's to
22 the northeast of the project site, sort of between
23 Route 25 and Route 3. And I can give you a distance
24 if you'd like.

1 Q. Yeah. Approximately how far?

2 A. Okay. Let me just check this one table.

3 (Witness reviews document.)

4 A. Okay. In Appendix -- let me just get this correct.
5 Table A, which is Appendix A of the VIA, it indicates
6 that Loon Lake is approximately 2.3 miles from the
7 nearest proposed turbine.

8 Q. Okay. Now, as I understand these two viewshed
9 analyses -- and you prepared these; correct?

10 A. Correct.

11 Q. Okay. One is topography only, and that's Public
12 Counsel Exhibit 12; and the other is vegetation and
13 topography, and that's Exhibit 13. And it's my
14 understanding that topography only is what the
15 viewshed would be if you don't take into account
16 trees.

17 A. Trees, structures, anything above the surface of the
18 earth.

19 Q. Okay. And that the vegetation and topography
20 includes some accounting for those features; correct?

21 A. Yes. It basically is based on the same digital
22 elevation model as the topo viewshed, to which is
23 added forest cover as mapped by the USGS National
24 Land Cover data set.

1 Q. So it does include some accounting for trees?

2 A. Yes, sir.

3 Q. Okay. And if -- in your legend -- you have a legend.
4 The little legend describes what the colors schemes
5 are. And can you tell us what orange means?

6 A. Well, the legend indicates that that's the number of
7 turbines that are potentially visible, based on this
8 analysis.

9 Q. Okay.

10 A. And orange would indicate in the range of 19 to 24.

11 Q. Okay. And based on your study of this area, would
12 you say that this is more like 19 or more like 24?

13 A. Impossible for me to say.

14 Q. But a substantial number of the turbines in the
15 entire project will be visible from the surface of
16 Loon Lake; isn't that correct?

17 A. Within the area that's colored orange, yes.

18 Q. Okay. I notice that you did an initial testimony,
19 and then you didn't do any supplemental testimony; is
20 that correct?

21 A. Correct.

22 Q. Is there some reason that you felt it wasn't
23 important to do supplemental testimony to describe
24 this phenomena, to describe the fact that Loon Lake

1 will be significantly impacted by the view of
2 turbines?

3 A. Well, what's shown here is no different than what was
4 in the visual impact assessment that was the basis of
5 my original testimony. It's just a focused look at
6 that same area.

7 Q. And how did you -- how did you -- what did you
8 conclude about Loon Lake? That this would be a
9 significant impact or not?

10 A. It's identified as an area in the Results sections,
11 identified as an area where the project would be
12 visible.

13 Q. But that didn't answer my question. The question
14 was, would you identify this as a significant impact
15 on Loon Lake?

16 A. If you're asking if the project will be visible, yes.
17 The viewshed analysis, we try to keep it very
18 factual: Is it potentially visible or isn't it? If
19 it is, how many turbines will you see?

20 When you get into the realm of significance,
21 that's more in terms of the simulations and what the
22 simulations show. And we were not able to access
23 Loon Lake because there's no publicly available means
24 of access. So we could not do a simulation from

1 rating of greater than two?

2 MR. ROTH: No. His testimony, he said
3 that 6 of the 11 simulations received a contrast
4 rating of less than 2. I just want to know what the
5 other five simulations' contrast ratings were.

6 (Applicant's Exhibit 36 reserved.)

7 BY MR. ROTH:

8 Q. Now, you also said in this testimony that -- you said
9 an appreciable contrast was noted in near mid-ground
10 views -- i.e., under 2 miles -- where turbines span
11 the field of view and/or the turbines appear out of
12 context/character with the landscape -- i.e., in
13 undeveloped forested areas.

14 Now, I know you said that Loon Lake was
15 2.3 miles. But where you have perhaps as much as the
16 entire project visible from the surface of -- the
17 entire surface of the lake in virtually either
18 scenario, would you consider that to be an
19 appreciable contrast if you did a simulation?

20 A. It could be. And again, I'd be speculating without
21 having a simulation in front of me.

22 Q. Okay. And other mid-ground views would the town of
23 Rumney be a mid-ground view?

24 A. I think it depends on where within the town.

1 Q. As I recall, on the tour we came up from the Main
2 Street approaching Route 25, along there.

3 A. There was a simulation from that location, yes.

4 Q. Okay. Now, on Page 13 of your testimony you spoke
5 about the lighting on the turbines. And you, again,
6 I think, discounted the lighting issue because you
7 said, quote, The fact that the project will only be
8 visible from 4 percent of the entire study area...

9 Now, I guess, I -- isn't the real figure, when
10 you -- 49 percent when you're discounting for the
11 vegetation because you have lights? Don't the lights
12 work their way past the vegetation?

13 A. I mean, it's conceivable. But I mean, in most cases,
14 you're not looking through just bare branches. Where
15 we have mapped forest vegetation, it's contiguous
16 forest. So whether it's lights or turbines
17 themselves, it's significantly masked by that forest
18 canopy.

19 Q. But that's not true this time of year, is it, nor up
20 until, you know, late April probably?

21 A. Well, I mean, bare branches, when you're looking
22 through more than just a few, are pretty significant,
23 in terms of what they can screen. I mean, could you
24 catch bits and pieces of light? You could. But if

1 you're looking at -- the rule of thumb we use is
2 that, if you're looking through more than 200 feet of
3 bare branches, you're essentially looking through --
4 it's essentially a solid screen.

5 Q. But we don't know how much, whether you're looking
6 through 200 feet of bare branches or only one tree;
7 right?

8 A. Well, the fact that you can't --

9 Q. Depends on where you're standing.

10 A. That's right, it does depend on where you're
11 standing. But the fact that this project is located
12 well away from most -- where most people live and
13 most public vantage points indicates where you are
14 looking through trees. You're not looking right up
15 at the turbines or through just a few branches. You
16 would be looking through a significant grouping of
17 trees before, you know, breaking out into an open
18 view of the turbines.

19 Q. Is the town of Rumney -- and maybe it's -- I don't
20 know the answer to this question, but perhaps you do.
21 You've been to the town of Rumney. Would you
22 describe it as heavily forested in the town center
23 where people live?

24 A. No.

1 Q. Okay. Thank you.

2 CHAIRMAN GETZ: Okay. Thank you.

3 Questions from the Subcommittee? Mr. Harrington.

4 INTERROGATORIES BY MR. HARRINGTON:

5 Q. Yeah. I guess I wanted to get back to the charts we
6 spoke of earlier, line-of-sight cross-sections, the
7 ones I guess weren't drawn correctly. See if I'm
8 reading these properly. The one that's labeled
9 "Figure 9, Sheet 2 of 5," which I'd give you a page
10 number, but it doesn't appear to have one -- it's
11 after Page 58 if that helps you.

12 A. Yeah.

13 Q. Looking across at Stetson [sic] Lake, it looks like
14 right now, probably somewhere in the vicinity of
15 three quarters of the lake would have the views
16 blocked. And it looks like it's -- I guess you're
17 showing vegetation there or something --

18 A. Correct.

19 Q. -- on the left-hand side of the lake. But if you
20 were to push that tower up from where it's sitting at
21 now, at about 300 feet, another hundred feet up, that
22 would open up quite a bit more of the lake to viewing
23 the top of the blades, wouldn't it?

24 A. Correct.

1 Q. Okay. So there would be a change there on Stetson
2 Lake. Okay. Stinson.

3 Okay. Going to Table 2 on Page 51 of the
4 report, this is the viewshed results summary. Total
5 acres, visible acres, and then you have a list of
6 percentages there ranging from a low of 9-1/2 to a
7 high of 54 percent. Now, are those -- those
8 percentages, do those represent the percentage of
9 area in a 10-mile radius where something is visible,
10 other than the one that says zero?

