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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 3, 2010 - 9:10 A.M. DAY 3
Public Utilities Commission MORNING SESSION
21 South Fruit Street
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 N.H. Public Utilities Comm.
(Presiding)

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: (Groton Wind, LLC)	Susan S. Geiger, Esq. Douglas L. Patch, Esq. (Orr & Reno)
Counsel for the Public:	Evan Mulholland, Esq. (Asst. Atty. General) Michelle Thibodeau
Reptg. the Town of Groton:	Miles Sinclair, Selectman
Reptg. the Buttolph Group:	James Buttolph, Intervenor Cheryl Lewis, Intervenor
Reptg. the Mazur Group:	Lawrence Mazur, Intervenor Sarah Mazur, Intervenor

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

2 CHAIRMAN GETZ: Good morning,
3 everyone. All right. We'll open the hearing in Site
4 Evaluation Committee Docket 2010-01 concerning the
5 application of Groton Wind, LLC. Let's take appearances,
6 please.

7 MS. GEIGER: Yes. Good morning, Mr.
8 Chairman, Members of the Subcommittee. I'm Susan Geiger
9 from the law firm of Orr & Reno. I represent the
10 Applicant, Groton Wind, LLC. And I appear today with my
11 colleague, Doug Patch.

12 CHAIRMAN GETZ: Good morning.

13 MR. BUTTOLPH: Good morning, Mr.
14 Chairman. I'm Jim Buttolph. I'm an intervenor from
15 Rumney.

16 CHAIRMAN GETZ: Good morning.

17 MS. LEWIS: Good morning. I'm Cheryl
18 Lewis, intervenor from Rumney.

19 CHAIRMAN GETZ: Good morning.

20 MR. MULHOLLAND: Good morning. I'm
21 Evan Mulholland, appearing as Public Counsel. Here with
22 me is Michelle Thibodeau.

23 CHAIRMAN GETZ: Good morning. And
24 I'll note for the record that all nine members of the

1 Subcommittee are present this morning.

2 Is there anything we need to address
3 before we turn to, I believe we're starting with the
4 direct testimony of Mr. Gravel. Is there anything else we
5 need to address? Mr. Harrington.

6 MR. HARRINGTON: Just a question, Mr.
7 Chairman. There was some questions we asked for on Monday
8 having to do with capacity factors and such. I think some
9 of that was going to be confidential. I was just
10 wondering, is there a status of any --

11 MR. IACOPINO: Yes. There were two
12 parts of that. That's Exhibit 33 that's been reserved.
13 The Applicant has agreed that they will provide an
14 explanation of the calculation of the claimed carbon
15 offset in Mr. Cherian's testimony, and they will not be
16 looking for confidential treatment of that. They've also
17 agreed to provide the profile of the claimed capacity
18 factor, but they will be seeking confidential treatment of
19 that. And they will submit that along with a motion for
20 confidential treatment, to which the other parties will be
21 permitted to object, and the presiding officer will have
22 to rule on whether we'll accept it.

23 MR. HARRINGTON: Do we have a time
24 schedule for that?

1 MR. IACOPINO: That we did not have as
2 of yesterday. I don't know what Mr. Cherian's time frame
3 on that is.

4 MS. GEIGER: Okay. We're hoping we
5 can get that to you either by the end of the today or
6 tomorrow.

7 It would also be helpful to know, with
8 respect to the other record requests that have been made
9 by the Committee, when the Committee would expect us to
10 provide answers. Some of them we have and some of them we
11 may need more time.

12 MR. IACOPINO: Want me to go through
13 them? I was just doing an e-mail to the Chairman.

14 Do you want me to just go through
15 them?

16 CHAIRMAN GETZ: Sure.

17 MR. IACOPINO: Applicant's 34 which
18 has been reserved is a request for information regarding
19 the amount of money paid to Professor Gittell. I would
20 imagine that's something that be could be obtained fairly
21 soon.

22 MS. GEIGER: Yes, we have that.

23 MR. IACOPINO: Okay. Exhibit 35 was
24 reserved for an explanation regarding the size, dimensions

1 and possible locations for the 115 kV step-up transformer
2 facility to interconnect at 115 kV at the PSNH substation.

3 MS. GEIGER: We're closing in on that.
4 We have some information on that, so we'll be able to
5 provide that probably tomorrow.

6 MR. IACOPINO: Next one is Exhibit 36
7 which has been reserved for -- this should be -- your
8 visual expert should be able to get this to you 'cause
9 they're already created. He was going to provide the
10 contrast information sheets that were used in the visual
11 impact assessment.

12 And the same thing with Exhibit 37.
13 That was reserved for re-drawn cross-section drawings with
14 the line of sight with the correct turbine heights, and
15 the new line-of-sight drawings are required in there.

16 38 and 39 we have. Those are the
17 project area forms.

18 Exhibit 40 was reserved for financial
19 statements. And yesterday I met with the parties, and
20 they've agreed that Iberdrola Renovables, which is the
21 publicly traded company in Spain, that they have audited
22 financial reports which they will submit through the end
23 of fiscal year '09, and then they have two quarters of
24 unaudited statements for 2010 that they will submit. And

1 those can be submitted without a confidentiality order.
2 They are also prepared to provide unaudited 2009 financial
3 statements for Iberdrola Renewables, Inc. and Groton Wind,
4 LLC, as well as two quarters of unaudited statements for
5 2010. But they are going to ask the court -- for the
6 court -- they're going to ask the Committee that those
7 financial statements for IRI and Granite -- Groton Wind,
8 LLC be confidential exhibits. I assume there will be a
9 motion that will be filed with those. I don't know what
10 the realistic date for obtaining those financial
11 statements is.

12 CHAIRMAN GETZ: Does that complete the
13 list?

14 MR. IACOPINO: No, there's two more.
15 I don't know if the Applicant has an idea when they'll...

16 MS. GEIGER: I've been told by Ms.
17 Goland probably not until next week.

18 MR. IACOPINO: Exhibit 41 has been
19 reserved for the name of the groups that Iberdrola has
20 been cooperating with in doing their bat studies. And I
21 imagine that's something that could be obtained fairly
22 quickly.

23 MS. GEIGER: Yeah.

24 MR. IACOPINO: And 42 was reserved for

1 windrose information.

2 We had a discussion about this
3 yesterday. Mr. Steltzer had asked for some additional
4 calculations based on the sound survey. What we've agreed
5 was they're going to provide their windrose information.
6 And as I understand it, that has some calculation by
7 season, to determine if that answers the question raised.
8 If not, we may need to have a further discussion about
9 more confidential information or -- one of the problems
10 there is that the request actually would require further
11 analytics, in terms of taking the windrose and the sound
12 studies and somehow putting them together, which would
13 require further work by their consultant --

14 MS. GEIGER: Mr. Iacopino, I'm not
15 sure that that information is by season. It's not. It's
16 annual.

17 MR. IACOPINO: Oh. Didn't -- I
18 thought I was told there was a shift for each month,
19 though.

20 CHAIRMAN GETZ: Well, let's clarify
21 that off-line. We don't need to get into that detail at
22 this point. I'm just looking for an update.

23 MS. GEIGER: Okay.

24 MR. IACOPINO: That's all of the

1 outstanding reserved exhibits and data requests.

2 CHAIRMAN GETZ: Okay. All right.

3 Let's then turn to Mr. Gravel.

4 (WHEREUPON, ADAM GRAVEL was duly sworn
5 and cautioned by the Court Reporter.)

6 ADAM GRAVEL, SWORN

7 DIRECT EXAMINATION

8 BY MS. GEIGER:

9 Q. Good morning. Could you please state your name and
10 spell your last name for the record.

11 A. My name's Adam Gravel, G-R-A-V-E-L.

12 Q. And Mr. Gravel, by whom are you employed and in what
13 capacity?

14 A. I am a project manager, wildlife biologist with
15 Stantec Consulting.

16 Q. And what are your responsibilities with Stantec?

17 A. I help manage and conduct many of the field
18 surveys -- bird and bat surveys, specifically.

19 Q. Could you speak into the microphone when you answer.
20 Thank you.

21 Have you ever testified before the New
22 Hampshire Site Evaluation Committee before?

23 A. Yes, once.

24 Q. And when was that?

1 A. It was last year for the Granite Reliable project.

2 Q. And are you the same Adam Gravel who submitted
3 prefiled direct testimony in this docket, which I
4 believe was submitted with the application in
5 Volume I?

6 A. Yes.

7 Q. Okay. And Mr. Gravel, did you also submit
8 supplemental prefiled testimony, which I believe has
9 been included in what's been marked as Applicant
10 Exhibit 5?

11 A. Yes, I did.

12 Q. Do you have any corrections or updates to the
13 information contained in that prefiled testimony?

14 A. The only update I have to that testimony is I did
15 visit the proposed alternate interconnect route.
16 However, it does not change any of the data that
17 we've collected.

18 Q. Okay. Thank you. And with the updates that you've
19 just given, if I were to ask you all of the same
20 questions that are contained in both your
21 supplemental prefiled testimony and direct prefiled
22 testimony today under oath, would your answers be the
23 same?

24 A. Yes, they would.

1 Q. Thank you.

2 MS. GEIGER: Mr. Chairman, the witness
3 is available for cross-examination.

4 CHAIRMAN GETZ: Okay. Thank you. Mr.
5 Buttolph.

6 MR. BUTTOLPH: Yes.

7 CROSS-EXAMINATION

8 BY MR. BUTTOLPH:

9 Q. Good morning.

10 A. Good morning.

11 Q. First question I have for you relates to Page 5 of
12 your October 12th, 2010 supplemental testimony, if
13 you could get to that page.

14 A. You said Page 5?

15 Q. Yes, that's right. Page 5 of the October 12th
16 testimony.

17 A. Okay.

18 Q. You indicate that overall detection rates, of bats,
19 presumably, in the two years of studies at the Groton
20 project are similar: 4.5 calls per detector night in
21 the fall of 2009, and 6.4 calls per detector night in
22 the spring and summer of 2010.

23 When I look at that, what that literally
24 means to me is that the bats were noted by the

1 acoustic detectors at a rate that was 42 percent
2 higher during the 2010 study than the previous study
3 in the fall of 2009. With this data, you concluded
4 that there is no significant difference between the
5 detection rates in the two surveys. I wonder if you
6 could explain how 42-percent difference is
7 statistically no difference.

8 A. Yes. In terms of bat activity, it's an index of
9 activity. And we're looking at ranges of calls,
10 ranges of activities at sites. These two numbers --
11 in fact, actually, I'd like to refer to my -- the
12 2010 bat report. We provide an explanation on why
13 it's not statistically different. There is --
14 basically, there was one -- there are two nights that
15 had high activity at one detector, and it was during
16 the month of June, which is a resident period and not
17 a migration period. What happens during the resident
18 period is you have -- there's a increased probability
19 of detecting the same bat many times, because the
20 Anabat detectors cannot differentiate between
21 individual calls. So one bat foraging around a
22 detector could produce many calls. So the report --
23 basically what we did was we took that anomaly out,
24 which was that one two-night period, and the

1 detection rate was much similar. I think it went
2 from 4.5 -- I mean 6.4 to 5.-something.

3 WITNESS GRAVEL: Can I take a minute
4 to get the exact number for you in the report?

5 CHAIRMAN GETZ: Sure. Do you have a
6 cite to that report? Where is that? What Appendix?

7 WITNESS GRAVEL: It's the most recent.
8 It was submitted with the supplement, I think,
9 Appendix 44?

10 MS. GEIGER: I think it's 48.

11 WITNESS GRAVEL: Appendix 48.

12 MR. IACOPINO: So that would be
13 contained in Applicant 5. It's a white volume.

14 (Witness reviews document.)

15 A. I apologize. I might be mistaken. It might actually
16 be in my testimony.

17 (Witness reviews document.)

18 CHAIRMAN GETZ: Well, let's revisit
19 the question. My understanding of the question from Mr.
20 Buttolph is he asked to explain essentially -- and correct
21 me if I'm wrong -- why the 4.5 calls or 6.4 calls
22 shouldn't be considered a significant increase, given the
23 proportionate change. And your answer to that is?

24 WITNESS GRAVEL: My answer to that is

1 the difference in how detectors work. The time period
2 that these detections occurred, many of these -- the
3 majority of the detections occurred were in the breeding
4 resident period, which is when the bats -- when the
5 majority of detections we're getting is from foraging
6 bats. And the difference was inflated basically by two
7 nights of increased activity at two detectors, and that's
8 the difference. So when you take out that anomaly, within
9 the season, the exact number I will have to find for you.
10 But I believe it's 5.3 calls per detector night.

11 Q. So, if I understand this correctly, there are times
12 when the bats are perhaps flying in circles and being
13 detected multiple times, and that might drive the
14 numbers up for those, what you were calling
15 anomalies; is that right?

16 A. Yes. Or at least in this case it was a two-night.
17 That's what I'm calling anomalies. One detector --
18 two detectors on two nights had increased activity
19 and actually comprised over 50 percent during that
20 time period. So, basically it was 23 percent of all
21 calls in the entire season was recorded by those two
22 detectors on those two nights.

23 Q. Okay. So when these events happen -- or I should say
24 the existence of these events, would that be an

1 unusual think, or would you expect every so often to
2 have these anomalies?

3 A. I would expect to have those events during the summer
4 period because you have resident bats foraging in the
5 area, versus migration season you don't have bats
6 stopping on site for very long. They're moving.
7 They're migrating. So during the migration period
8 you're more apt to detect single calls, versus during
9 the resident period when they're foraging and
10 potentially detecting multiple calls by the same bat
11 and the same detector.

12 Q. Okay. But what I understand, also, is that if you
13 have turbines up there spinning, then these same bats
14 are having multiple opportunities to be damaged by
15 those turbines?

16 A. Well, that's not necessarily the case, because the
17 majority of bat fatalities occur during the migration
18 period when bats are moving through the area and not
19 foraging in the area.