11 A. That's right. The visible acres in the second
12 column, that percentage is what that represents, in
13 terms of the total acreages within this study area.

14 Q. So, for example, what we're saying then is that
15 within a 10-mile radius, 10.6 percent of the area
16 would see 1 to 6 turbines.

17 A. That's correct. If this -- in this one, though, that
18 would be if there were no trees under consideration,
19 just bare earth.

20 Q. This is without trees altogether.

21 A. Right. Yeah.

22 Q. Okay. And then if you go back to the beginning of
23 the report, just trying to see if I'm reading this
24 correctly, on Page Roman 4 under the Executive

1 Summary Section --

2 A. Yes, sir.

3 Q. -- here it's saying that -- I'm just trying to get
4 these numbers straight. It says, "Viewshed analysis
5 indicates that approximately half of the 10-mile
6 radius study area surrounding the proposed turbine
7 site will be screened from view by topography alone."
8 And that's what we were referring to back in that
9 other chart?

10 A. That's right.

11 Q. And then, considering the screening of forest
12 vegetation, the analysis indicates that no turbines
13 should be visible in 96 percent of the study area.
14 So, were you referring to -- just had this
15 discussion, I guess, on this a little bit. So that
16 means -- is that a July statement, or is that a
17 December statement? Or does it matter?

18 A. The viewshed isn't really a good representation of
19 either. I mean, it doesn't fully represent either
20 leaf on or leaf off. But, I mean, it would be -- I
21 think it would be relatively accurate with either one
22 because we're only dealing with large blocks of
23 mapped forest. Keep in mind that the forest
24 vegetation that's thrown into the analysis doesn't

1 include street trees, yard trees, hedge rows, things
2 like that. It's large blocks that the USGS has
3 mapped as forest. So, to the extent there might be
4 more visibility through bare branches, you know, it's
5 maybe less representative in the winter. But I think
6 it's a good representation, regardless of season.

7 Q. Okay. And on the next page there, Page 5 of Roman V,
8 on the very top it says, "Cross-section analysis
9 indicates that the project will be visible between
10 1.6 and 7.6 percent of the area along the selected
11 lines of sight."

12 Now, am I correct in assuming that this was
13 done -- these figures were come up with on this
14 cross-section analysis using the wrong height?

15 A. Yeah, I'm going to have to check on that. But I
16 think that that is a possibility and --

17 Q. Could you get back to us on what the correct
18 percentages --

19 A. We could. Absolutely.

20 Q. -- were, assuming the 400 feet?

21 A. Yeah, we'll take a look at that and square it away.

22 MR. HARRINGTON: That was all I had.
23 Thank you.

24 CHAIRMAN GETZ: Other questions? Dr.

1 Kent.

2 INTERROGATORIES BY DR. KENT:

3 Q. Following up on that, do you plan to redraw those
4 line-of-sight figures?

5 A. We can do that.

6 CHAIRMAN GETZ: Well, then, let's hold
7 an exhibit for that, which would be Exhibit No. 37.

8 (Applicant's Exhibit 37 reserved.)

9 MS. GEIGER: Mr. Chairman, could we
10 have the last record request repeated?

11 CHAIRMAN GETZ: It would be a
12 redrawing of Exhibit 24 line-of-sight profiles
13 reflecting the correct heights on the -- to the tips
14 of the turbine blades.

15 MR. HARRINGTON: Figure 9.

16 MR. IACOPINO: Mr. Chairman, did you
17 want to include in that Mr. Harrington's request to
18 recalculate the percentages as well --

19 CHAIRMAN GETZ: Yes.

20 MR. IACOPINO: -- in that same exhibit
21 number?

22 CHAIRMAN GETZ: Yes.

23 BY DR. KENT:

24 Q. Does your expertise extend to human behavioral

1 response to wind towers?

2 A. Only to the extent that I've read articles on public
3 perceptions and public attitudes.

4 Q. Could you summarize your knowledge of -- I assume
5 we're talking about academic or professional studies
6 of human response to wind tower visibility?

7 A. Well, yeah. I guess there's really two sources of
8 information that I draw upon. One would be actual
9 studies or surveys that have been done, and others
10 would be just firsthand experience from living in an
11 area where there are quite a few of these up and
12 running, and actually hearing public reaction to the
13 built facilities.

14 Q. Could you summarize -- I'd like you to summarize two
15 things: Your understanding and then the perception
16 of others as you've read it in reports and studies.

17 A. My sense is that wind turbines are not like some
18 built facilities that are uniformly perceived as
19 unattractive. There's a wide range of opinion,
20 personal opinion about how people react to wind
21 turbines. What I've read in I'd say pretty much
22 every study I've looked at, and what I've heard on
23 pretty much every project that has been built in my
24 area, is that the majority of the people react more

1 positively than negatively. And there's some surveys
2 that are cited in the visual impact statement that
3 provide some support, some citations for that.

4 Q. And you would recommend those citations as places to
5 increase our understanding of response?

6 A. I think there's more information and more detail than
7 I could provide here on the stand.

8 Q. Okay. Have you spoken to the municipal or county
9 officials about visibility of the towers and gotten
10 response from them, their feelings?

11 A. Yeah. We've worked, as I said, on a lot of projects
12 in New York State. And we're actually working right
13 now as consultants to a couple towns who are
14 anticipating hosting a project. And they actually
15 asked us as part of that project to do a survey of
16 municipalities with projects operating within their
17 communities. Now, the focus of that was on municipal
18 concerns that maybe weren't focused on visual. But
19 they did want us to ask about complaints and
20 perceived problems. And there were -- we reached out
21 to 16 communities. That's a total of 16 towns.
22 That's the total in New York State that host a
23 project. We spoke with representatives from 11 of
24 those communities, generally the town supervisors.

1 And in every case, their reaction to the project was
2 positive. And amongst the complaints, visual
3 impacts, visual effects were not noted by anyone.

4 Q. Okay. Do you -- have you met with, say, Groton and
5 Rumney officials or residents and showed them your
6 simulations and gotten their feedback?

7 A. I've attended several meetings. There was an open
8 house in the town of Groton. There were a couple
9 meetings in association with these proceedings. And
10 I also did a site tour with members of the Town of
11 Plymouth Planning Board. So we have gotten some
12 opportunity to share the simulations with people and,
13 you know, get their feedback.

14 Q. And the feedback you were getting from, let's start
15 with residents, could you characterize that briefly?

16 A. The residents that we met with, I think primarily at
17 the town of Groton open house, I would say it's
18 primarily sort of a curiosity response. But I did
19 not have anybody come up to me and say, "That's
20 horrendous." You know, I think there were more
21 people intrigued and viewed these from a positive
22 perspective than those who were negative.

23 Q. How about Groton and Rumney town officials?

24 A. I have not spoken with them personally, other than

1 being able to present the simulations in the course
2 of the site tour that we did as part of this
3 proceeding back in August.

4 Q. Did you work on the Lempster project?

5 A. I did not.

6 Q. Okay. Thank you.

7 A. You're welcome.

8 CHAIRMAN GETZ: Other questions?

9 Mr. Scott.

10 INTERROGATORIES BY MR. SCOTT:

11 Q. Back to the line-of-sight profiles, if I may. And
12 maybe the answer is no.

13 You also looked at shadow flicker and came to
14 some conclusions and had some percentages on there.
15 Will the line-of-sight profile change, have any
16 impact on that?

17 A. No, sir.

18 Q. And along the same lines -- and I don't have it in
19 front of me. But basically you said it's nobody --
20 no area would be impacted more than three hours a
21 year or something to that effect?