20 Q. It just strikes me as -- I'm just trying to
21 understand the fact that a bat is migrating versus
22 encircling, which happens periodically. And I guess
23 what you said is it's not unusual to have them
24 circling and coming back through, that somehow

1 they're at less of a risk because they happen to be
2 foraging than if they're migrating. I'm confused by
3 that.

4 A. The reason that they're less at risk when they're
5 foraging versus migrating is, when they're foraging,
6 they're usually foraging below tree canopy height,
7 which are much lower than wind turbine height. But
8 when they're migrating, they get up to a certain
9 altitude and are flying high enough, or within the
10 range of the proposed turbine height.

11 Q. So during these anomalies, did you also detect a
12 height that was lower for those particular instances?

13 A. Yes. That activity occurred at the middle and low
14 detectors at one met tower.

15 Q. So, what would you consider to be a significant
16 difference? Like let's say we take the anomalies out
17 and we look at one study versus another study. And
18 in the first study we have 4.5 calls, the next study
19 we have X-number of calls. What would you consider
20 to be significant, based on your statistical
21 approach?

22 A. It's generally orders of magnitude difference is what
23 we consider statistically different. And the reason
24 is because pre-construction acoustic bat data is

1 really good at providing an index of activity that
2 you can relate to other projects, and especially
3 those projects that are now operational and have
4 post-construction data. And what we're finding is
5 that the pre-construction acoustic activity is not
6 correlated with post-construction mortality. So
7 that's -- it's not as -- we're not putting as much
8 weight on the pre-construction data alone. It's
9 coupled with data collected from sites that have
10 conducted pre-construction surveys and also
11 post-construction surveys. So you get the mortality
12 rates of those projects in relation to
13 pre-construction activity.

14 Q. Okay. I'm confused again. Bear with me here. Did
15 you just say that the pre-construction studies, your
16 studies show that they are generally not correlated
17 to the post-construction mortality studies?

18 A. It's not just our studies. It's studies in general.
19 Pre-construction bat acoustic surveys are not
20 correlating with post-construction bat mortality.

21 Q. Okay. So, can we conclude -- I mean, I'm tempted as
22 a layperson to conclude that you do your
23 pre-construction studies, it really gives you no idea
24 as to what your mortality rate would be. Maybe you

1 can help me understand that.

2 A. Yeah, that's not necessarily true. I mean, I'm not
3 going to be able to quantify mortality based on
4 pre-construction data. But what you can do is you
5 have -- so now we have, you know, over a hundred
6 proposed wind projects that have conducted
7 pre-construction acoustic bat surveys using similar
8 methods. That gives you an index of activity that
9 you can compare amongst each other. And then, now
10 that time's passed, you have more projects
11 operational with post-construction mortality data.
12 So you're looking at the pre-construction index of
13 activity in relation to projects that are now
14 operational, the pre-construction data of those
15 projects, and those projects that also have
16 post-construction data. So you can see basically
17 there's no -- there's no connection between
18 pre-construction and post-construction. What we're
19 finding is the index are a lot higher than mortality
20 rates for bats. But what you can do is use
21 pre-construction data to compare to like project
22 sites, similar in habitat, elevation, and then assess
23 whether or not you're within range of those sites.
24 And if they have -- and if post-construction

1 mortality data is available for those sites, you have
2 an idea how to gauge what you might expect for
3 mortality.

4 Q. In the -- just a little change in gears here. In the
5 public hearing held in Plymouth -- and this would be
6 Exhibit Buttolph 3, Page 49 --

7 MS. GEIGER: Could you please provide
8 me with a copy of the page that you're looking at off of
9 the exhibit? I don't believe he has it.

10 MR. BUTTOLPH: I'm sorry. It's
11 Page 49.

12 MS. GEIGER: Do you have an extra copy
13 for the witness?

14 MR. BUTTOLPH: There's a whole stack
15 up there. I'm sorry.

16 MR. BUTTOLPH: Mr. Chairman, in the
17 future, should I be -- when a new witness comes up, should
18 I be hand-delivering a copy of my exhibits up there? I'm
19 sorry that I...

20 A. Page 49 you said?

21 Q. Yes, Page 49.

22 MR. IACOPINO: Mr. Buttolph, are you
23 referring to the page numbers at the bottom of the page
24 or -- because the document has got --

1 MR. BUTTOLPH: Yes, it's Buttolph 3.
2 And once you get that out, then there are page numbers at
3 the bottom. I think the cover sheet says Page 34, for
4 example.

5 MR. IACOPINO: Okay.

6 A. I'm on Page 49. What line are you referring to?

7 BY MR. BUTTOLPH:

8 Q. Okay. It's approximately in the middle of the page.
9 You had answered -- well, here's what I was going to
10 say: You were asked, "Why should we believe your
11 avian studies, when one of their wind farms out west
12 recently reported that the birds killed were seven
13 times more than the preliminary studies indicated?"

14 And your answer here was, "This isn't the
15 West Coast, for one. This is the East Coast. We
16 have several operational projects here on the East
17 Coast now that show very low mortality. And it is
18 true that there is a very -- there's a lack of
19 information in terms of connecting pre-construction
20 results to post-construction fatality results. And
21 part of this is because it's kind of a random,
22 episodic event based on weather variables. And it's
23 kind of like a freak accident, really, if you get
24 more than that."

1 I just -- could you -- could you indicate
2 as to -- you know, are you saying that there are
3 events that happened that we ought not to consider
4 because they're random or -- could you elaborate on
5 that a little bit more?

6 A. No, that's not at all what I'm saying. But what I am
7 saying is it makes it difficult to predict because of
8 the randomness.

9 Q. Okay. So, again, it sounds like we don't really have
10 a very good way of getting our arms around a
11 prediction of fatalities is what it sounds like to
12 me. Sounds like you're agreeing with that.

13 A. No. I mean, we're talking West Coast versus East
14 Coast, for one, which is much different in terms of
15 avian mortality. There's -- you know, beyond
16 projects in New England, there's projects down, you
17 know, throughout the Northeast now that have showed
18 low bird mortality relative to other projects in the
19 west or other forms of bird mortality, you know,
20 vehicles or tall structures, you know, skyscrapers.

21 Q. Okay. But we don't really have a -- well, you're
22 looking at the West Coast and saying that the studies
23 really didn't help you to anticipate what the
24 fatalities would be, I think is what I'm hearing you

1 say.

2 A. That's true.

3 Q. And on the East Coast you think that they do. Is
4 that true?

5 A. I'm assessing impacts on the East Coast. So I don't
6 calculate West Coast. You have different species.
7 You have different factors involved that could
8 influence mortality.

9 Q. I'm going to change gears again here. We're going to
10 be on Page 9 of the prefiled testimony from
11 October 12th. So, hopefully that won't require a lot
12 of paper going around. Right in the prefiled. All
13 right? Are we there? Okay.

14 You state that Groton Wind has committed to
15 one full year of post-construction monitoring,
16 similar to that conducted at the nearby Lempster Wind
17 project. If first year results show higher mortality
18 than the range of observed rates at other operational
19 projects on forested ridgelines in the Northeast,
20 then Groton Wind will conduct a second year of
21 post-construction monitoring."

22 And I also need to ask you, if you will
23 refer to Buttolph 20, which is one of our exhibits --

24 CHAIRMAN GETZ: Mr. Buttolph, where

1 are you reading? Were you reading from Page 9?

2 MR. BUTTOLPH: I hope I was. That was
3 my intention.

4 MR. STELTZER: Mr. Chairman, is that
5 the supplemental or the prefiled?

6 MR. BUTTOLPH: The October 12th. I'm
7 sorry. The supplemental. I apologize. I should have
8 made it more clear.

9 MS. GEIGER: Mr. Buttolph?

10 MR. BUTTOLPH: Oh, I'm sorry. Are you
11 ready?

12 MS. GEIGER: I have a question for
13 you. Could you please repeat the exhibit that you would
14 like the witness to refer to?

15 MR. BUTTOLPH: Sure. The next exhibit
16 is going to be Buttolph 20.

17 MS. GEIGER: Thank you.

18 MR. BUTTOLPH: And I'm also going to
19 be referring to Buttolph 19. So those two exhibits are
20 right next to each other. They're not lengthy, but...

21 BY MR. BUTTOLPH:

22 Q. Okay?

23 A. Yes.

24 Q. Great. So I guess I'll just repeat it very briefly.

1 Groton Wind has committed to one full year
2 of post-construction monitoring, similar to that
3 conducted at the nearby Lempster Wind project. If
4 the first-year results show higher mortality than the
5 range of observed rates at other operational projects
6 at forested ridgelines in the Northeast, then Groton
7 Wind will conduct a second year of post-construction
8 monitoring.

9 Now, Exhibits 19 and 20, Buttolph 19
10 and Buttolph 20, are the corporate policy of
11 Iberdrola with respect to, I guess you'd call it your
12 ABPP, your avian and bat protection plan. Is that --
13 and the policy -- I'll start with Buttolph 19.

14 If you read down through this, this says
15 that you will implement and comply with your
16 comprehensive ABPP. That's on the first page. If
17 you go to the second page of -- I'm sorry -- the
18 third page of your exhibit, there's an implementation
19 schedule which has some time frames and so forth,
20 which would indicate to me that particular project
21 would fall under that corporate directive.

22 Now, if I go back to -- or forward, I
23 should say, to Buttolph -- and Buttolph 20 is a Town
24 of Rumney data request. And the question that was

1 answered -- or the answer, really, is what's
2 applicable. And it would be the second paragraph if
3 you are there. It says, "Pre-construction surveys
4 did not show the potential for an unreasonable
5 adverse impact to birds as a result of the project.
6 In addition, Iberdrola has committed to a one-year
7 post-construction monitoring to assess project
8 impacts to birds. If an unreasonable adverse impact
9 is observed, then the Iberdrola corporate-wide Avian
10 Bat Protection Plan will be followed." And then see
11 Appendix 16 for that.

12 Why are you not following it at the outset
13 when your corporate policy says that you shall?

14 A. First of all, it's not my corporate policy. But the
15 reason is that if you don't have impacts, you don't
16 need to monitor for the life of the project. So the
17 ABPP is taking effect by committing to that one-year
18 post-construction monitoring. If impacts or
19 mortality rates are within range of other wind
20 projects in the east, then this plan commits to
21 monitoring with on-site staff years after that. So
22 it's this one formal post-construction study. If
23 that study -- so if that's not the case, the
24 mortality rates are not within the range or lower,

1 then Iberdrola has committed to a second year of
2 monitoring to figure out what factors caused higher
3 rates.

4 Q. And do I understand the corporate policy would say
5 that it would do that automatically without that
6 data, that first year's data?

7 A. Can you repeat that question, please?

8 Q. Do I understand that your corporate -- that the
9 Applicant's corporate policy -- I'll rephrase a
10 little bit -- is more significant than what you have
11 just suggested is appropriate?

12 A. It's more significant than any wind project that's
13 been proposed or constructed because it puts a level
14 of commitment on the monitoring that most projects
15 are not following. They do one or two years of study
16 and that's it. And the thing that makes this plan
17 better is that, if there's a significant event that
18 occurs and you're only monitoring for year one or
19 year two, there's a very good chance you won't
20 observe an event if it does occur. And this
21 commitment puts further -- basically monitoring
22 further out than year one and two and will encompass
23 any events if they did occur.

24 Q. Okay. So it sounds like maybe the people at

1 corporate Iberdrola might listen to your advice and
2 perhaps change their corporate policy. But it sounds
3 to me as though the answer to that data request was
4 that your -- Iberdrola is not going to be following
5 their corporate policy in this respect. And it
6 sounds like you agree that that's what it says, not
7 you're thinking it's not important that they follow
8 it directly. And maybe you have an alternative which
9 you would suggest that's better?

10 A. I'm actually not sure where you're -- how we're
11 getting to them not following the policy.

12 Q. It's saying if there's -- well, again, back to
13 Exhibit 20, Buttolph Exhibit 20, that second
14 paragraph down. It says "if" something happens,
15 "then" we'll follow our policy. It's about the
16 second or third paragraph. It says if there's
17 unreasonable adverse observed, then Iberdrola will
18 follow the plan. And I guess the presumption is that
19 you won't be following the plan unless that occurs.
20 So that's where I'm getting that conclusion. And I
21 guess you're suggesting it isn't important because no
22 wind projects follow these plans, or very few, and
23 it's more extensive than is necessary; so, therefore,
24 Iberdrola shouldn't be following their corporate

1 policy in this regard is what I think I'm hearing.

2 And I just --

3 CHAIRMAN GETZ: Well, Mr. Buttolph, we
4 try to give some latitude to parties who aren't familiar
5 with the process. But it seems you're making a lot of
6 argument that you're free to do at the end of the case.
7 But try -- and certainly you can ask questions to the
8 witness and determine whether he agrees or not, but --

9 MR. BUTTOLPH: Okay.

10 CHAIRMAN GETZ: But you can make your
11 argument and your conclusions about what the evidence says
12 and what his testimony says. You'll have that opportunity
13 later.

14 MR. BUTTOLPH: Okay. I beg your
15 pardon. Thank you.

16 CHAIRMAN GETZ: Sure.

17 MR. BUTTOLPH: We'll change gears.

18 BY MR. BUTTOLPH:

19 Q. In response to a question on Page 12 of your
20 supplemental testimony which we just were looking at,
21 you state, "I disagree with Mr. Buttolph's assertions
22 that raptor migration surveys must be conducted
23 throughout the migration season and over the course
24 of several years."

1 If you will, Buttolph 15 is another exhibit
2 that I would ask you to get out. It's a letter from
3 Neal Randall, who is the Chairman of the Board of
4 Directors of HMANA, which is dated October 25th. Oh,
5 you're there?

6 A. Yeah, I'm there.

7 Q. The letter states the following: "The proposed
8 Groton protocols appear inadequate for evaluating the
9 risk posed by industrial wind turbine projects to
10 wildlife resources... One year of studies is
11 insufficient for pre-construction studies. Seasons
12 are extremely variable from year to year, and a
13 one-year snapshot is inadequate to determine patterns
14 of migration, species, abundance and risks."

15 Now, given that HMANA has just recently
16 submitted this letter as public input, and they have
17 stated precisely the position that I had taken, would
18 you reconsider your professional opinion on this
19 matter?

20 A. No, I wouldn't, because I disagree with the statement
21 that migration is extremely variable year to year.
22 We have several examples of -- you know, looking at
23 HMANA's data itself and -- for the past seven years
24 at the two sites closest to this project, the

1 patterns are very similar. There's a trend, in that
2 the peak of migration occurs in September and
3 mid-October. It does not change, vary extremely as
4 suggested.

5 Q. Okay. And just a very brief question on corporate
6 policy from before. Just a very quick, one question.
7 Will you be following the corporate policy, the AA --
8 I'm sorry ABPP? That's just the brief question I
9 have.

10 A. That might be a better question for the Applicant.

11 Q. Okay. I'm now going to move to another exhibit. And
12 actually, this is one from the Public Counsel, which
13 I believe was just recently handed out. It should be
14 Exhibit PC 14, if I'm not mistaken. I know that the
15 parties out here have it, and we weren't sure if the
16 Committee had that one.

17 MR. MULHOLLAND: Could we go off the
18 record for a second?

19 CHAIRMAN GETZ: Yes.

20 (Discussion off the record)

21 CHAIRMAN GETZ: We're back on the
22 record.

23 BY MR. BUTTOLPH:

24 Q. Okay. Are you familiar with this report that they

1 just gave you? This is, my understanding -- well,
2 I'll just read the cover here. It's "Wind Turbine
3 Guidelines Advisory Committee, Established Under the
4 Federal Advisory Committee Act, October 26, 2007."
5 It's from the Chairman of the Wind Turbine Guidelines
6 Advisory Committee. I'll ask just a general question
7 for starters. Are you familiar with this advisory
8 committee?

9 A. Yes, I am.

10 Q. Okay. Is it your opinion that the field studies
11 indicate that species of concern are present on or
12 likely to use the proposed site?

13 A. No, it isn't. It's my opinion that they could pass
14 through during migration, but that they're not
15 present in -- they're not residents of the project
16 area.

17 Q. They are not residents. Okay.

18 So, being present on or likely to use, in
19 your view, is -- there are none. So they just --
20 okay. I got that.

21 If I could direct your attention to
22 Page 28. So if there were some of these species of
23 concern there -- "In the event a species of concern
24 is very rare and only occasionally visits a site, a

1 determination of 'likely to occur' would be inferred
2 from the habitat at the site."

3 So if there were, you know -- well, what I
4 just said.

5 MS. GEIGER: Excuse me. Mr. Chairman,
6 I'm not sure if there's a question. If not, I'm going to
7 object to this statement being read into the record
8 because it's not a question.

9 MR. BUTTOLPH: Okay. I'll withdraw
10 the question.

11 CHAIRMAN GETZ: Okay.

12 BY MR. BUTTOLPH:

13 Q. During the fall 2009 sample of eight days, from 8/24
14 through 10/26, five bald eagles were observed. Now
15 I'm going to direct your attention to Buttolph 18 and
16 Buttolph 17. And this one is in Buttolph 18.

17 Do you have that? Okay. It looks like
18 five bald eagles were observed, as well as two golden
19 eagles. Now, given that this is apparently your
20 position, that this is a sufficient sample -- I
21 shouldn't -- I guess I should ask you this question:
22 As I understand it, the 10 days provides a sufficient
23 sample in order to do your analysis; is that correct?

24 A. That's correct.

1 Q. So, given that's the case, we have five bald eagles
2 and two golden eagles that were observed in that time
3 period. So, based on that, what would you estimate
4 would be the total count of those two species during
5 the totality of the fall migration?

6 A. Be difficult to tell without observing the entire
7 season. But I would note that it's important to
8 consider where those observations occurred. Of those
9 observations, not all of them occurred within the
10 project area.

11 Q. Okay. Now I'm going to go back to the question that
12 I withdrew, and hopefully I'll do better with this.

13 That Page 28 from Exhibit PC 14 says that,
14 in the event a species of concern is very rare and
15 only occasionally visits a site, a determination of
16 "likely to occur" would be inferred from the habitat
17 at the site. So if the five bald eagles or the two
18 golden eagles were present or likely to use the
19 proposed site, then the -- then that would be a
20 concern relative to this particular directive out of
21 the federal government; is that correct?

22 A. I think the important or the key point in that
23 sentence is, "would be inferred from the habitat on
24 the site." The "habitat" is the key word there, in

1 that the habitat for bald eagles, as we know, are
2 open-water bodies or river corridors. They do use
3 ridge lines, you know, near their foraging and
4 breeding areas for thermal development and soaring.
5 But I would not say that this project has a habitat
6 for eagles.

7 Q. Okay. There is the Baker River that this project is
8 close to. You're familiar with that, of course.

9 A. Yes. And also Newfound Lake.

10 Q. Right, Newfound Lake.

11 Again, regarding your sampling of 10 days,
12 from 8/24 to 10/26, and the data collected there,
13 could you please explain your probabilistic sampling
14 protocol that allows a statistical extrapolation to
15 the area in the time of interest?

16 A. So you're asking me how we determined the -- when to
17 sample in the migration season?

18 Q. I'm asking as to whether you have developed and you
19 have a statistic -- a sampling protocol that allows
20 for a statistical extrapolation to the area in the
21 time of interest. And I guess what you said was it
22 was kind of hard to predict how many of these raptors
23 would fly through. And so I guess I should conclude
24 you don't really have a statistical extrapolation for

1 counting or estimating how many would be flying
2 through; is that right?

3 A. That's correct. And we don't do that because, as I
4 said earlier, there's no correlation between
5 pre-construction survey results and post-construction
6 mortality, and especially for raptors where mortality
7 in the East has been extremely low.

8 DR. MAZUR: Extremely what?

9 WITNESS GRAVEL: Low.

10 MR. BUTTOLPH: He said "extremely
11 low."

12 BY MR. BUTTOLPH:

13 Q. Would you consider the risk of taking even one of
14 these individuals of these two species to be
15 reasonable, considering the Bald and Golden Eagle
16 Protection Act?

17 A. Yeah. The Bald and Golden Eagle Protection Act has a
18 specific clause in there about basically
19 intentionally taking of an eagle. This project,
20 through field surveys and peregrine-use surveys over
21 the course of several years, has shown due diligence
22 to avoid -- avoid and assess risk. And the results,
23 as well as known information from publicly available
24 mortality studies, the conclusion is that it's a low

1 risk and a low potential.

2 Q. Have you conducted raptor nest searches in this area?

3 A. No, we didn't.

4 Q. And why not?

5 A. Well, in part, because it hasn't been requested at
6 any project before. I mean, let me back up,
7 actually.

8 Before we conduct and carry out studies, we
9 consult with the state and federal agencies
10 beforehand with detailed work plans of what we
11 propose to do on site, as was the case here. Work
12 plans were submitted to the agencies for comment, to
13 basically identify any gaps in proposed
14 methodologies. No comments were received on the
15 study plan.

16 Q. Okay. So you've concluded, since you received no
17 comments then, the specific question here? There was
18 no raptor nest search required?

19 A. Yes.

20 Q. Okay.

21 MR. BUTTOLPH: I'm done. That's all
22 the questions I have.

23 CHAIRMAN GETZ: Thank you. Dr. Mazur,
24 do you have questions for this witness?

1 CROSS-EXAMINATION

2 BY MR. MAZUR:

3 Q. Mr. Gravel, I don't know too much about birds and
4 bats.

5 CHAIRMAN GETZ: If we could --

6 DR. MAZUR: Oh, I'm sorry.

7 BY MR. MAZUR:

8 Q. Mr. Gravel, I'm Dr. Mazur. I don't know too much
9 about birds or bats, but I have few questions for
10 you.

11 How many birds and bats would you
12 anticipate being found on the ground at such a work
13 site with 24 turbines on a daily basis? How many
14 birds corpses would be on the ground every morning?

15 A. I can't quantify that for you. But I would -- as I
16 said in several, you know, testimonies and reports,
17 that I expect it to be within range of publicly
18 available studies. So I think it's going to be -- I
19 think I would predict it would be more similar to
20 some of the work that's been done in Maine and New
21 Hampshire -- Lempster, specifically.

22 Q. So, how many birds would be laying on the ground
23 every morning? More or less?

24 A. I don't know.

1 Q. Zero to 10 or --

2 A. Most likely it's-- most often at these studies it's
3 zero. And that's what makes it difficult to
4 correlate. You can't correlate pre-construction data
5 to zero mortality on a regular basis. There's
6 occasions where you'll find a few. But there's also
7 many occasions within a survey year you find zero.

8 Q. Based on your expertise, sir, do the birds that fly
9 within the proximity of the turbine blades, do they
10 do that randomly, or might they do that for some sort
11 of physiological disequilibrium due to the sound wave
12 emigration that might be affecting their balance and
13 nervous system monitoring loci?

14 A. Based on what we know about birds in the data
15 collected, we feel it's more random due to weather
16 variables and not necessarily a bird's nervous
17 system.

18 Q. Okay. Are you aware of any experimental studies that
19 have ever been done trying to monitor the effect of
20 sound wave propagation, audible or inaudible, as far
21 as the birds or bats are concerned, on their
22 equilibrium and sensory --

23 A. No, I'm not.

24 Q. Okay. Why would some -- such studies be of some

1 value, since there is concern about these creatures
2 coming to possible harm with such turbines? Why
3 would no laboratory want to seek funding to do such
4 research?

5 A. The problem is you can't isolate the variables, in
6 terms of what factors are influencing that, whether
7 it's noise or weather. So that's the problem.
8 You're in a natural environment, and you can't
9 isolate all the variables that could influence
10 collision incidents.

11 Q. I want to be careful that I don't comment and I only
12 question. But I -- this problem about not being able
13 to isolate variables is also applicable to concerns
14 regarding the effect of the sound wave propagations
15 on humans --

16 MS. GEIGER: I'm going to object to
17 this question. This witness has not testified about sound
18 effects on humans, and so I don't think the question is
19 fair.

20 DR. MAZUR: Allow me to repeat that.
21 I appreciate Mr. Gravel's concern about the difficulty in
22 controlling for variables affecting the equilibrium,
23 balance or disturbance of the creatures we're discussing.

24 BY MR. MAZUR:

1 Q. But regarding the peregrine falcon that everyone is
2 concerned about, I think I read in your pretrial
3 testimony that you had only observed two sightings
4 over the potential site area in 200 hours of
5 observation.

6 A. I don't know if that's the correct number. It might
7 have been four.

8 Q. Four sightings?

9 A. Yeah.

10 Q. Does it really matter whether you observe 1 sighting
11 or 10 sightings? All it takes is one unfortunate
12 sighting for the peregrine to be bladed. How
13 significant -- does it matter how much sightings you
14 observed?

15 A. It's very significant. I mean, if you have, you
16 know, throughout the course of the year very few
17 opportunities for interaction, then you would expect
18 the risk to be much lower. But you also have to
19 think about, you know, life history characteristics
20 of the bird that we're talking about. I mean, these
21 birds will pick off other birds at speeds up to
22 200 miles an hour. To think that they can't see a
23 turbine is not reasonable. I'm not saying it does --
24 you know, freak events do not happen. I mean, there

1 is, you know, definitely occasions where you could
2 have an injured bird or even a juvenile bird,
3 inexperienced, that could have an incident. But as a
4 whole, it's not -- we're not expecting that.

5 Q. Are you saying your expertise, sir, are -- the
6 peregrines or other birds of concern to you, are they
7 particularly attracted to such artifacts in nature as
8 turbines? I mean, have you reason to believe that
9 whether or not a turbine is in their flight path,
10 they might be -- they might redirect their trajectory
11 to fly into the turbines?

12 A. No. In fact, actually, many studies
13 post-construction have showed avoidance behaviors by
14 raptors and turbines, where we've had -- an example
15 is Mars Hill, Maine, where we've had eagles nesting
16 nearby that we saw pre-construction and
17 post-construction. And they continually avoided the
18 turbines. They didn't avoid the ridgeline, but they
19 avoided the turbines.

20 Q. When you say "avoided," are you saying a hundred
21 percent of circumstances or --

22 A. At that site, yes.

23 Q. I think I've exhausted my questions. Let me ask my
24 fellow intervenor.

1 Sarah, do you have any questions?

2 MS. MAZUR: I do.

3 DR. MAZUR: She needs to speak at the
4 microphone. This is Sarah Mazur. She's also -- may she
5 ask her questions?

6 CHAIRMAN GETZ: Well, we had asked
7 ahead of time that you designate for the intervenor group.
8 But I think at this point if you have a question for this
9 particular witness, come up to a microphone.

10 DR. MAZUR: Okay. Thank you.

11 CROSS-EXAMINATION

12 BY MS. MAZUR:

13 Q. Hello. Thank you. Well, my question is: What is
14 the procedure for what seems to be a blind or
15 invisible mortality rate if the birds and the bats
16 that are -- become victims of the wind turbines and
17 fall to the ground as corpses and are eaten
18 immediately that night by roaming predators or
19 scavengers? What's the procedure for counting -- or
20 accounting for those?

21 A. Both scavenger-removal and search-efficiency trials
22 are conducted at these post-construction sites to
23 provide a correction factor on birds that searchers
24 may miss because of ground cover, or birds that were

1 there but are no longer there because of scavengers.
2 So the mortality rates are adjusted based on those
3 trials.