22 A. That's correct. It's a total of three receptors, and
23 none of which are predicted to exceed three hours per
24 year.

1 Q. And I suppose it's variable, but how does that
2 compare to other projects that you have worked with?

3 A. It's by far the lowest of any we've ever worked on.

4 Q. Thank you.

5 CHAIRMAN GETZ: Mr. Steltzer?

6 MR. STELTZER: Yes.

7 INTERROGATORIES BY MR. STELTZER:

8 Q. Regarding the met towers that are on the ridgelines,
9 how tall are those met towers?

10 A. I wanted to say they're either 50 meters or
11 80 meters. I'm not positive.

12 Q. And how tall is it to the nacelle?

13 A. Seventy-eight meters up height.

14 Q. Okay. Regarding the simulations that you made,
15 recognizing that our -- what a person sees includes
16 their peripheral vision, could you identify what
17 percentage the focus is of those simulations towards
18 what a human eye actually takes in?

19 A. That's a good question. We always use a
20 50-millimeter equivalent on the lens because,
21 according to our research, that's equivalent to the
22 field of view of -- human eyesight's about
23 40 degrees. Now, that doesn't take into account that
24 peripheral vision that you refer to. We have on some

1 projects been asked to do panoramic views where we
2 would stitch together multiple simulations to try to
3 capture some of that. And those generally would be
4 more like a 90-degree field of view. But we stay
5 with the 50 millimeters because that's the industry
6 standard. And that's the one, you know, from a focal
7 length, equating to your -- to the human eye is what
8 we understand to be the most accurate.

9 Q. Would it be accurate to say that when you do include
10 the peripheral view that you have, that the scale in
11 which the turbines might take on the landscape is
12 diminished?

13 A. Yeah. That's part of the problem, is that, you know,
14 if you stray too far from 50 millimeters and you
15 start going towards wide angle, then you have that
16 situation. If you go the other way and you start
17 going towards the telephoto, you know, you limit that
18 field of view and you accentuate the perceived
19 height.

20 Q. Next question has to do -- deals with your knowledge
21 of people's perception of turbines that are grouped
22 as compared to single turbines. Do you have any
23 knowledge on that topic?

24 A. There's been some research done. And people have

1 looked at how turbines, you know, are perceived in
2 the landscape. I think it's generally recommended
3 that they have some uniformity in terms of layout so
4 that they appear in discrete groups or lines. I
5 think a single turbine in certain settings can
6 sometimes look more awkward than a cluster. Usually
7 the research I've looked at hasn't been looking at
8 single turbines, it's looking at larger
9 installations. So the question there is, you know,
10 what works better? A continuous grid along the line
11 of discrete clusters? And I think the thinking in
12 most cases is that discrete clusters with some
13 spacing or relatively short lines with some spacing
14 between them is what people prefer.

15 Q. And how would you characterize the layout of the
16 Groton project with that in mind?

17 A. It's three relatively short strings of turbines. And
18 I think the simulations show that from some
19 perspectives that will look like a line, sort of a
20 uniform line following the land form. In other cases
21 it will look more like a cluster or more small
22 groups.

23 Q. Okay. Thank you.

24 CHAIRMAN GETZ: Other questions? Mr.

1 Iacopino.

2 INTERROGATORIES BY MR. IACOPINO:

3 Q. Mr. Hecklau, has the technology in your field yet
4 advanced to where you can create visual simulations
5 using video?

6 A. Yes. Well, we can animate a still shot -- in other
7 words, make the rotor move in what otherwise is a
8 still photo. Or you can do video, the second being
9 much more complicated.

10 Q. I just want to draw your attention to the report that
11 was contained in Exhibit 3. You were asked by
12 counsel for the Public about citations for the
13 electrical systems and roadways. And I'll draw your
14 attention to Page 8 of that report. This is
15 Appendix 24 in Applicant's Exhibit 3.

16 A. Okay.

17 Q. There are two sections in a row: Section 2.2.2
18 regarding the electrical system and Section 2.2.3
19 regarding access roads. Are those the sections you
20 were trying to find before when you were being
21 cross-examined by counsel for the Public?

22 A. These are the sections that described how we dealt
23 with the visibility of the electrical system and the
24 access roads.

1 Q. All right. And, for instance, with respect to the
2 electrical system in Section 2.2.2, you determined
3 that you weren't going to give further evaluation in
4 the study because most of the electrical system was
5 similar to the height of the surrounding trees.

6 A. Yeah. I think it says -- there was a number of
7 reasons. You know, it indicates here there were
8 minor visual components of the project; they're sited
9 in remote location, and they're similar in height to
10 the surrounding trees. So, all those factors came
11 into that decision.

12 Q. And similarly with respect to the roadways, what were
13 the factors that you -- that counseled you not to
14 evaluate the roadways in your study?

15 A. Basically because, again, similar remote location in
16 the forested setting. You know, there's very few
17 viewpoints where you can actually see the road,
18 publicly accessible vantage points where you can
19 actually see the roads. But the final sentence
20 there, there's a parenthetical that says, "although
21 tree clearing associated with the roads is
22 illustrated in any simulation where it would be
23 visible."

24 Q. And then finally with respect to the cross-sections

1 that have been referenced. Just to me, it seems as
2 though the actual height that was used might have
3 been a hub height or a nacelle height.

4 A. It might have been. I apologize. And I'm going to
5 have to look into that. It was a drawing error.

6 Q. Is there any reason why that might be typical in
7 dealing with cross-section drawings like that?

8 A. Only if you were trying to show visibility of, say,
9 the FAA lights at the nacelle. So, in that regard,
10 this might be closer, although there's some distance
11 sort of in between the two.

12 MR. IACOPINO: I have no further
13 questions.

14 CHAIRMAN GETZ: Anything further from
15 the Subcommittee?

16 (No verbal response)

17 CHAIRMAN GETZ: Redirect?

18 MS. GEIGER: Yes. I'd like Mr.
19 Hecklau to be able to finish his response to
20 questions that were asked by Public Counsel about
21 visual simulations that may show tree clearing or
22 road clearing.

23 REDIRECT-EXAMINATION

24 BY MS. GEIGER:

1 Q. And I think you were going to point to something in
2 your report, and I'd like the Committee to understand
3 exactly what you were going to be discussing.

4 A. Yeah. I mean, all I really wanted to do is, just as
5 an example, point to two simulations where that kind
6 of clearing work was illustrated. And the two are
7 Viewpoints 14 and 126, which in the visual report
8 is... Figure 12 is Viewpoint 14, and Figure 18 is
9 Viewpoint 126. And in both of those you can see that
10 there are areas where the forest has been cleared --
11 or we've tried to illustrate forest clearing and some
12 access road clearing that are shown with shadow
13 lines, just to try to basically support the fact that
14 we did take a look at that, and that the entire
15 project, you know, is considered when we do the
16 visual simulations.

17 Q. Thank you. Thank you. I don't have any further
18 questions.

19 CHAIRMAN GETZ: Okay. Then, thank
20 you, Mr. Hecklau. You're excused.

21 (WHEREUPON, the witness was excused.)

22 CHAIRMAN GETZ: What I'd like to do at
23 this point is take a recess until 4:00, at which time
24 we would resume with Dr. Luhman and try to go as far

1 as we can with her cross-examination. So we'll take
2 a recess for a little more than 15 minutes.

3 (WHEREUPON a recess was taken at
4 3:46 p.m. and the hearing resumed at
5 4:07 p.m.)

6 CHAIRMAN GETZ: Okay. We're back on
7 the record and turning to the testimony of Dr.
8 Luhman.

9 (WHEREUPON, HOPE LUHMAN was duly
10 sworn and cautioned by the Court Reporter.)