4 Q. But are those trials based on counts of how many
5 predators are on the premises or --

6 A. Yeah. Yeah. Basically, carcasses are planted on a
7 site, and it's -- I think it's a seven-day interval
8 where you monitor daily if those carcasses are there
9 and see how long it takes for those carcasses to be
10 scavenged by coyotes or crows or ravens and so forth.

11 Q. But do you know if there are more coyotes in the East
12 than in the West?

13 A. No, I don't know that.

14 Q. Thank you.

15 CHAIRMAN GETZ: Thank you. Mr.
16 Sinclair, do you have questions?

17 MR. SINCLAIR: None. Thank you.

18 CHAIRMAN GETZ: Then my understanding,
19 Mr. Mulholland, was that Mr. Roth would conduct the
20 cross-examination of Mr. Gravel. Is that correct?

21 MR. MULHOLLAND: Yes.

22 CHAIRMAN GETZ: Okay. I guess at this
23 juncture then -- well, let me clarify and make sure.

24 Mr. Buttolph, I assume you were still

1 conducting the cross-examination for your group?

2 MR. BUTTOLPH: Yes.

3 CHAIRMAN GETZ: Okay. All right. At
4 this point then, I think we would want the Subcommittee to
5 ask its questions after Mr. Roth had conducted his
6 cross-examination. So we'll excuse Mr. Gravel until -- I
7 believe it's this afternoon that Mr. Roth will be here?

8 MR. MULHOLLAND: He'll probably be
9 here between 11 and 12. Closer to 12, I think.

10 CHAIRMAN GETZ: Well, then let's
11 excuse Mr. Gravel. And then let's take about a 15-minute
12 recess, bring up the panel, have the -- conduct the direct
13 and then start their cross-examination. Thank you.

14 (Whereupon a recess was taken at 10:11
15 a.m. and the hearing resumed at 10:36
16 a.m.)

17 (Applicant's Exhibit 43 marked.)

18 (Applicant's Exhibit 44 marked for
19 identification.)

20 (Applicant's Exhibit 45 marked.)

21 CHAIRMAN GETZ: We're back on the
22 record and moving to the direct examination of the panel
23 o.

24 F Leo, Rendall and Walker.

1 (WHEREUPON, the following witnesses
2 were duly sworn and cautioned by the
3 Court Reporter.)

4 MICHAEL LEO, SWORN

5 NANCY RENDALL, SWORN

6 PETER WALKER, SWORN

7 DIRECT EXAMINATION

8 BY MR. PATCH:

9 Q. Good morning. Could you each state your name for the
10 record.

11 A. (Leo) Sure. My name is Michael J. Leo. I'm a
12 project manager and civil engineer from Vanasse,
13 Hangen, Brustlin.

14 A. (Walker) My name is Peter J. Walker. I'm director of
15 environmental services for Vanasse, Hangen, Brustlin.

16 A. (Rendall) Nancy B. Rendall, senior environmental
17 scientist for Vanasse, Hangen, Brustlin.

18 Q. Might make sense to speak into the microphone when
19 you're speaking, just to make sure the court reporter
20 and everyone can hear what you're saying.

21 Now, each of you submitted prefiled
22 testimony in this docket. I believe, Mr. Leo, I'll
23 start with you.

24 You submitted with the original

1 application, which has been marked as Exhibit 1, part
2 of Volume I, prefiled testimony; is that correct?

3 A. (Leo) That's correct.

4 Q. And then part of what's been marked as Exhibit No. 5
5 supplemental prefiled testimony; is that correct?

6 A. (Leo) That's also correct.

7 Q. Okay. And do you have any -- well, actually before I
8 do that, Mr. Walker, why don't we go to you now.

9 You were not involved in the original
10 prefiled testimony, but you submitted jointly with
11 Nancy, with Ms. Rendall, the supplemental prefiled
12 testimony that is part of Exhibit 5; is that correct?

13 A. (Walker) Yes, that's correct.

14 Q. And Ms. Rendall, just to be clear, you submitted
15 original prefiled testimony, part of Exhibit 1, and
16 jointly with Mr. Walker as part of Exhibit 5;
17 correct?

18 A. (Rendall) That's correct.

19 MR. PATCH: Okay. Does everyone have
20 that straight? I'm sorry. I just want to be clear about
21 that.

22 BY MR. PATCH:

23 Q. Now I'm going to ask each of you: Do you have any
24 corrections or updates to either the original

1 prefiled or the supplemental prefiled testimony? Mr.
2 Leo, why don't we start with you.

3 A. (Leo) I do not.

4 Q. Mr. Walker?

5 A. (Walker) In terms of corrections to the pre-
6 supplemental prefiled testimony, no real corrections.
7 There was a question last Friday during the
8 prehearing conference that came up regarding a plan
9 set and some information that was dated July 9th. So
10 at that time, at the prehearing conference, I came
11 and explained the basis of what those filings were.
12 And I believe copies of a letter dated July 9th and a
13 letter and attachments dated July 22nd were submitted
14 to the counsel at that point.

15 Q. Okay. Thank you.

16 MR. PATCH: Just to stop there, Mr.
17 Chairman. We have handed out a packet that shows the
18 July 22nd, 2010 letter to Mr. Craig Rennie on the front of
19 it. And I think it's been premarked as Exhibit 43.

20 BY MR. PATCH:

21 Q. And I believe the other letter that you mentioned,
22 Mr. Walker, is contained as part of that package.
23 That was the June 29th letter; is that correct?

24 A. (Walker) There should be a letter dated July 9th

1 which was signed by Michael C. Hansen, which also had
2 a number of attachments.

3 Q. All right. I believe that's part of the packet
4 that's been handed out. But we can verify that. So
5 that's all together in what has been premarked as
6 Exhibit 43.

7 And maybe if you could just very briefly
8 summarize what that packet is again.

9 A. (Walker) These two submittals which VHB prepared on
10 behalf of Groton Wind, LLC contained our technical
11 responses to DES comments on the alteration of
12 terrain permit application and the Wetlands Bureau
13 application.

14 So, very briefly. On June 30th, we had
15 received a request for more information from Craig
16 Rennie of New Hampshire DES regarding our alteration
17 of terrain permit application. And we replied to
18 Craig's comments on our application via this July 9th
19 letter. And although Michael Hansen signed that
20 letter today, Mike Leo, who is a lead engineer, would
21 be responsible for addressing any questions on
22 alteration of terrain.

23 We also -- again, as briefly as possible.
24 On June 28th, we received a separate letter from

1 Craig Rennie, who was providing comments on our
2 wetlands permit application. And we replied to those
3 comments of Craig's via this letter, dated July 22nd,
4 and the information that was attached to it.

5 Q. Okay.

6 CHAIRMAN GETZ: Mr. Patch, I'm having
7 trouble finding -- are both of those in --

8 MR. IACOPINO: They're not.

9 MR. PATCH: I apologize, Mr. Chairman.
10 I thought they were part of the packet, but apparently the
11 July 9th is not. So we'll have to check on that during a
12 break and make sure you have copies. But I --

13 CHAIRMAN GETZ: So what's been marked
14 as Applicant 43 is just the July 22nd material, as I can
15 best tell it.

16 MR. PATCH: That's my understanding.
17 And I apologize for that. But we'll correct that.

18 MR. IACOPINO: Mr. Patch, just to
19 clarify.

20 Mr. Chairman, I believe that -- I know
21 the Committee doesn't have it. But my understanding is
22 that the July 9th letter was indeed previous -- between
23 Friday and Monday was circulated to the parties via
24 e-mail.

1 MR. PATCH: That's correct. Yeah.

2 CHAIRMAN GETZ: And just for
3 additional context for my benefit, this was all material
4 that was submitted to DES that formed the basis for the
5 DES actions?

6 MR. PATCH: That's correct. And there
7 were questions raised at the prehearing conference about
8 the information, so Mr. Walker came up and discussed it
9 with the parties at that time.

10 MR. IACOPINO: And the other parties
11 actually requested this information from you.

12 MR. PATCH: That's right.

13 BY MR. PATCH:

14 Q. Okay. Then, Ms. Rendall, could you -- are there any
15 updates to your testimony?

16 A. (Rendall) Yes, there are. I have two updates. One
17 is -- and they both referred to the alternative
18 interconnect route proposal.

19 MR. MULHOLLAND: Mr. Chairman, I'm
20 going to -- I think I'm going to object to the
21 introduction of this. We were just handed this today,
22 dated November 2nd. This is what Ms. Rendall is going to
23 talk about. And the basis of the objection is that, what
24 this is, is an amendment to the application that's late.

1 And I agree it's interesting to the Committee. But we
2 don't really know where the -- as we established yesterday
3 or the day before, we don't know where the interconnection
4 is going to be. So this is wetlands information about a
5 proposed orientation of the wire based on a sketch. And I
6 mean, I guess it presents a problem to the Committee.

7 CHAIRMAN GETZ: Do we have this
8 document?

9 MR. IACOPINO: Yes. This is Exhibit
10 44 for identification, Applicant's Exhibit 44. It's been
11 passed out.

12 CHAIRMAN GETZ: Oh, it's to Kristen
13 Goland, that letter dated November 2nd?

14 MR. IACOPINO: Yes.

15 CHAIRMAN GETZ: And it includes these
16 other separate pieces, the summary table and the two sets
17 of photographs?

18 MR. PATCH: That's correct.

19 MR. IACOPINO: Actually, I think it's
20 more than two photographs, isn't it?

21 MR. SCOTT: Mr. Iacopino, can I get
22 that exhibit number again?

23 MR. IACOPINO: It was 44 for
24 identification. And I believe it was passed out just a

1 few moments ago.

2 I believe it actually has four
3 photographs, if I'm correct.

4 CHAIRMAN GETZ: Well, what I'm saying
5 is I have two stapled sets of photographs is what I have.
6 And...

7 MR. IACOPINO: Maybe there was...

8 CHAIRMAN GETZ: Let's go off the
9 record just so you don't have to try and follow this.

10 (Discussion off the record)

11 CHAIRMAN GETZ: All right. Back on
12 the record. Mr. Patch, have a response to Mr.
13 Mulholland's statement?

14 MR. PATCH: I do, Mr. Chairman. I
15 think Mr. Mulholland had said that it was all based on a
16 sketch. But I'd like to point out that in the
17 supplemental application, Appendix 42 actually contains a
18 map of the alternate interconnection route. And I believe
19 in his supplemental prefiled testimony, Mr. Cherian also
20 discussed it. Now, I understand that this is supplemental
21 information and it was not provided at that point in time.
22 But I think, as we've indicated before, it is an iterative
23 process. We're trying to respond to the concerns that you
24 had expressed to us on Friday and then early in this

1 proceeding about the fact that we needed to try to address
2 the interconnection route in more detail. Again, I
3 apologize it's coming in when it is. But we're doing the
4 best we can to try to provide more information.

5 CHAIRMAN GETZ: Well, I guess at this
6 point we'll mark it for identification. I'd like to get
7 an explanation of it. It raises several other issues:
8 One is what weight to give it; two is opportunity for the
9 other parties to inquire about it, prepare questions about
10 it; and I guess as a third, I'm taking it that some of
11 this information basically has to be considered by DES?
12 Would that be correct?

13 MR. PATCH: Well, I think it fair to
14 say if it relates to wetlands, that it would be something
15 that would be discussed with DES. But I think I'll let
16 the witnesses maybe testify more about that. They have
17 more experience dealing with DES on issues like this. But
18 maybe that would be the best way to deal with it. But I
19 would say the answer is yes.

20 CHAIRMAN GETZ: Okay. Well, let's
21 receive at least an explanation of what this information
22 is, and then we'll figure out how to deal with it.

23 BY MR. PATCH:

24 Q. Okay. Thank you. Do you need the question again or

1 do you remember?

2 A. (Rendall) Yes, I do, because I don't know how far I
3 got.

4 Q. Okay. If you could just provide us with an update to
5 your supplemental testimony and describe for the
6 Committee, if you could, Exhibits 44, and then
7 there's a 45. At least they've been marked for
8 identification as those numbers.

9 A. (Rendall) Okay. Exhibit 44 is the results of a field
10 investigation that I performed at Groton Wind on
11 Friday, October 29th. The purpose of that visit was
12 to traverse a hundred-foot wide corridor, based on
13 the information that was provided to VHB by Ed
14 Cherian as to the proposed alternative interconnect
15 route. At that time, the purpose of that was to see
16 if there were wetlands, fertile pools, streams, any
17 other areas of special concern. This memo summarizes
18 the results of that investigation. I flagged the
19 wetlands in accordance with the interim guidelines
20 and located those wetland flags in the field with a
21 Trimble GPS unit, which is the same method that was
22 used for locating wetlands throughout the rest of the
23 project area.

24 Q. And Exhibit 45?

1 A. (Rendall) Exhibit 45 is the result of a New Hampshire
2 Natural Heritage Bureau online data check for listed
3 species within the proposed alternative interconnect
4 route. And there are no known records within that
5 proposed area as a result of that. So that's a memo
6 to Kristen Goland explaining that that check had been
7 done and that there were no species listed or found.
8 No known records.

9 Q. Okay. And Mr. Leo, just to be clear, did you
10 participate in that site visit on Friday?

11 A. (Leo) Yeah, I did walk on the ground, the route of
12 the proposed interconnect.

13 Q. Okay. Now, if we were to ask you the same questions
14 that you've been asked in your respective testimonies
15 that you filed, would you answer them the same way
16 today?

17 A. (Leo) Yes.

18 A. (Rendall) Yes.

19 Q. Absent the update that we just talked about.

20 A. (Rendall) Yes.

21 A. (Walker) And yes.

22 MR. PATCH: The witnesses are
23 available for cross-examination.

24 CHAIRMAN GETZ: What I would propose

1 is that we conduct the cross-examination on the prefiled,
2 the original prefiled and the supplemental testimony, and
3 defer any -- unless parties are inclined, they may
4 question about Exhibit 44 in particular. But I'd like to
5 address this issue in independent pieces and give some
6 thought to how to deal with Exhibit 44 in particular. So
7 I would suggest that we conduct the cross-examination that
8 you intended to conduct when we came here this morning,
9 and later in the day hear argument about what's the best
10 approach for dealing with Exhibit 44.