11 HOPE LUHMAN, SWORN

12 DIRECT EXAMINATION

13 BY MR. PATCH:

14 Q. Could you please state your name.

15 A. Hope Luhman.

16 Q. And by whom are you employed, and in what capacity?

17 A. I'm employed by The Louis Berger Group. I am
18 assistant director for cultural resources.

19 Q. And are you the same Hope Luhman who submitted
20 prefiled testimony in this document that has been
21 marked as Applicant's Exhibit 1, a portion of
22 Volume 1?

23 A. Yes.

24 Q. And did you also submit supplemental prefiled

1 testimony which is a portion of what's been marked as
2 Exhibit 5?

3 A. Yes.

4 Q. And that was your supplemental testimony?

5 A. Correct.

6 Q. Now, Dr. Luhman, do you have any corrections or
7 updates to either your prefiled or supplemental
8 prefiled testimony?

9 A. No.

10 Q. And if you were asked the same questions today under
11 oath, would your answers be the same?

12 A. Yes.

13 Q. Now, since the time of your supplemental prefiled
14 testimony, there was a letter that was filed with the
15 Committee from the Division of Historic Resources; is
16 that correct?

17 A. That is correct.

18 Q. And are you familiar with that letter?

19 A. Yes, I am.

20 MR. PATCH: Mr. Chairman, I have two
21 more exhibits that I'd like to have marked. I've
22 handed them out, so I think everybody has them.
23 There are -- there's a thick one that says at the
24 top, "New Hampshire Division of Historical Resources,

1 Page 1 of 24, Area Form." And then there's a thinner
2 one, "Page 1 of 29, Area Form." And so I would ask
3 that the 1 of 24 at the top, that that be marked as
4 Applicant's or Petitioner's 38, I believe is the next
5 number?

6 CHAIRMAN GETZ: Okay. But I believe
7 it's Page 1 of 124. But we'll mark that --

8 MR. PATCH: I'm sorry. Yeah.

9 CHAIRMAN GETZ: -- for identification
10 as Exhibit 38. And the one that's Page 1 of 129
11 we'll mark for identification as Exhibit 39.

12 (The documents, as described, were
13 marked herewith as Applicant's Exhibits 38
14 and 39.)

15 MR. PATCH: Thank you.

16 BY MR. PATCH:

17 Q. Now, Ms. Luhman, taking into account these two
18 exhibits, I would ask you if you could comment to the
19 Committee on the DHR letter that was submitted on
20 Friday and explain the two exhibits that have just
21 been handed out.

22 MR. ROTH: Mr. Chairman, I have to
23 object at this point. There was a deadline for
24 submitting supplemental testimony in response to

1 agency reports; that was last week. I don't think
2 that the DHR's information was any surprise to the
3 witness, and there should have been supplemental
4 testimony filed last week and not an opportunity for
5 the witness to give on-the-stand testimony at this
6 point.

7 CHAIRMAN GETZ: Response, Mr. Patch?

8 MR. PATCH: Yeah. Thank you, Mr.
9 Chairman. I think if you let the witness testify,
10 she will testify that it was a surprise. But I'll
11 let her speak to that. But we actually didn't have a
12 chance to review the letter until the end of the day
13 on Friday. We didn't know it was coming. I don't
14 see how we could have prefiled testimony in time for
15 the hearing today. So it seems like the kind of
16 thing that this process is designed, you know, for us
17 to be able to respond to.

18 CHAIRMAN GETZ: Well, I'd -- given the
19 letter from DHR and, actually, discussion that took
20 place at the prehearing conference on Friday, I'd
21 like to complete the record to find out what is
22 behind the letter and exactly what these two
23 documents are. So I'm going to overrule the
24 objection and allow some discussion about the letter

1 and whatever these two exhibits are.

2 MR. PATCH: Thank you.

3 BY MR. PATCH:

4 Q. Do you need the question?

5 A. Give it to me one more time.

6 Q. Would you please comment on the letter that was filed
7 on Friday. And take into account the two exhibits
8 that have been handed out, and explain them to the
9 Committee.

10 A. The Area Form, which is Page 1 of 124, is the project
11 area form that was submitted in July 2010 to the New
12 Hampshire Division of Historic Resources for their
13 review for the project. It takes into consideration
14 the area of potential effect for architectural
15 resources, which is the viewshed within the 3-mile
16 radius, and provides answers and photographs
17 associated with the resources essentially within that
18 3-mile APE.

19 Following the submittal of this in July 2010, we
20 received a review comment, I believe it was dated
21 August 23rd, 2010, that -- actually, it was dated
22 August 23rd, 2010, and I believe we received it
23 somewhere around the 28th. After receipt of those
24 initial comments, we reviewed them internally,

1 discussed them with the Applicant, and also
2 subsequently discussed them with the United States
3 Army Corps of Engineers, which is the lead federal
4 agency in this particular area of review.

5 After discussion with the Army Corps of
6 Engineers and other discussions internally with the
7 Applicant and with the DHR, it was decided and agreed
8 upon that we would file a smaller project area form
9 which would consist merely of the text. As you can
10 see from the initial submittal, there are extensive
11 photographs that are provided. These photographs all
12 have to be printed on archival paper, and they have
13 to be noted on the back in a certain format. And so
14 it's a tremendous amount of work. So we decided, in
15 consultation with the DHR and with the Army Corps of
16 Engineers, that we would revise the text to address
17 the concerns that were outlined in the August comment
18 to see if we could basically get this particular text
19 to a format which would be acceptable to all parties,
20 and then we would move forward with revising anything
21 else that would be necessary for the form. So this
22 second form was revised specifically under the
23 guidance of the Army Corps of Engineers.

24 CHAIRMAN GETZ: Could I stop you --

1 WITNESS LUHMAN: Sure.

2 CHAIRMAN GETZ: -- to ask a question?
3 I want to make sure I understand.

4 WITNESS LUHMAN: Sure.

5 CHAIRMAN GETZ: So if I'm looking at
6 the letter that was from, I guess from -- well,
7 there's a memorandum from Nadine Peterson to Michael
8 Iacopino, dated October 28th.

9 WITNESS LUHMAN: Correct.

10 CHAIRMAN GETZ: And in the third
11 paragraph on that first page there's a -- in the
12 middle it says -- the sentence says, "This document
13 was submitted in July 2010 with substantive
14 deficiencies." This document is the Exhibit 38
15 that's --

16 WITNESS LUHMAN: The larger one.

17 CHAIRMAN GETZ: Okay. All right.
18 Thank you. I just wanted to make sure what documents
19 we're talking about.

20 WITNESS LUHMAN: And I do believe that
21 the DHR's review dated August has been provided to
22 the Committee.

23 Has it not?

24 MR. PATCH: I'm not sure whether it

1 has.

2 WITNESS LUHMAN: Essentially, those
3 comments are summarized on this memorandum and
4 accompanying letter to Erika Mark from Linda Ray
5 Wilson, with the five items on the first page of the
6 letter to Ms. Mark. And essentially, we went through
7 all of these items not only with DHR, but also with
8 the Army Corps of Engineers, prior to the submittal
9 of this October document.

10 BY MR. PATCH:

11 Q. And the DHR role -- maybe just explain to the
12 Committee what their role is?

13 A. In this particular project, because it's being
14 reviewed under Section 106 of the National Historic
15 Preservation Act, the lead federal agency is the
16 United States Army Corp. of Engineers. And they work
17 in consultation with the New Hampshire Division of
18 Historic Resources, who functions as the state
19 historic preservation office.