11 So, with that, Mr. Sinclair, do you
12 have any questions for the panel?

13 MR. SINCLAIR: None. Thank you.

14 CHAIRMAN GETZ: Dr. Mazur?

15 DR. MAZUR: Yeah. Thank you. I have
16 one question that really comes from my wife, who --
17 Christine is also an intervenor, but not present today.

18 CROSS-EXAMINATION

19 BY MR. MAZUR:

20 Q. The wetlands that you folks monitored presumably
21 drains into the Clark Brook which runs parallel to
22 Groton Hollow Road, the access -- the proposed access
23 road. And the Clark Brook meanders and finally
24 enters the Baker River right across from our

1 property, or exactly where we go swimming in the
2 Baker River.

3 My wife's concern is: Does this panel
4 perceive any implications for the outflow of the
5 Clark Brook into the Baker River that might affect
6 the brook -- the river itself and perhaps push the
7 river over to our side and affect our property, our
8 lower fields? Is there -- that's the question.

9 A. (Leo) From a hydraulic standpoint, we are emulating
10 on site the existing drainage flow conditions, and
11 we're adhering to requirements to control our runoff
12 rates to what they are today. So there should be no
13 change caused by this project to the confluence of
14 the Clark Brook and the Baker River.

15 Q. My incredulous wife would then ask the question:
16 Even if you would need to dynamite the ridges of
17 Fletcher Mountain in particular, you do not
18 anticipate any change in the off-flow of the Clark
19 Brook that might affect the position where -- the
20 topography where it enters the Baker River?

21 A. (Leo) No, we don't. Overall, we've got, I think,
22 less than a 3-percent change in land use total for
23 this project. And we're proposing very limited
24 additional impervious areas, only those areas

1 associated with the operation and maintenance
2 building and room for a small parking area. Other
3 than that, all the roads we're creating are going to
4 be gravel. And the slopes are going to be, you know,
5 impervious surfaces. So we're not changing the
6 patterns or the runoff rates from the site.

7 Q. So what about the risk of contamination from the work
8 site into the Clark Brook feeding then into the Baker
9 River? Do we have to worry about contamination
10 runoff from the site?

11 A. (Leo) Long term, no. Once this project is completed
12 and stabilized, it will be similar to the existing
13 use that's on the site. Right now, you have to
14 remember, most of this property is an ongoing logging
15 operation. There are disturbances out there. When
16 we're gone, we'll have upgraded Groton Hollow Road on
17 the site to be a more stable road. We'll have
18 improved some of the culverts out there right now
19 that are undersized to be the correct size, so you'll
20 have less of a chance of erosion. And this is a
21 low-intensity use. In other words, these roads we're
22 building aren't going to be traveled by the public
23 every day. There's not going to be a high number of
24 cars on them. The only vehicles traveling up and

1 down these roads after it's built are going to be to
2 maintain the towers. So it's a very low-intensity
3 use.

4 Q. You used the qualifying word "long term." What about
5 short term? What sort of short-term --

6 A. (Leo) Yeah. What I meant by "long term" is once the
7 project is complete and stabilized. Short term is of
8 a little more concern. During construction, it's
9 going to be imperative that they follow best
10 management practices for construction activities and
11 erosion control. We put together a fairly
12 substantial package of requirements for them to limit
13 disturbance areas, have barriers for limited
14 construction to collect sediment. There's
15 requirements that monitors be identified, people be
16 out here on site weekly monitoring all the stormwater
17 controls on site and make sure they're functioning as
18 proposed.

19 A. (Walker) If I could, just to supplement Mike's
20 answer. Your concern is with regard to contamination
21 of water quality. The New Hampshire Department of
22 Environmental Services has reviewed the plans. That
23 is the main focus of DES's review. Water quality and
24 effect on wetlands is one area, but probably receives

1 the most focus. DES has issued a recommendation to
2 the Committee. That recommendation included a number
3 of permit conditions that relate to some of the
4 concerns that you have.

5 Mike referred to construction-phase
6 monitoring. And if you look at the DES
7 recommendation, you're going to see there's a number
8 of provisions in there for spill-control provisions
9 and for monitoring of the surface water to make sure
10 there are no effects off the site.

11 Q. Now, when we swim in the Baker, we don't drink it.
12 We drink our well water. So my wife would like to
13 know, do you have to worry about possible
14 contamination of the source of our well water? We
15 live on Quincy Road. We abut the Baker River. Do we
16 have to worry about contamination of our well?

17 A. (Leo) Not from this site as constructed, no.

18 Q. You had to think about the question. Was there any
19 qualifying comments?

20 A. (Leo) No, I was just going through in my mind what
21 the conditions on the project were, trying to figure
22 out how to best answer your question.

23 Q. Okay. Last week I attended a PSU, Plymouth State
24 University, climatology lecture on the anticipated

1 change in the climate in New Hampshire over the next
2 90 years. Through the course of the 21st Century
3 it's going to get dryer and dryer. There's going to
4 be risk of summer droughts, be less snow and more
5 rain in the winter months.

6 MR. PATCH: Mr. Chairman, I don't know
7 if this is a question or --

8 BY MR. MAZUR:

9 Q. And the question is, in anticipation of the change of
10 the New Hampshire climate, would you anticipate any
11 modification of your expressed reassurance to
12 abutters such as ourselves regarding the quality and
13 the off-flow of the brook? This project will have a
14 life of at least 20 years. And we will be warming --
15 we'll be going through climate warming over the next
16 90 years, for sure, maybe mitigated by such
17 technology as wind turbines. But do you anticipate
18 any modification of your reassurance over the next
19 20, 30 years?

20 MR. PATCH: Mr. Chairman, I just need
21 to object to one portion. Mr. Mazur said as an abutter of
22 the project, and just to be clear from a legal
23 perspective, I don't believe there are an abutter.

24 MR. MAZUR: I stand corrected. I mean

1 as abutter to the Baker River which receives off-flow from
2 the Clark River -- Clark Brook, which drains from the
3 potential work site. I stand corrected. I appreciate
4 that.

5 BY MR. MAZUR:

6 Q. Do you anticipate any modifications to your
7 reassurance over the course of the next 10, 20, 30
8 years as the climate continues to warm?

9 A. (Leo) I think I'll go back and just reiterate that
10 this is a low-intensity-use project. There's ongoing
11 logging activities going on on the site right now.
12 Our improvements to the site aren't going to change
13 the characteristics of the runoff of the site.
14 Whether this project is built or not built, if
15 there's substantial changes in climatic activities, I
16 don't think you'll see a difference in the
17 characteristics of the runoff of the site, whether
18 the project's built or not built. I can't predict
19 what the future climatic changes are going to be.
20 And I know there's certainly been some controversy
21 over what they actually will be.

22 Q. Okay.

23 MS. MAZUR: I do have a question about
24 the --

1 DR. MAZUR: Is it okay if fellow
2 intervenor, Sarah Mazur, asks questions?

3 CHAIRMAN GETZ: Please proceed.

4 CROSS-EXAMINATION

5 BY MS. MAZUR:

6 Q. You mentioned the low impact to the road through the
7 property, which will be the extension of Groton
8 Hollow Road. I'm aware that the Clark Brook and the
9 road divide by maybe a 50-meter to 100-meter, very
10 steep incline that might be -- is this 90 degrees up
11 straight? -- and that the road really is -- the trail
12 goes straight down and then here's the brook. Will
13 there be guardrails or some kind of buttressing to
14 the side, the incline, 50 to 100 meters where -- do
15 you know what I have in mind?

16 A. (Leo) Well --

17 Q. I mean, it's a very obvious dramatic feature of the
18 landscape.

19 A. (Leo) Yeah. Right now, all the improvements we're
20 proposing to Groton Hollow Road is to widen the road
21 away from the brook and so as not to touch those
22 revetments that go down to the brook as it is.

23 Q. So you'll cut into it to --

24 A. (Leo) So, yeah, sort of the ravine where the brook,

1 on Groton Hollow Road, to the extent we need to widen
2 it, we'll widen it back into the hill on the high
3 side, not towards Groton Hollow Road, because we do
4 want to stay away from those ravine areas.

5 MS. MAZUR: Thank you.

6 DR. MAZUR: Those are all the
7 questions from our group.

8 CHAIRMAN GETZ: Thank you. Mr.
9 Buttolph.

10 MR. BUTTOLPH: With the Chairman's
11 permission, I would ask Cheryl Lewis to do this
12 cross-examination.

13 CHAIRMAN GETZ: Ms. Lewis.

14 MS. LEWIS: Thank you.

15 CROSS-EXAMINATION

16 BY MS. LEWIS:

17 Q. Good morning. I guess I'd like to follow up quickly
18 with the last question you were just asked on the
19 steep incline of the road. And you mentioned that
20 you would be widening it on the opposite side of the
21 Clark Brook. Is that area specific to the private
22 portion of Groton Hollow? I thought Ms. Mazur was
23 speaking right where it changes over from the public
24 to the private part. Which area were you speaking

1 about?

2 A. (Leo) I was referring to the public part in the town
3 of Groton -- I'm sorry -- the private portion of road
4 in the town of Groton.

5 Q. Okay. Thank you. Because we've been assured in the
6 town of Rumney that Groton Hollow Road will not be
7 touched, so I just wanted to make sure that that's
8 not what your -- that it's not in Rumney, which we've
9 been told it would not be changed.

10 I have a few questions for Ms. Rendall.

11 On your supplemental prefiled testimony,
12 Page 5, could you just clarify a bit the mitigation
13 package whereby you go on to describe a number of
14 stream crossings, culverts, et cetera. And
15 specifically, were they not already adequate for the
16 logging that was being done, and that's why you're
17 going into to improve them, or -- I guess just to
18 understand a little bit better what all these
19 upgrades are that you're proposing.

20 A. (Rendall) I can address that question in particular
21 if you want to know. The New Hampshire DES recently
22 adopted new stream crossing rules. They've been
23 working on them for quite a while. And the existing
24 logging roads that are out there are built by the

1 foresters and loggers during their timber-harvesting
2 operations. So, many of the culverts that are
3 currently along existing roads are undersized and not
4 adequate. They're not installed properly. They
5 don't have stabilized invert and outlet protection
6 and that sort of thing. The proposal is to improve
7 those to the level of the recently adopted at the
8 time that -- so, I guess...

9 Q. Okay. Thank you. On Page 6 of your prefiled, could
10 you explain a little bit further the detailed
11 conversation with the EPA and Army Corps as to the
12 mitigation package, including both the direct and
13 indirect impacts?

14 A. (Rendall) I'm going to turn this part of the
15 discussion over to Pete Walker. He's -- he was sort
16 of the liaison for the mitigation, development of the
17 mitigation package.

18 A. (Walker) Your question is -- could you repeat your
19 question? I just want to make sure I answer it.

20 Q. I just wondered if you could detail a little more of
21 your conversations with both the EPA and the Army
22 Corps as to the mitigation package which they wanted
23 to include both the direct and indirect impacts.

24 A. (Walker) We had submitted an original mitigation

1 package with our permit application. And we had
2 actually had meetings and discussions with all of the
3 resource agencies before we submitted our
4 application, and we had a general agreement on the
5 components of the mitigation package. So, for
6 example: The stream crossing upgrades that you just
7 asked about, that was originally suggested by New
8 Hampshire DES, and we were able to incorporate that
9 into the design of the project.

10 Where the issue arose with the mitigation
11 package, the Corps of Engineers needs to -- has its
12 own internal regulations about mitigation. And they
13 were having a difficult time applying those rules to
14 the component where we were assisting the Forest
15 Society with the green acre woodlands preservation.
16 So where their regulations may require, for example,
17 creation or preservation, they had a more difficult
18 time dealing with our proposal, which was to provide
19 technical information and financial assistance. So,
20 after the permit application was submitted, the EPA
21 and the Army Corps of Engineers commented that that
22 was an issue for them and that they preferred that
23 our mitigation take the form of what's known as an
24 "in-lieu fee," a donation to a state fund known as

1 the Aquatic Resource Mitigation Fund.

2 We met -- we had the site walk on June 29th
3 with all of the -- my recollection, all of the
4 resource agencies were present at that meeting, and
5 we discussed it with DES and the Corps and EPA and
6 Fish & Wildlife, et cetera. And at that meeting, it
7 wasn't a clear consensus. It seemed to us that DES
8 was supportive of the mitigation package as
9 submitted. But the Corps and EPA were pretty clear,
10 in that they wanted us to shift our focus to this
11 armed fund donation. And eventually, we had provided
12 some additional information via a July 20th
13 memorandum, and then I believe it was a July 28th
14 memorandum where we did finally opt to shift the
15 mitigation slightly. And Groton Wind, the Applicant,
16 did agree to provide \$150,000 donation to the armed
17 fund. That satisfied the EPA. They removed their
18 objection to the mitigation package. And the Army
19 Corps eventually provided a letter, which was dated
20 September 3rd, in which they indicated that they were
21 satisfied with the mitigation proposal.

22 Q. Okay. Was there a specific reason why they requested
23 a change in the financial aspect from 20,000 up to
24 150?

1 A. (Walker) Well, first of all, our initial proposal --
2 quite frankly, I'm not certain exactly where that
3 \$20,000 figure really came from. I think that was
4 someone within the resource agency who, you know,
5 made a calculation. But our initial proposal was to
6 provide the technical assistance and to provide a
7 cash donation that was equivalent to 40 acres of land
8 preservation. And the way we came up with that
9 40 acres is we applied the DES rules on mitigation,
10 given our impact of about 1.65 acres of impact. Our
11 proposal would have met DES rules if we had proposed
12 to preserve 16-1/2 acres; so, about 10 times our
13 impact. That's how the mitigation ratios work in the
14 DES rules. So we thought our proposal to provide
15 the equivalent of 40 acres of preservation was quite
16 generous.