20 Q. I believe that you put this into your prefiled
21 testimony. But you have experience working with DHR
22 in other projects in New Hampshire; is that correct?

23 A. That is correct.

24 Q. Could you explain to the Committee a little bit of

1 your experience and what you did in that experience
2 and how that compares to what you filed with DHR
3 here.

4 A. For this particular project, because we had worked on
5 both the Lempster project and the Coos project, we
6 modeled this project area form on the Coos project's
7 project area form. So every effort was made -- which
8 was the Granite Reliable project. Every effort was
9 made, since that was a successful submittal, to
10 ensure that, in fact, all the information that had
11 been provided in that particular project area form
12 was provided in the same fashion and manner in this
13 particular project area form.

14 Q. And the DHR response in that project was what?

15 A. That project was -- it was successful. The
16 consultation between the Army Corps of Engineers and
17 the DHR was a successful project.

18 MR. PATCH: Thank you, Mr. Chairman.
19 I believe that's all the questions I have. The
20 witness is available for cross.

21 CHAIRMAN GETZ: Okay. Thank you.
22 Mr. Sinclair?

23 MR. SINCLAIR: None, thank you.

24 CHAIRMAN GETZ: Ms. Lewis.

1 MS. LEWIS: Thank you.

2 CROSS-EXAMINATION

3 BY MS. LEWIS:

4 Q. My first question pertains to the letter that was
5 sent to the Army Corps, the second page of it and the
6 second paragraph down.

7 MR. IACOPINO: Ms. Lewis, just for the
8 record, I think that document has been marked as
9 Buttolph Exhibit 29.

10 MS. LEWIS: Yes, I believe we've
11 submitted it.

12 BY MS. LEWIS:

13 Q. The second paragraph down states, "Soon after the
14 July 2010 review of the project area form, the DHR
15 suggested a site visit would be an opportunity to
16 discuss issues out in the field and work with the
17 lead federal agency, the Applicant, and its
18 consultant to come up with an appropriate survey
19 methodology to move the project review forward." And
20 then they go on to say that there was no follow-up
21 response.

22 Now, based on what you've just testified, are
23 you stating that that suggestion of a site visit
24 never took place?

1 A. The site visit never took place. However, I will
2 tell you that there was discussion and consultation
3 between the Army Corps and the DHR and the Applicant,
4 as well as us.

5 Q. Why did the site visit never take place?

6 A. I can't really answer that question. That would
7 basically be a question for the Army Corps of
8 Engineers.

9 Q. But you were willing to do it?

10 A. Absolutely.

11 Q. Why do you believe the DHR has returned your document
12 as insufficient?

13 A. That's a really good question, and it's something
14 that I'm really puzzled by. And I've gone through
15 all of the correspondence that I've received, both as
16 a result of the July 2010 submittal and as a result
17 of this recent submittal. I have reviewed the DHR's
18 guidance on wind farm projects. I have reviewed the
19 project area form guidance. I have reviewed and
20 compared our submittals against the Coos submittal.
21 And I am looking forward to future consultation with
22 the DHR and Army Corps of Engineers to resolve the
23 concerns that have been expressed.

24 Q. Did you say that there's been some type of

1 communication issue over the months?

2 A. I don't think so at all. I've had no problem
3 whatsoever anytime I've contacted the DHR to have a
4 question or sent them an e-mail, or the same with the
5 Army Corps. So as far as I'm concerned, there's no
6 issue regarding communication.

7 Q. Okay. Why, regarding that July 2010 review, it
8 wasn't resubmitted until October?

9 A. That's also a very good question, and I thank you for
10 raising that question. The July 2010 submittal was
11 not reviewed by the DHR, I believe, until the end of
12 July. They did not provide their comments -- their
13 comments are actually dated August 23rd. And I
14 believe we were in receipt of those comments sometime
15 around August 28th. So, then, once you get to
16 August 28th, it now requires us to consult not only
17 with the Applicant, but also with the Army Corps of
18 Engineers. And it was very important to sit down
19 with the USACE and have them review the document and
20 talk about what we had and how we would proceed
21 forward. There was also some communications with DHR
22 as well. So that all took place within that time
23 frame. So if you're at the end of August, to get to
24 the beginning of October, beginning or middle of

1 October when we submitted the document to the
2 Applicant, it's not really that long of a period of
3 time.

4 Q. I'd like to back up a little bit to your supplemental
5 testimony on Page 3.

6 A. Sure.

7 Q. On Line 8, you mentioned further survey was necessary
8 in the form of a historic district form for Rumney.
9 Can you explain that?

10 A. This is based on the findings of Dr. Bedford, who's
11 the architectural historian who did the survey. It
12 was Dr. Bedford's belief that, given the nature of
13 the resources in Rumney, that we were looking at what
14 would constitute a historic district; and so,
15 therefore, it was his recommendation that there be a
16 historic district form done for that particular area.

17 Q. Okay. Could you explain a little bit further on
18 that? How many homes? Is it a few homes? Is it
19 quite a few?

20 A. Well, that will have to be determined in consultation
21 with the DHR and the Army Corps of Engineers.

22 One of the things that the PAF does not do is
23 it's not a complete survey of everything. It
24 basically gives you an understanding of the nature of

1 the resources that are in the particular area, the
2 area of potential effect. And so in this instance,
3 we didn't survey all of Rumney that's in the area of
4 potential effect, because, as the PAF notes, we saw
5 that there were a number of resources there, and they
6 seemed to basically form a cohesive entity. And as a
7 result of that, we felt that the next step would be a
8 historic district form.

9 Q. And have you done that yet?

10 A. We would like to, but we are not permitted to do so
11 until this document is reviewed and accepted by DHR
12 and the Army Corps of Engineers.

13 Q. My next question is more based on your personal
14 opinion. How would you reach the opinion, as you
15 have on Page 4 of your supplemental testimony, that
16 you've reached the opinion that the project will not
17 have an unreasonable impact, given the fact you
18 haven't filled out this form, the other form is still
19 in complete; and yet, you're providing an opinion
20 that you don't feel the project will have an
21 unreasonable impact?

22 A. Because I have faith in the process. The Section 106
23 process of the National Historic Preservation Act is
24 a consultative process designed basically to take

1 into account the effects of a project on historic
2 properties. And I truly believe in the process. And
3 so I believe that basically it will come to a
4 resolution that will address any issues that could
5 arise.

6 Q. So you're not really giving an opinion that it won't
7 have an unreasonable impact. You're giving an
8 opinion that if there is an unreasonable impact, that
9 mitigation will be done to address that.

10 A. In the hypothetical situation that there would be an
11 unreasonable adverse effect, then there would be
12 mitigation that would essentially address the issue.

13 Q. So that's really your opinion, not that there is not
14 going to be an unreasonable impact --

15 A. No. My opinion is that I have firm belief in the
16 process, and the process will address the historic
17 properties that are identified, and will do so in the
18 consultative fashion that's set forth in the National
19 Historic Preservation Act.

20 Q. And my final question is, I wondered if you had done
21 any further research at Polar Caves?

22 A. At the Polar Caves -- we're aware of the Polar Caves.
23 The field team has visited the Polar Caves. They are
24 mentioned in the PAF. They are not within the

1 viewshed, but we have identified it as a tourist
2 attraction that has been there since the '20s.

3 Q. Has there been any mention throughout your research,
4 as far as the potential impact of blasting on those
5 caves? We do have an exhibit -- I believe it's
6 No. 10 -- that shows the Polar Caves. And it shows
7 some picture and how the caves are very narrow. And
8 there's children going through there constantly
9 throughout the summer. And I think for me as a
10 parent, it's very frightening to think that if
11 there's a huge amount of blasting going on with all
12 those children going in and out of those caves,
13 there's a real significant risk for somebody
14 potentially being hurt or killed. Is that anything
15 that has been looked at?