17 But your question was, did they provide a
18 justification or an explanation of why 150 was
19 acceptable and this \$20,000 was unacceptable? No,
20 they didn't. They didn't, really. It was more the
21 form and who was receiving the funding that was the
22 issue.

23 Q. Okay. So there wasn't a change in that amount based
24 on specific types of impacts that they were more

1 concerned about or -- you know, that dollar wasn't
2 related directly to some aspect of the impact? It
3 was just more in generalities?

4 A. I mean, you're asking about what was on their mind in
5 the negotiation. And I don't honestly know. I think
6 their general sense -- and it's quite common,
7 actually, in a mitigation negotiation for EPA in
8 particular -- to look at the initial proposal and
9 always feel that they can negotiate a better package.
10 And I think that had something to do with it. As
11 part of their leverage in this negotiation, they did
12 refer to the fact that -- in addition to the
13 1.65 acres of direct impact, they did reference the
14 idea that we would be clearing close to wetlands and
15 that type of thing, and that's known as an indirect
16 impact.

17 Q. Okay. Thank you. This question is more specifically
18 for Mr. -- Ms. Rendall. Do you recall at the
19 technical session in August when I asked you about
20 possible contamination to wells and the aquifer due
21 to significant blasting that would take place in the
22 project?

23 A. (Rendall) I recall that question.

24 Q. Okay. Do you recall your answer?

1 A. (Rendall) No.

2 Q. Would it help if I remind you, and then you could
3 tell me if you believe I'm wrong? But my
4 recollection was that you didn't believe that wells
5 were ever contaminated by blasting and that you only
6 believed that the surface water could be effected,
7 but not the subsurface water. Do you recall that?

8 A. (Rendall) Well, I would not have said that. So that
9 must have been a misinterpretation of what I would
10 have said. But as Mr. Lewis had pointed out, there
11 was -- there is -- there are known cases where wells
12 have been impacted by blasting. So I wouldn't have
13 said that it wasn't a possibility. But I am not a
14 blasting expert, and I will have to defer any
15 questions on blasting to somebody else.

16 Q. Okay. This one is more specific to Mr. Walker. I
17 noticed that in your resume you have listed you
18 worked on the Interstate 93 improvement in Southern
19 New Hampshire. And I wondered if you were involved
20 in that project at the time when there were issues
21 that occurred during blasting and/or erosion issues
22 which caused major concerns of drinking water
23 contamination, including the town's water supply.
24 Were you involved in that project at that time?

1 A. (Walker) We were -- my role for the Interstate I-93
2 project was primarily during the compilation of the
3 environmental impact statement for the project. VHB
4 was also involved in the engineering design for
5 portions of the highway upgrade. Our specific area
6 was around Exit 1 and Exit 2. The issue that you're
7 referring to occurred at Exit 3. That was not our
8 design task, although VHB was working on portions of
9 the project at that time.

10 Q. Okay. Could you tell us a little about -- because
11 your company was involved, although you may not have
12 designed that area personally -- were there any
13 lessons learned from that experience that would help
14 in the future so that type of situation won't happen
15 again?

16 A. (Walker) I want to be really clear that VHB was not
17 directly involved in the erosion and the blasting
18 issues that occurred at Exit 3. So I will answer
19 your question, though.

20 And I will tell you that I think as a
21 result of that, DES engaged in developing best
22 management practices for blasting specifically. And
23 as a matter of fact, those new best management
24 practices are referenced in the DES recommendation to

1 the Committee as permit conditions. And I think what
2 DES sought to do, working with other partners, DOT
3 and other agencies and experts in the area, was to
4 try to make sure that when blasting occurs, that all
5 of the appropriate precautions are put in place to
6 avoid and minimize any potential impacts.

7 Q. Were you aware that the town's aquifer runs under
8 part -- or begins, so to speak, at parts of Groton
9 Hollow, not all the way up to the project area, but
10 up to a significant portion of Groton Hollow Road?
11 Were you aware of that when you were doing the design
12 work on this project?

13 A. (Walker) Yes, we were.

14 Q. You were?

15 A. (Walker) Yes.

16 Q. Okay. I guess I'm surprised. My recollection at the
17 tech session was that this panel that represented
18 your company was not aware of the aquifer.

19 A. (Rendall) I presented this figure at that hearing
20 that shows that we were aware of that aquifer. And
21 this is part of our wetland permit application. So
22 this is publicly available information that's been
23 prefiled.

24 CHAIRMAN GETZ: Well, can you describe

1 it in this case?

2 A. (Walker) In this case, it's the map that Nancy just
3 referred to as Figure 8. It's titled "Groundwater
4 Resources Map." And that would be filed with the
5 original wetlands permit application.

6 MS. GEIGER: That would be in
7 Volume II of the application.

8 CHAIRMAN GETZ: Okay. Thank you.

9 BY MS. LEWIS:

10 Q. Could you explain if you have any plans in place to
11 reduce the risk of minimizing contamination of the
12 aquifer specifically?

13 A. (Leo) As part of the New Hampshire DES's recommended
14 conditions of approval, they have asked that we
15 follow, I guess, best management practices for
16 blasting procedures and handling of regulated
17 substances on site, and have also requested that we
18 identify all water wells located within 2,000 feet of
19 the site, and that we establish a groundwater quality
20 sampling program to monitor those wells.

21 Q. Were you aware of the fact that the majority of the
22 residents in the town of Rumney lie above that
23 aquifer and, therefore, their drinking water would be
24 related directly to that aquifer?

1 A. (Leo) I'm not sure what you mean by they're located
2 above the aquifer, but they rely on the aquifer.

3 Q. Yes. They...

4 A. (Leo) We have identified on this Figure 8 a number of
5 wells, intake wells that are located in the town of
6 Rumney. I'm not sure which one you're referring to.

7 Q. Well, I guess what I'm suggesting is the way the
8 aquifer runs, it basically runs right on both sides
9 of the Baker River, which is where the majority of
10 the residences are, and going up into the village
11 area where it's most -- there's more residences
12 throughout the entire area of the aquifer than there
13 is anywhere else in the town. So I'm suggesting that
14 there's a lot of people in town that rely on their
15 wells not being polluted and not having any issues.

16 A. (Leo) I think the area you're referring to are the
17 aquifer areas, the stratified-drift aquifers on
18 either side of the Baker River. Our project is
19 located outside of the designated aquifer zone.

20 Q. Right. I understand that. But your project, the
21 aquifer begins -- or a part of it goes up into Groton
22 Hollow Road, which is where your project, you know,
23 overlooks.

24 A. (Leo) Yeah.

1 Q. And it's all downhill. So --

2 A. (Leo) Right. But I don't believe we're going to be
3 having any blasting or any substantial earth-removal
4 activities occurring within 2,000 feet of that
5 aquifer zone.

6 Q. Do you feel certain about that? You were a little
7 reluctant earlier when Dr. Mazur --

8 (Witness reviews document.)

9 A. (Leo) Well, right at the entrance of our site we have
10 some minimal road widening and a little bit of
11 excavation to do for the switch station that's fairly
12 minor. And I'm just sort of eyeballing off the plan.
13 I think those areas are all greater than 2,000 feet
14 from the aquifer zone.

15 A. (Walker) If I could, generally speaking, impact to an
16 aquifer is going to result from either increased
17 imperviousness or the introduction of contamination.
18 I don't think the Groton Wind proposal really does
19 either of those. We certainly are not creating a
20 additional impervious area within the main part of
21 the aquifer. The aquifer is actually located quite a
22 distance north of the project site. I think your --
23 we should be looking at the potential for any impacts
24 to the aquifer. And it's an appropriate question to

1 ask. My own opinion is that the risk to the aquifer
2 is quite minimal. And we -- again, this is something
3 that DES is responsible for reviewing. It was
4 considered. They imposed these permit conditions to
5 make sure that we're looking to detect if there is
6 any impact and taking appropriate measures to
7 minimize that risk as much as we possibly can.

8 Q. Do you believe --

9 A. (Walker) I would also -- you pointed out that the
10 bulk of Rumney is actually in that aquifer. And I
11 would suggest to you that the activities with
12 commercial activity, trucking, what's occurring
13 independent of this project is a far greater risk to
14 that aquifer than anything that Groton Wind would be
15 doing.

16 Q. Given your last response, would you -- you said that
17 you don't believe that the risk is high for any
18 contamination to the aquifer. However, do you
19 believe that the experts that had designed and worked
20 on the situation in Salem -- I'm sorry -- Exit 3, so,
21 Windham, do you know that they had anticipated a high
22 risk in that situation?

23 MR. PATCH: Mr. Chairman, I'd object
24 to that question. I think he's being asked to speculate

1 about what some other experts may have thought, and I
2 don't see how he can honestly answer that question.

3 CHAIRMAN GETZ: All right. But I
4 think it's fair to inquire as a general matter in the
5 industry, that companies have taken precautions that they
6 thought were reasonable, that didn't turn out to be the
7 case. Now, I guess, clearly he's testified that that
8 wasn't their involvement in that issue. So he's -- I
9 think it's a fair question to ask. He can respond and
10 distinguish as is appropriate under the circumstances.

11 So I'd just ask you to respond to Ms.
12 Lewis's question.

13 A. (Walker) I think in the case of Exit 3 at I-93,
14 something didn't work correctly. And I don't know,
15 to be honest with you, whether it was the design or
16 the implementation of the design or the monitoring
17 and enforcement to make sure that things were being
18 installed.

19 I would also point out, to be honest with
20 you, if you look at the scale of the excavation at
21 Exit 3, you look at the scale of the blasting, the
22 size of the blasting, the footprint of the
23 construction that occurred at Exit 3, it is -- it's
24 much, much greater than I think any area associated

1 with our project. But I would say that there needs
2 to be an appropriate design. There needs to be an
3 appropriate set of conditions and best management
4 practices, and that those things need to be overseen
5 during construction, and that's how it should happen.

6 Q. Do you recall how long that project was shut down due
7 to that situation?

8 A. (Walker) I don't.

9 Q. I mean, months? Was it months or a year or --

10 A. (Walker) Oh, I don't want to attempt to answer a
11 question -- I don't know the answer. It certainly
12 wasn't a year. I don't know.

13 Q. But it wasn't a couple days, either. It was an
14 extended period of time.

15 A. (Walker) Sounds like you might know.

16 Q. Honestly, I don't know. I remember it was shut down
17 for a lengthy period of time. That's all. But I
18 don't know exact dates or what --

19 A. (Walker) I don't know. But I would be surprised if
20 it was shut down for more than -- I thought it was a
21 matter of days to weeks. But I could be wrong.

22 Q. Okay. All right.

23 MS. LEWIS: That's all the questions I
24 have. Thank you.

1 CHAIRMAN GETZ: Okay. Mr. Mulholland.

2 MR. MULHOLLAND: Thank you.

3 CROSS-EXAMINATION

4 BY MR. MULHOLLAND:

5 Q. I want to start off with Figure 8 that you have right
6 there in the wetlands application. That doesn't show
7 all the private wells; right?

8 A. (Rendall) No.

9 Q. Okay. You're going to have to go out and find some,
10 according to the DES permit; right?

11 A. (Rendall) Within 2,000 feet.

12 A. (Leo) What we would do is go look at all the homes
13 within 2,000 feet and see if we can ascertain the
14 location of their wells.

15 CHAIRMAN GETZ: Just one second.

16 Let's make sure we get the full citation to that, because
17 I'm not sure we got the full citation to that figure.

18 That's in --

19 A. (Rendall) Volume II.

20 MR. IACOPINO: Applicant's Exhibit 2,
21 which is in Volume II of the application. The wetlands
22 permit is Appendix 1 contained in there. And the figures
23 that are in the copies that the Committee has are actually
24 on 8-1/2-by-11 sheets of paper, not the large copies that

1 the witnesses have. And the figures are towards the back.
2 Let's see if I can get page numbers here. They're after
3 Page 45 of the application.

4 CHAIRMAN GETZ: Okay. I think we're
5 set, Mr. Mulholland.

6 MR. MULHOLLAND: Great.

7 BY MR. MULHOLLAND:

8 Q. Mr. Leo, would a likely spot to start looking be on
9 Groton Hollow Road, right at the town border where
10 the houses are?

11 A. (Leo) Yeah. The closest houses to us are right near
12 the border at Groton Hollow Road and the
13 Groton/Rumney town line.

14 Q. Okay. Mr. Walker, you referred a number of times to
15 the \$150,000 payment as a donation. It's not really
16 a donation; right? I mean, it's a fee. It's a
17 condition to getting the permit; right?

18 A. (Walker) Yes.

19 Q. But it's not a voluntary sort of donation.

20 A. (Walker) It's payment in lieu of other forms of
21 mitigation. So, yes.

22 Q. You wouldn't recommend to the Applicant that this
23 Committee consider a different amount of money,
24 right, to the armed fund?

1 A. (Walker) No. No, I mean, this is an amount that the
2 resource agencies have -- it's been vetted by all of
3 the people who have expertise in mitigation, and it's
4 been found to be acceptable.

5 Q. So if this Commission puts that \$150,000 fee as a
6 condition, or in the certificate, if any is issued,
7 you wouldn't recommend that the company appeal that;
8 right?

9 A. (Walker) No. I think the company has already agreed
10 to that amount.

11 Q. Okay. Ms. Rendall, the largest wetland fill is
12 5,500 square feet, the largest individual fill?

13 A. (Rendall) Could you refer me to the place where
14 you're looking?

15 Q. Sure. It's in your prefiled initial testimony at
16 Page 7, Line 7.

17 A. (Rendall) Yes.

18 Q. So the largest fill is about 5,500 square feet?

19 A. (Rendall) Yes.

20 Q. Where is that?

21 A. (Rendall) I thought you were going to tell me. I
22 would have to find it on the plans, unless Mike Leo
23 can help me find it faster.