16 A. Unfortunately, it's not within my area of review.

17 Q. Thank you.

18 MS. LEWIS: That's it.

19 CHAIRMAN GETZ: Thank you.

20 Mr. Roth?

21 CROSS-EXAMINATION

22 BY MR. ROTH:

23 Q. I'm looking at Buttolph Exhibit 29, as was Ms. Lewis.
24 And there's a paragraph at the bottom of the

1 October 28th letter where it says the July 2010
2 submission failed to provide documentation necessary
3 to make informed decisions on the next phase of the
4 identification process. More specifically, the form
5 was deficient in the following manner, and then there
6 are five enumerated things there. And then it says
7 that the DHR Determination of Eligibility Committee
8 requested a resubmission of the form to address those
9 deficiencies.

10 When did the DHR Eligibility Committee request
11 the resubmission?

12 A. That was in the response we received to the July
13 submittal. I believe it was dated August 23rd, which
14 we received on August 28th.

15 Q. And did that communication outline these five areas
16 of concern?

17 A. Yes. They weren't exactly expressed in the exact
18 same fashion, but for the most part, yes.

19 Q. Now, in your supplemental testimony -- which you
20 filed on October the 12th; correct?

21 A. I believe so, yes.

22 Q. On Page 3 of that testimony, I believe, if I -- no.
23 Page -- yeah, Page 3, and I guess Page 2, you talk
24 about progress of the Applicant on assessing historic

1 sites, and you talk about the PAF form. You didn't
2 mention any of these five deficiencies or the fact
3 that the DHR had asked you to resubmit the form, did
4 you?

5 A. I didn't mention it in specific, because at that
6 point in time it's still under review. We're still
7 under the review process.

8 Q. But they did ask you to resubmit the form, and the
9 pointed out five deficiencies. And you didn't
10 include any mention of that in your testimony;
11 correct?

12 A. No, I did not. It doesn't appear here.

13 Q. Okay. Is it -- isn't it unusual for the DHR to make
14 a statement like a disproportionate time is being
15 spent on a project and that a project area form is a
16 non-reviewable work product? Is that unusual? Have
17 you ever run into that before?

18 A. I can't testify whether or not that's unusual for
19 them or not.

20 Q. Have you ever seen it before?

21 A. I don't believe so.

22 Q. Okay. And you've been doing this a long time; right?

23 A. I think so, yes.

24 Q. Okay. Now, I guess if I look at it, you know,

1 somewhat simplistically, and I'll admit that's -- if
2 this proceeding were a class, today is sort of, you
3 know, final exam day; the term paper is due. And I
4 have a sense you're kind of in here telling us the
5 dog ate the homework. And how is that an acceptable
6 resolution for the Committee to move forward and to
7 make a determination that the project has or does not
8 have an unreasonable adverse impact on historic and
9 cultural resources?

10 A. Well, if I may, if the dog ate the homework, then the
11 homework wouldn't exist. And we have the homework.
12 Am I not -- am I misunderstanding your question?

13 Q. Yeah, I think you are. But I think --

14 A. I'm sorry if --

15 Q. -- that was my last question.

16 A. All right. I'm sorry.

17 CHAIRMAN GETZ: Questions from the
18 Subcommittee? Mr. Harrington.

19 INTERROGATORIES BY MR. HARRINGTON:

20 Q. I'm just trying to go back to some of the earlier
21 questions to make sure I understand.

22 What you're saying is that you haven't completed
23 the historical evaluation of the historical
24 significance of the area, but you feel that the

1 process, when completed, will adequately address
2 anything that's found? Or am I misstating that?

3 A. As far as Dr. Bedford's architectural survey is
4 concerned, he feels that he has adequately surveyed
5 the properties within the project area and has made
6 some recommendations to move the process forward.

7 Q. Okay. So he's identified historical properties.

8 A. Correct.

9 Q. And his recommendations are to do what?

10 A. There are two historic properties that he's
11 recommended be further surveyed. I believe it is
12 in... let me double-check.

13 Q. Is that one of the documents we got today?

14 A. No, it's in the -- it's in my prefiled testimony.
15 "It's Bergers' opinion that further survey is
16 necessary for two properties in West Plymouth and
17 further survey in the form of a historic district
18 form for Rumney."

19 Q. What page is that on?

20 A. That is on Page 3, Lines 6, 7 and 8 of the prefiled
21 testimony.

22 MR. IACOPINO: Actually, it the
23 supplemental prefiled.

24 A. Supplemental. I apologize for that error. And it is

1 also contained in the project area form.

2 Q. So, Page 3 of your supplemental?

3 A. Correct.

4 Q. Okay. And maybe you can help me out here. What
5 happens then? It says, "Bergers' opinion that
6 further survey is necessary for two properties in
7 West Plymouth and further survey in the form of
8 historic district form for Rumney." Well, what is --
9 I'm just trying to figure out what's going to be
10 done. What hasn't been done yet that needs to be
11 done? What are these further actions?

12 A. There would be further documentation that would be
13 made of these properties, in terms of filling out
14 some additional forms. And then there would be an
15 effect determination made as to whether or not
16 there's an effect on these properties.

17 Q. When you say "effect," you're meaning somehow it
18 diminishes the historical significance because you
19 can see a windmill from it? Is that what --

20 A. For the most part. The DHR has issued an opinion
21 that, if a property is eligible on its architectural
22 merits only -- and in this particular instance for a
23 wind farm, where we're dealing with a viewshed --
24 then there's going to be no effect. However, if

1 there are other aspects of the property, such as its
2 setting -- and the setting basically is part of the
3 significance of the property -- then there could
4 potentially be an effect.

5 Q. Okay. So let's walk this a step further. Let's just
6 say there is a setting effect. So, do you say don't
7 build the windmills, or do you just, you know, put a
8 big fat cage on the back of your property so they
9 can't see you?

10 A. Well, mitigation can take a number of options. You
11 can do things like vegetative screening, if that's
12 going to work. But more often than not, you're
13 looking at some form of creative mitigation, which is
14 in some form of documentation or other item that
15 basically addresses or compensates for the effect.

16 Q. Sounds like you're talking about paying somebody
17 money.

18 A. It can take that form. More often than not, it's
19 usually something in the form of an additional report
20 or a study or a document or a series of pamphlets
21 perhaps, or a historic nomination for a particular
22 area. Some other item.

23 Q. Okay. Going one step further then, because it seems
24 like you have two classifications here. One of them

1 is needs further study, which I guess speaks for
2 itself, and then you may or may not find any impact
3 by the presence of the windmills. But this other
4 one, further survey in the form of historic district
5 form, what exactly does a historic district form --
6 what does that do?

7 A. It's a much larger look at a collection of
8 properties. Rather than just looking at these
9 properties individually, what a historic district
10 form does is it looks at them as a cohesive
11 collection, that obviously these buildings are in
12 this particular location and it's based on some of
13 historic evolution of this particular community, and
14 these buildings reflect that evolution in the
15 community. So a historic district form essentially
16 brings them all together into one grouping.

17 Q. So, would this be for the whole town of Rumney or
18 just a selected portion of it?

19 A. It would really depend on what would be appropriate,
20 based on the nature of the resources.

21 Q. So if I understand where we're at then, they've done,
22 I guess, what you refer to as Phase 1 of the review;
23 and out of that review, you found that there are two
24 properties in West Plymouth and potentially the whole

1 town of Rumney that needs more analysis to determine
2 what, if anything, needs to be done.

3 A. That is our opinion.

4 Q. Okay. So those -- that part of this is not
5 completed.

6 A. In our thinking, yes. And according to the DHR, we
7 have to step back even further.

8 Q. Explain to me. I'm not following that.

9 A. The DHR's comments, if you look at the comments that
10 are on the letter dated October 28th, they provide
11 five comments. The first comment is that the project
12 area form did not meet DHR guidelines. There has
13 been some discussion about the historic context
14 that's been provided in these PAFs. There's some
15 specific requests that were made of the DHR for
16 additional information, and they are provided in
17 Question No. 2, Question No. 3 and Question No. 4.
18 That additional information was provided in the
19 revised submission that was provided in October, the
20 one to which DHR responded to in this letter and said
21 that we still have not addressed those issues.

22 Q. So you're at a point of disagreement with them. You
23 think you have addressed them, and they're saying you
24 haven't?

1 A. That is our opinion. We are still waiting for the
2 Army Corps of Engineers' review of the document.
3 They -- we spoke with them this morning. They also
4 just received this information from DHR late on
5 Friday and had not had the opportunity to review it.
6 We had a teleconference with them this morning to
7 discuss the situation. The Army Corps of Engineers
8 is very amenable to moving the project forward and
9 the process forward, has agreed to host meetings so
10 that we can discuss the issues that are at hand so
11 that we can proceed.

12 Q. Do they have the final say on this? Are they the
13 final arbitrator?

14 A. The Army Corps of Engineers is the driver of this
15 process. And, yes, they do have the final say.

16 Q. Okay. But for right now, where we sit is that
17 their -- the State's position was that you have to
18 basically resubmit everything all over again?

19 A. Correct.

20 Q. Okay. I think I understand where we're at. Thank
21 you.

22 CHAIRMAN GETZ: Other questions? Dr.
23 Boisvert. Oh, Mr. Scott.

24

1 INTERROGATORIES BY MR. SCOTT:

2 Q. Hello, Dr. Luhman.

3 A. Hi.

4 Q. Just to follow up again. I'm trying to -- with the
5 same line of questioning you just had. I'm still
6 trying to fathom in my mind how do we get to the
7 finish line.

8 So you've -- in your supplemental testimony, you
9 said you think there's more work to be done. DHR has
10 said you have an incomplete application. You're
11 waiting for the Army Corps of Engineers. In your
12 estimation, what are talking about to get, time-wise,
13 to get across the threshold here so that we can as a
14 Committee say, okay, this is good or not?

15 A. I'm hesitant to provide a set timeline because I
16 don't know how accurate it would be. It would be my
17 hope that we could do this quickly. I'm very... I'm
18 looking forward to the discussion with the Army Corps
19 of Engineers about the revised PAF, and I'm hoping
20 that we will be able to see some progress in
21 discussions with DHR so that we can achieve
22 resolution and move forward.

23 Q. Put another way, I suppose, do you expect us to act
24 on this and make a judgment based on what we have so

1 far?

2 A. I personally have faith in the process, and I believe
3 that the consultative process will allow the Army
4 Corps and the DHR to come to an agreement. Because
5 of that faith in the process, because I've seen the
6 process work before, I would have no concerns with
7 the project moving forward in that regard.

8 MR. SCOTT: That's all I have.

9 CHAIRMAN GETZ: Dr. Boisvert.

10 INTERROGATORIES BY DR. BOISVERT:

11 Q. The health resources investigations included not only
12 historical structures, but also archeology.

13 A. Correct.

14 Q. What was -- how did the review on that come out?

15 A. Fine.

16 Q. What is a Phase 1B survey?

17 A. Phase 1B survey essentially addresses the sensitivity
18 assessment of a project area that was conducted at
19 the Phase 1A level. So the Phase 1A level looks at
20 background research; builds, historic and prehistoric
21 contexts; develops a sensitivity model of the project
22 area, the APE, the area of potential effect for
23 archeological resources; and then makes
24 recommendations about what level of effort would be

1 appropriate for any subsurface investigation, if any
2 are considered to be warranted.

3 Our Phase 1A recommended a rather extensive
4 Phase 1B survey. DHR accepted our Phase 1A survey,
5 and we implemented those recommendations in a Phase
6 1B survey this fall -- summer/fall.

7 Q. And the outcome on that?

8 A. The end of field letter was accepted by the DHR. I
9 held off on producing the Phase 1B report until I
10 knew the DHR accepted our methodology and our
11 findings. And that happened, and, as a result, we
12 are in production with the Phase 1B report.

13 Q. Okay. It is now part of Section 106 requirements
14 for -- it always has been, but it's not been
15 emphasized -- consultation with tribal entities. Was
16 there consultation with tribal entities regarding
17 this project?

18 A. There was discussion at meetings with DHR and the
19 Army Corps of Engineers regarding that. The
20 consultation with Native American groups is the
21 responsibility of the lead federal agency. And I
22 believe I have it in my notes from one of the last
23 meetings that we had, that the Army Corps was going
24 to look into that consultation.

1 Q. So the consultation has not been initiated, to the
2 best of your knowledge?

3 A. I have no idea what the state of the consultation is.

4 Q. Okay. I raise that because it is established in many
5 areas that high points are considered to be sacred
6 places for Native Americans. And the nature of this
7 project is such that it impacts more than one high
8 point.

9 A. Hmm-hmm.

10 Q. And I would like to know that something's being done
11 to address that particular question.

12 A. It's a fair question.

13 Q. This is part of the Section 106 process. You did not
14 consider doing it as just part of the process for the
15 SEC?

16 A. As part of the Section 106 process, I'm precluded
17 from engaging in consultation with Native American
18 groups because, as you know, it has been to be done
19 on a government-to-government basis; so, therefore,
20 it would have to be Army Corps of Engineers to the
21 Native American groups. In our discussions with the
22 DHR and the meeting with the Army Corps of Engineers,
23 that was not brought up.

24 Q. Okay.

1 A. And the Army Corps indicated that they would take
2 responsibility for that aspect.

3 Q. Moving over to the historic structures. As I read
4 this letter -- by the way, I have not seen anything
5 about this except what I've seen in this letter. One
6 of the fundamental conclusions is that you cannot
7 move forward saying whether or not there will be
8 impacts on historical resources until we know that
9 they've been identified. And that process has not
10 yet been completed. Would you say that that's a fair
11 statement?

12 A. As far as we are concerned, from the work that we
13 have done, we feel that we've identified what needs
14 to be identified. Has that been concurred with by
15 the DHR and Army Corps of Engineers? No.

16 Q. But you mentioned that a historic district form would
17 be necessary for some part of Rumney. And that
18 hasn't been started. So you'd have to say that
19 your -- you don't have a full handle on historic
20 resources in the town of Rumney.

21 A. That was our recommendation. I don't know whether or
22 not the DHR or the Army Corps of Engineers will
23 concur with that recommendation or not. That was our
24 opinion.

1 Q. But lacking completion of such a survey and district
2 identification, you couldn't say that you know what
3 the resources are exactly and what the impacts might
4 be.

5 A. The exact nature of the resources in Rumney and the
6 historic district, no, that has not been completed.

7 Q. And so it would be difficult to generate a mitigation
8 plan without knowing both the identification and
9 nature of the historic resources, because mitigation
10 would need to be tailored to the nature of the
11 resources, according to your earlier statement.

12 A. In some respects, yes. Sometimes the mitigation can
13 be tailored to the nature of the resources, other
14 times with creative mitigation. As you know, it can
15 be something somewhat different.

16 The question would also become for the historic
17 district, whether or not we're dealing with an
18 architectural resource, or what is the eligibility
19 determination for those resources and whether or not
20 there is an effect.