24 A. (Walker) It's to the west, I think.

1 Q. We can come back to that, and I can move on to a
2 different topic.

3 A. (Walker) Yeah, we can find it relatively quickly I
4 think. It's from the Groton Hollow Road up to the
5 west ridge.

6 A. (Leo) Oh, okay.

7 A. (Walker) You know, the switchback.

8 A. (Leo) Here?

9 A. (Walker) Yeah, I think so. Yeah.

10 A. (Rendall) It's in --

11 CHAIRMAN GETZ: Let's go off the
12 record so the court reporter doesn't have to try to record
13 the cross-talk.

14 (Discussion off the record)

15 CHAIRMAN GETZ: Let's go back on the
16 record. I assume you're going to have some more
17 cross-examination. Why don't you move on.

18 MR. MULHOLLAND: Different topic.

19 CHAIRMAN GETZ: Yes.

20 A. (Rendall) Okay. Well, I'm in the right location for
21 that. So if you...

22 (Witness reviews document.)

23 A. (Rendall) Okay. I'm at the location of the impact.

24 Q. At which point?

1 A. (Rendall) Okay. It's on the Sheet C-9.1. And the
2 wetland -- the impact number is 119, and the wetland
3 ID is NWR8.

4 Q. Okay. All right. I guess those -- sorry. Those are
5 not in this; right?

6 MS. GEIGER: No, they're in Volume II.

7 A. (Rendall) It would be in Volume II.

8 Q. But where is that in the site, in general?

9 A. (Rendall) It's on the access to the north ridge.

10 Q. Why was that impact necessary? Was there any way
11 that you tried to avoid that wetland impact?

12 A. (Rendall) Mike? I think I'll have to defer that
13 question to Mike Leo.

14 Q. All right.

15 (Witness reviews document.)

16 A. (Leo) The stream seems to flow pretty much from the
17 top of the hill all the way down. So we needed to
18 cross it somewhere to get to the N6 turbine location.

19 Q. So then, just a couple questions about construction.
20 Have you found a general contractor yet?

21 A. (Leo) I'm not aware that Iberdrola has.

22 Q. When will Iberdrola find a general contractor?

23 A. (Leo) You'd have to ask them that.

24 Q. So your company is not the general contractor?

1 A. (Leo) No, we're the civil environmental design firm.

2 Q. So all the plans say "Stamped for permitting, not
3 construction." When will Iberdrola have construction
4 plans?

5 A. (Leo) Once the remaining process is finalized and we
6 get all the conditions that have to be part of the
7 plans, we'll change the stamp from "not for
8 construction" to "for construction."

9 Q. And that's something your company would do?

10 A. (Leo) That's really a protection for us as designers,
11 so that somebody doesn't grab a set of plans while
12 we're permitting and think they can go build them.

13 Q. Okay. Now, you talked about the permit from DES, in
14 the proposed permit conditions, there are
15 requirements to follow best management practices for
16 erosion control and blasting. During construction,
17 will your company be involved in monitoring that?

18 A. (Leo) There will be a monitor selected, erosion
19 control monitor. We think it's going to be us right
20 now. They're talking about it being VHB. But
21 Iberdrola would have the option of hiring a different
22 consultant to do that monitoring as well.

23 Q. And then what about to make sure blasting is being
24 followed? Would that be your company or a different

1 company?

2 A. (Leo) It would -- I think, given what's in here, we
3 would provide some oversight for that. I am not an
4 expert on blasting, so it wouldn't be me.

5 Q. Okay. We talked about this at the tech session. In
6 order to construct some of the roads, I think
7 especially Groton Hollow Road, there's going to be
8 rock crushing that has to be done?

9 A. (Leo) Yeah, we'll be trying to use most of the
10 materials that are removed from the site on site.
11 So, to the extent that we have rock removal -- and we
12 will have rock removal -- we will be processing that
13 material -- in other words, crushing it to various
14 diameters; some of it to be use as fill as large rock
15 and finer stone to be used for the road bed.

16 Q. Would the -- as far as you know -- I mean, you may
17 not be able to speak for them. But would the
18 Applicant be amenable to a condition as to dust
19 reduction for things like that, for rock crushers?

20 A. (Leo) As part of their erosion control, we have to
21 put together a best management plan as part of the
22 DES conditions. And that will include dust control
23 dust control for crushing, dust control for the roads
24 and material placement, mostly involving the use of

1 water to keep dust from blowing around.

2 Q. So, could we just look at the Exhibit 51, the
3 proposed conditions for the AOT permit. You're
4 aware, obviously, that there are people at DES who
5 review these things and draft these permit conditions
6 for the Commission. You wouldn't recommend that the
7 Commission adopt any other permit conditions that
8 would change the ones in the DES permit; right?

9 MR. PATCH: Just to be clear, it's not
10 Exhibit 51. It's actually Appendix 51 to the supplement
11 to the application. So I think that's part of Exhibit 5.

12 MR. MULHOLLAND: Thanks, Doug. Sorry.

13 A. (Leo) I guess I would say I agree with the
14 conditions, and we'll comply with the conditions that
15 AOT has recommended. And I agree with their program.
16 We had already put together a fairly substantial
17 erosion control program as part of the plan set. And
18 they've imposed additional conditions and protections
19 for the project, which I think are quite adequate for
20 the construction of this project.

21 Q. And you would recommend to the Commission that these
22 proposed conditions be part of any certificate that's
23 issued; right?

24 A. (Leo) Yeah. I've reviewed these with Iberdrola, and

1 they have agreed to these conditions as part of the
2 project. And I think they're good conditions for the
3 project.

4 Q. Okay. Can you just look at No. 12 in the AOT final
5 decision. Talks about construction, BMP inspection
6 and maintenance plan.

7 A. (Leo) Yeah, I've got it in front of me.

8 Q. Has the Applicant done that yet, or is that in the
9 future?

10 A. (Leo) That would be done in the future.

11 Q. Okay. Let's see. No. 15, same answer?

12 A. (Leo) Just reading it now.

13 (Witness reviews document.)

14 A. (Leo) Yes, that would also be done. It says 90 days
15 prior to the placement -- excuse me -- 90 days prior
16 to, really, the construction activity. So we would
17 need to take care of it prior to the start of
18 construction.

19 Q. And then No. 21, we talked about this earlier?

20 A. (Leo) Yeah, I had mentioned this previously. And we
21 would identify wells, to the best that we can, within
22 2,000 feet of any proposed blasting areas. And these
23 would mostly be the residential homes near Groton
24 Hollow Road.

1 Q. Okay. Says "proposed blasting activities." Where
2 are they proposed?

3 A. (Leo) Well, that's where I sort of stuttered before
4 when they asked me how far it was from the blasting
5 activities. As soon as you cross the Rumney/Groton
6 town line onto the property, there's some areas of
7 some minor excavation on either side of the road,
8 some for the switching yard, some for the O & M
9 building. We may or may not hit rock in those areas.
10 If we do hit rock in those areas, we'd measure it
11 from there. The more substantial blasting's much
12 further into the site. So if we don't hit rock
13 there, it may be that there are no homes within the
14 2,000 feet of the rock removal.

15 Q. Would there be blasting, as far as you know right
16 now, on the private portion of Groton Hollow Road,
17 the cuts that you were talking about?

18 A. (Leo) The portion in Rumney, no.

19 Q. What about the portion in Groton?

20 A. (Leo) I'm sorry. Would you repeat the question?

21 Q. The portion in Groton below the line --

22 A. (Leo) Yes.

23 Q. -- would there be blasting in those cuts?

24 A. (Leo) Yeah, some of those cuts will require some rock

1 removal and some blasting.

2 Q. Okay. I think you mentioned that most of the
3 material you try to source on site. Does that mean
4 that some you're going to have to get from off site?
5 Sand, perhaps?

6 A. (Leo) Right now -- we'll know when we open up the
7 site. We're hoping that all the materials that we
8 need are on site. There are plenty -- there's plenty
9 of earth for us to do that. There may be some
10 specialty things, like maybe some sand bedding for
11 some pipes that we can't find that we may need to
12 bring on site in limited quantities. But as far as
13 the major fills and the select gravels for the road
14 construction and the stones for the concrete pads,
15 all that should be able to be obtained on site.

16 Q. I think Ms. Lewis mentioned this, but I just want to
17 ask you directly. Will there be any alterations to
18 the public portion of Groton Hollow Road in Rumney?

19 A. (Leo) Right now, we don't anticipate any changes to
20 that road. I mean, we will have to truck down the
21 road, with the exception of right up the entrance off
22 of Route 25 there on the -- if I get my bearings
23 correct here -- the northwest corner. There's
24 about -- I think it's about a 50-by-80-foot area

1 right in the right-of-way itself that we need to
2 level out and widen. And the reason for that is so
3 that the larger trucks, when they come in, can swing
4 that corner and turn into Groton Hollow Road. When
5 we're done, that will be returned to as near to its
6 original condition as we can.

7 Q. Now let's go to No. 22, the AOT permit, best
8 management practices for blasting. You testified
9 that your company may be involved in making sure that
10 the blasters follow these practices. Yes?

11 A. (Leo) We may be. I mean, I'm not the expert on
12 blasting. We have people in our company that can do
13 this.

14 Q. That was my next question. Does your company have
15 people who can do that?

16 A. (Leo) We do. We have people that can do it. I'm not
17 the person that would know exactly how to apply these
18 regulations, but they can certainly be monitored
19 either by us or somebody else.

20 Q. Now, I'm concerned about No. 4A.

21 A. (Leo) Which number?

22 Q. 4A, muck pile management.

23 A. (Leo) Yes.

24 Q. It says you have to remove the muck pile from the

1 blast area as soon as reasonably possible. How can
2 you square that with your testimony that you're going
3 to reuse the muck, the blasted rock?

4 A. (Leo) I guess I don't understand your question.

5 Q. Well, I mean the BMP says you have to remove the muck
6 pile from the blast area. And you said you're not
7 really going to remove it, you're going to reuse it
8 and crush it.

9 A. (Leo) No. We would actually -- any rock we're
10 blasting, we're blasting because we need to lower the
11 earth in that area. We would remove that rock and do
12 one of a couple things with it: Pick it up and place
13 it in the deeper fills and then fill over it, or we
14 would take it to an on-site crusher and process it
15 for roadbed material.

16 Q. I think the concern of this -- tell me if I'm
17 wrong -- is that the muck pile is contaminated by the
18 blasting material, by the nitrates. I mean, isn't
19 that the reason for the muck pile management?

20 A. (Leo) Well, I mean, there are some finds in the muck
21 pile that we want to make sure don't get washed away.
22 I think the main thrust of this is that you keep the
23 muck piles of the blasted rock out of the
24 concentrated surface water flows.

1 Q. I mean, isn't that because the muck piles may have
2 concentrations of nitrates from the blasting agent
3 that didn't fully blast?

4 A. (Leo) I think part of it is that, yes.

5 Q. So you may be reusing blasted rock that is
6 contaminated with nitrates is what you're saying;
7 right? Or you don't know?

8 A. (Leo) I'm not really the expert for the nitrates, no.

9 Q. All right. Just a couple other questions. One
10 moment. I think I'm done. I just want to make sure
11 I didn't skip anything.

12 (Pause in proceedings)

13 BY MR. MULHOLLAND:

14 Q. I guess I have just a series of questions for Ms.
15 Rendall about impacts to wetlands.

16 You agree that there's going to be adverse
17 impacts to the wetlands as a result of the project;
18 right?

19 A. (Rendall) I agree that there will be impacts to
20 wetlands. I'm not sure how you're defining
21 "adverse."

22 Q. Adverse meaning you're going to build the project on
23 where the wetlands are right now, at least --

24 A. (Rendall) Yes.

1 Q. -- 1.6 acres worth.

2 A. One point six five acres, yes.

3 Q. But you're going to mitigate them through the
4 mechanisms that you talked about.

5 A. (Rendall) Correct.

6 Q. And so you also testified that that impact is not
7 going to be unreasonable. Is that how you come to
8 that conclusion?

9 A. (Rendall) Well, it affects less than 1 percent of the
10 wetlands within the project area, and it's less than
11 a tenth of a percent of the total project area, all
12 of the land within the total project area. In
13 addition to that, we work with the engineers during
14 the design process to make sure that the most
15 significant wetlands were avoided and that buffers
16 were kept around important and significant wetlands.
17 So, for a project of this size, 116 acres, I think it
18 is a reasonable impact. You know, I've done a lot of
19 wetland inventories for towns across the state. And
20 in general, wetlands comprise 10 to 15 percent of the
21 landscape. So this is far less than what you would
22 normally expect within any random, you know, 116-acre
23 area.

24 Q. Thank you. Those are my questions. Thank you.

1 CHAIRMAN GETZ: Thank you. Questions
2 from the Subcommittee? Mr. Harrington.

3 MR. HARRINGTON: Yeah, I had just a
4 couple questions.

5 INTERROGATORIES BY MR. HARRINGTON:

6 Q. Going back to that section on the groundwater
7 sampling plan for wells within 2,000 feet of
8 blasting. It sort of -- I mean -- let me just get
9 it. It says you'll develop and implement a
10 groundwater sampling plan program. Maybe I'm just
11 ignorant of what those terms mean. But it doesn't
12 say what do you do if you find out that there's
13 nitrate or nitrate ether in the drinking water
14 supply. I mean, there's no step for what happens,
15 other than just monitoring. So you found it. Then
16 what?