21 Q. That's my point.

22 A. Yeah.

23 Q. Without knowing that, you cannot develop a mitigation
24 plan.

1 A. Correct.

2 Q. So the process is not complete.

3 A. As far as that's concerned, no, it is not.

4 Q. What do you propose to do to respond to the
5 October 28th letter and memorandum?

6 A. This morning we had a teleconference with the Army
7 Corps of Engineers. Upon receipt -- or further
8 discussion with the Army Corps about the statements
9 made in the October 28th or 29th -- October 28th
10 letter and their review of our recent PAF submittal,
11 we will do whatever it takes to get it done.

12 DR. BOISVERT: I think that's it.

13 CHAIRMAN GETZ: Dr. Kent.

14 INTERROGATORIES BY DR. KENT:

15 Q. You'd expect the 106 process to be completed in days?
16 Weeks? Or months?

17 A. Months.

18 Q. Months? Thank you.

19 CHAIRMAN GETZ: Other questions? Mr.
20 Iacopino.

21 INTERROGATORIES BY MR. IACOPINO:

22 Q. I just need some clarification. Exhibit 38, the
23 124-page document that was submitted today, that was
24 actually submitted to DHR back in July; is that

1 correct?

2 A. Correct.

3 Q. And then the 39-page -- I'm sorry -- the 29-page
4 exhibit which has been marked as Exhibit 39, that was
5 the resubmission that occurred in October; is that
6 correct?

7 A. Correct.

8 Q. And that was on October 21, or thereabouts?

9 A. I believe so.

10 Q. Okay. Oh, who was on your conference call this
11 morning?

12 A. It was Kristin Bolin from Iberdrola, myself, Erika
13 Marks from the Army Corps of Engineers, and her boss,
14 Frank, whose last name I don't recall at the moment.

15 DR. BOISVERT: Deljudice.

16 WITNESS LUHMAN: Thank you.

17 BY MR. IACOPINO:

18 Q. Was any representatives from the Division of Historic
19 Resources from the State of New Hampshire on the
20 call?

21 A. No.

22 Q. You seem to find a safe harbor in the 106 process.
23 You say you believe in the system. If I understand
24 the 106 process, a federal agency is designated as a

1 lead agency to ensure that historic sites and
2 historic resources are considered in any permit; is
3 that correct?

4 A. Correct.

5 Q. And you're aware that there's a state statute that
6 basically vests the Division of Historic Resources
7 with the same duties on the state level.

8 A. That's correct.

9 Q. And that's R.S.A. 227-C.

10 A. Correct.

11 Q. And I understand that everybody gets together and
12 consults in this iterative process. But in this
13 particular case, what leads you to believe that
14 you're going to come to a successful resolution,
15 where you're getting letters like this from the --
16 like Exhibit 29 from DHR?

17 A. The submittal of the PAF is designed precisely as we
18 submitted the Coos submittal. So there has been a
19 successful submittal of PAF prior to this, based on
20 this format that we've used. And all I can do is
21 look at the guidance that's been issued by the DHR,
22 review the wind guidance, review the project area
23 form guidance, look at the work we've done, and look
24 at the comments and know what work we've done to

1 address those comments, and hope that through
2 continuing consultation that we will revise and
3 address these particular issues.

4 Q. Okay. So when you say "through continuing
5 consultation," is it your belief that somehow the
6 Army Corps will tell the DHR that they're incorrect
7 in their assessment of this? Is that what you're
8 talking about?

9 A. No. It's a consultative process, in terms of we've
10 had discussions with the Army Corps about what it is
11 that we've provided. And basically, it's discussions
12 of all parties to move it forward.

13 MR. IACOPINO: Okay. No further
14 questions.

15 CHAIRMAN GETZ: Dr. Boisvert.

16 INTERROGATORIES BY DR. BOISVERT:

17 Q. To jump back in a little bit, I think it's fair to
18 say that your group and the DHR are about as far as
19 they can get, in terms of agreeing on the results of
20 the work as submitted. I guess I'm asking the same
21 question again. But what is it you anticipate doing
22 to close that gap? It was rejected once. According
23 to the comments in the letter, they saw minimal or
24 almost no changes. What is it you propose to do?

1 What changes would you anticipate, and how would you
2 carry them out?

3 A. I think the best thing that we can do is to sit down
4 and talk about the PAF and what changes that we have
5 made. About 20 percent of the document -- the
6 document was increased in size by about 20 percent.
7 So there were additional five pages of text that were
8 provided. The concern about the agricultural
9 context, the Baker River Valley, the census data, all
10 of that was brought into the PAF. I'm really quite
11 puzzled by the comments, and so I'm hoping that
12 through a face-to-face meeting at some point in time
13 in the near future we can sit down and go through the
14 document and deal with the specific issues of where
15 we need to address the concerns to move it forward.

16 Q. When do you anticipate requesting this meeting?

17 A. I would hope to do it as soon as possible.

18 Q. Days? Weeks?

19 A. I would hope that it would be within days or weeks.

20 CHAIRMAN GETZ: Other questions from
21 the Subcommittee? Redirect?

22 MR. PATCH: Could I have a minute with
23 the witness?

24 (Discussion between Attorney Patch and

1 the witness.)

2 MR. PATCH: We have no questions on
3 redirect. Thank you.

4 CHAIRMAN GETZ: Okay. Then the
5 witness is excused. Thank you.

6 (WHEREUPON the witness was excused.)

7 CHAIRMAN GETZ: All right. So that
8 completes the witnesses for today. Let's take stock
9 of where we are for tomorrow.

10 The plan is to begin at 10 a.m.,
11 recognizing that it is Election Day. And then my
12 understanding of order of witnesses is we'll begin
13 with Mr. Mihalik on financial capability issues, who
14 will be adopting the testimony of Mr. Canales. Then
15 we'll go to Mr. Devlin on managerial and technical
16 capabilities. And at least on what was indicated in
17 the memorandum from the prehearing conference on
18 Friday, it seems like we should have a fair
19 possibility of completing those cross-examinations,
20 perhaps even in the morning session.

21 After Mr. Devlin, what would be the
22 proposal? Who would come after him?

23 MS. GEIGER: I believe it's Mr. O'Neal
24 and then Mr. Gravel.

1 CHAIRMAN GETZ: Okay. And then the
2 notion is that, in any event, the panel would happen
3 on Wednesday?

4 MS. GEIGER: Most likely. If we don't
5 finish with Mr. Gravel, we'll obviously take him up
6 on Wednesday morning.

7 CHAIRMAN GETZ: Okay. Any questions
8 then before we close the hearing for today?
9 Mr. Scott?

10 MR. SCOTT: Mr. Chairman, I know it's
11 out of order. Can I ask the witness one more
12 question before we go?

13 CHAIRMAN GETZ: Sure.

14 WITNESS HECKLAU: I should have gotten
15 up.

16 MR. SCOTT: I apologize. My last
17 question is, to the extent that earlier testimony
18 that you've heard that there's still some uncertainty
19 over the path of the power lines and facilities, does
20 that have an impact on your analysis?

21 WITNESS LUHMAN: For any project there
22 can typically be changes and alterations. And at
23 some point in time, if a change or alteration occurs
24 that would require a further review, it would be

1 undertaken.

2 MR. SCOTT: Thank you.

3 CHAIRMAN GETZ: Okay. Anything
4 further?

5 (No verbal response)

6 CHAIRMAN GETZ: I think we have an
7 understanding of all the administrative procedural
8 matters, so we'll close the hearing for today, and
9 we'll pick up tomorrow morning at 10:00. Thank you,
10 everyone.

11 (WHEREUPON, Day 1 AFTERNOON SESSION
12 was adjourned at 4:55 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; 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.

Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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