17 A. (Leo) Well, as part of the program, we would have
18 to -- I believe we would include a reporting piece of
19 that. So --

20 Q. Well, would you fix the problem, I mean, up to the
21 point of putting in a new well for somebody if it
22 became contaminated? I'm trying to find out, finding
23 it and saying, okay, we've got bad news for you.
24 There's nitrates in your wells. The good news is we

1 discovered it. The bad news is it's there. Now what
2 are you telling them you're going to do about it? Is
3 there something I'm missing that --

4 A. (Leo) No, I'm just... I don't want to speak for
5 Iberdrola right now. I think they're the ones that
6 would have to agree to the remedial action.

7 Q. But typically -- let me just go like this then:
8 Typically in your experience, when something like
9 this program is put in place to identify or to
10 monitor for a potential problem, monitoring and
11 discovering a potential problem doesn't really
12 accomplish much if there isn't some mitigation method
13 to take care of the problem.

14 A. (Leo) Right. And I think that the program we would
15 put in place would spell that out. You know, if it
16 was determined that it was caused by the project
17 site, you know, there would be some immediate
18 response, as in the activity would be changed or
19 stopped. And, you know, if it was determined that
20 there was damage to a well based on the project, that
21 some remedial action would be taken to correct that,
22 whether that be drilling a new well or flushing out
23 the well that they have.

24 Q. So it's safe to assume within this Section 21, then,

1 it's just not a we found a problem, stop drinking
2 your water. But actually, there'd be some --

3 A. (Leo) No. I took this to mean that we need to submit
4 a program to DES which they're going to review,
5 comment on. And I would think that they would have
6 the same concerns that you do.

7 Q. Okay. There's a lot of talk on the -- and I'm not
8 sure you're the right people to be asking this to,
9 but it did come up a number of times -- on the fact
10 that nothing or very little is going to be done to
11 the public portion of Groton Hollow Road, which means
12 that you'll have the trucks going back and forth
13 delivering these very large pieces of machinery on
14 what is considered, what I would look at -- we
15 haven't seen the road -- but a pretty small road.
16 It's certainly not wide at all. And is there any
17 provisions in the plan to make any cutouts or turnout
18 areas, so if a truck, let's say, had a flat tire or
19 something, they could make an attempt to get off the
20 road? Or does it just sit there blocking the road
21 until they can bring in the proper equipment to haul
22 it away?

23 A. (Leo) We're not proposing any upgrades or turnouts to
24 the public portion of the Groton Hollow Road. We

1 had, early on, looked at seeing if we needed to widen
2 it. We had a transportation company that delivered
3 these components for other wind projects look at the
4 road. They told us they can get their trucks up and
5 down the road. So we're not creating any additional
6 turnouts. If someone were to get stuck on the road,
7 there's certainly enough construction equipment on
8 the site that they could tow that vehicle up into the
9 site or back out onto Route 25, if need be.

10 Q. Okay. Let me start with that then. If one of these
11 trucks carrying the turbine or all the various other
12 very, very large pieces of equipment were to break
13 down on that road, would a vehicle be able to get by?
14 Or is it just basically going to take the whole road
15 when it's going up?

16 A. (Leo) There's portions where it would take the whole
17 road up, yes.

18 Q. Okay. So, do you know of any plans, then, if that
19 were to occur? Because by looking at that road in
20 the maps, everybody on the south side of that, if a
21 vehicle were to break down, they'd basically be
22 trapped from the point of view of using a vehicle to
23 get -- there's no other way out; is that correct?

24 A. (Leo) That would be correct.

1 Q. So if there were -- and this is probably a fairly
2 rare case, but it could be. The consequences could
3 be quite devastating if someone were to have a
4 medical emergency or something, and one of these
5 trucks -- there's a number of trucks going back and
6 forth. There could always be the potential that
7 something shifts and the truck has to stop. The
8 truck gets a flat tire. The truck has something. Do
9 you know of any provisions that are put in effect, so
10 if somebody -- I mean, as simple as they were going
11 on vacation and they wanted to drive their car down
12 to get to the beach or get to the airport. What's
13 the provision for getting around that stuck truck,
14 which at that size I think could take maybe five, six
15 hours before they could get it out?

16 A. (Leo) There will be notifications to the people
17 living on the road when these trucks are coming
18 through so that they'll know what time frames the
19 road is expected to be down, barring a breakdown, as
20 you've suggested. I think we could certainly look
21 into some type of emergency provision, should --

22 (Cell phone ringing.)

23 Q. Sorry. Excuse me. Hang this thing up here.

24 A. (Leo) -- should somebody need emergency access from

1 their home out to the road. I think that's probably
2 a good thing to think about ahead of time. It's
3 something we can incorporate into the plan for access
4 to the site.

5 Q. And what's the transit time for one of these very
6 large vehicles from when it enters the bottom of
7 Groton Hollow Road until it passes through the gates
8 onto the private property?

9 A. (Leo) I think it's, round figure, about a mile from
10 one end to the other. Assuming he's doing 5 miles an
11 hour, it's probably going to take him 20 minutes, 15
12 to 20 minutes.

13 MR. HARRINGTON: I don't know how we
14 go about seeing how we follow up on this, Mr. Chairman, to
15 see if we can get some commitment to some type of a plan
16 to address that issue.

17 CHAIRMAN GETZ: Well, I think we can
18 discuss when we get to the level of deliberations what we
19 determine is an appropriate condition. I guess we could
20 ask -- we could reserve an exhibit and ask the Applicant
21 to propose a condition, and then we would have that before
22 us so we could consider it in our deliberations. That may
23 be one way to at least get some of that information on the
24 record before us. So why don't we do that. We'll hold --

1 MR. IACOPINO: Forty-six.

2 CHAIRMAN GETZ: Applicant Exhibit 46
3 for proposed conditions to deal with circumstances that
4 might arise on Groton Hollow Road with respect to
5 breakdowns of the trucks -- delivering equipment is what I
6 take it to be; correct?

7 (Applicant's Exhibit 46 reserved.)

8 MR. HARRINGTON: Yeah. I mean, like I
9 said, I don't know exactly how many trucks there are going
10 to be. But if it's 20 minutes a truck, and there seems
11 like there would be a large number of them, the odds are
12 probably fairly small. But if there was, for example, a
13 fire in a house up there or some medical emergency, there
14 should be some plan that we don't start -- people don't
15 start figuring out when it happens, but should figure out
16 something in advance to have an emergency plan to deal
17 with those situations. That's what I'm looking for.
18 That's the only questions I had.

19 CHAIRMAN GETZ: Okay. Thank you.

20 MR. PATCH: Mr. Chairman, could I
21 just -- some of the questions that have been asked of this
22 panel, you know, they've deferred because they don't want
23 to speak for the Applicant. But if they could be
24 addressed to us, you know, Mr. Cherian may very well be

1 able to answer those questions. And it's kind of hard to
2 predict what might come up and at what point in time, and
3 I don't know if we should just sort of interrupt and say
4 Mr. Cherian can answer that or --

5 CHAIRMAN GETZ: Well, I think maybe
6 the better procedure is to keep a list of questions
7 that -- because I think there may have been in the past
8 couple of days some areas where Mr. Cherian did have
9 information. But what I'd like to do is to have all the
10 parties know what those potential issues are. If we could
11 compile a list, and then we'll have some notice to the
12 other parties of any supplemental information directly
13 responsive to questions that have been asked and whether
14 to recall Mr. Cherian at the end of basically the
15 Applicant's direct case. It doesn't have to happen today,
16 but it could be something that might be appropriate
17 tomorrow. I just want to make sure all the parties see
18 what the suggestions are and what the questions and
19 answers are likely to be, rather than doing it on the fly.

20 MR. PATCH: Okay. Thank you.

21 CHAIRMAN GETZ: Any other questions?
22 Mr. Steltzer.

23 MR. STELTZER: Yes, just a few.
24

1 INTERROGATORIES BY MR. STELTZER:

2 Q. In your opinion, which of the proposed
3 interconnection routes would cause the least amount
4 of environmental impact?

5 A. (Walker) I'll take a stab at that. It depends on
6 what resource you're really looking at. Going down
7 Groton Hollow Road, there's minimal -- I want to make
8 sure Nancy agrees with me. But there would be
9 minimal wetland constraint going down Groton Hollow
10 Road. But our understanding of why we're looking at
11 the alternative is because residents are concerned
12 about that alternative. So the new alternative, if
13 you will, which does involve Groton Hollow Road, may
14 involve some indirect -- some clearing and some
15 indirect impacts. Neither one, at least in my
16 opinion, represents a significant environmental
17 impact.

18 MR. STELTZER: The next two are maybe
19 more directed -- I'm not sure how to handle them, so I'll
20 just raise them and take input from the Chairman of how to
21 handle it. One is regarding the residue from the
22 blasting. And it was raised by Mr. Mulholland, as far as
23 the nitrates that might be within the materials and how
24 the Applicant would reuse those materials on site. And I

1 don't know if it would be appropriate to have an exhibit
2 to understand that concern a bit more, about how the
3 nitrates -- the leftover nitrates in that residue would be
4 reused or contained.

5 A. (Rendall) Could I just --

6 Q. Sure.

7 A. (Rendall) It's not something I studied for or
8 prepared for today so I may get the conversion right.
9 But one occurs in the absence of oxygen. When it's
10 put into the air, it converts to a non-toxic form of
11 nitrates. So, in removing that contaminated muck
12 away from the hole, it's not able to go down into the
13 hole where it's in an anaerobic state. When you move
14 it away and it's put in a stockpile location or
15 spread out, it becomes aerobic, and it converts to a
16 different form. That problem is resolved.

17 Q. So, to paraphrase, there isn't as much concern about
18 the residue of the blast material within the products
19 that would be reused on the site. Is that your
20 opinion?

21 A. (Rendall) In terms of the nitrogen, yes.

22 Q. And is the nitrogen the chief concern, as far as
23 potential pollutants from the blasting that could
24 affect the aquifer and the wells?

1 A. (Rendall) That's my understanding. But I'm not
2 positive if there are other concerns, so...

3 BY MR. STELTZER:

4 Q. And the only reason I was suggesting maybe there
5 should be an exhibit entered into for this was just
6 for some comments I had heard from the panel, in that
7 they weren't necessarily blasting experts on some of
8 it. So I'll defer on whatever the best way is to
9 handle that. But it would be -- I do think it would
10 be appropriate to gain some better understanding
11 about the potential effect from the residue from the
12 blasting on that material and how it would be reused
13 on the site.

14 CHAIRMAN GETZ: And I take this --
15 let's link it to the document. It's the permit -- the
16 final decisions and conditions from DES, and it's the
17 Alteration of Terrain Bureau final decision, Condition 22,
18 Subset 4, goes to muck pile management. And I think this
19 is a similar concern with an issue raised by Mr.
20 Harrington on Condition 21, is the condition appears to be
21 drawn as this is the result that should be achieved. And
22 what we don't have before us is essentially what steps are
23 taken and how is it implemented to achieve those results.
24 And, you know, some of it, I think with Mr. Harrington's

1 question, maybe go to what DES intends to do. On this
2 issue, we may be able to get an answer based on a blasting
3 expert from the -- I guess from the consultant.

4 So I guess that's a long way around to
5 say why don't we reserve an exhibit -- that would be
6 Applicant's 47 -- that would, I guess, explain in greater
7 detail how the muck pile management is executed so that
8 the terms of the condition can be met. Does that take
9 care of it, you think?

10 MR. STELTZER: That handles it. Thank
11 you.

12 (Applicant's Exhibit 47 reserved.)

13 CHAIRMAN GETZ: All right. Other
14 questions? Mr. Scott.

15 INTERROGATORIES BY MR. SCOTT:

16 Q. Good afternoon, I guess it is.

17 A. (Walker) Good afternoon.

18 Q. Whoever on the Panel can best answer it, regarding
19 the rock crushing operations. I was interested in a
20 little bit more detail. Who will be doing that?

21 A. (Leo) It will be an operation run by the contractor,
22 who has not been selected yet.

23 Q. And do you have an idea where that will be done and
24 in what proximity to the residences in the area?

1 A. (Leo) It would be done internal to the site. Further
2 away from the residents, the better. We do some
3 staging areas, I think, where the west ridge access
4 roads starts off. You would probably want to get
5 fairly central to the site, away from the residents.

6 Q. And associated with that, I assume there will be time
7 constraints if there are noise impacts, that type of
8 thing?

9 A. (Leo) Yeah, I would think there would be whatever --
10 I don't even know if there's any hours in here. But
11 the 7-to-7 kind of hours.

12 Q. Broader question: Obviously for the plan as we --
13 initially submitted in the existing regulatory
14 permits you have, in dealing with the regulating
15 agencies, has your plan changed in any significant
16 way?

17 A. (Leo) Well, I think the comments we had gotten from
18 both Wetlands Bureau and the Alteration of Terrain
19 folks resulted in fairly minor changes to the plan.
20 We added a culvert or two, some additional erosion
21 control, and then we added the monitoring sequencing
22 notes that they wanted to the plan. So there has
23 been some changes. I think they're fairly minor.
24 And we have added those comments to the plans.

1 Q. Sounds like -- if I may paraphrase, sounds minor, at
2 most?

3 A. (Leo) Yeah. The roads are in the same locations, for
4 the most part, other than some minor alignment
5 adjustments. All turbines are still in the same
6 locations. It's all pretty minor.

7 A. (Walker) And all of the changes to those plans, that
8 was the July 9th submittal. And the updated is a
9 subset of the plans. Maybe a dozen or so sheets were
10 changed, and that was submitted to the Committee.

11 MR. SCOTT: And Mr. Chairman, just to
12 clarify. So, any questions regarding the alternate
13 interconnect route or the step-up station, that would be
14 handled at a different time; is that correct?

15 CHAIRMAN GETZ: Well, I think what
16 we -- I want to hear argument about how to treat
17 exhibit -- what is this, 44? So, yeah, I would say let's
18 defer questions about that exhibit and the alternate
19 route, unless you have general questions about the
20 alternate route. But the questions you would have had
21 before Exhibit 44 was marked for identification --

22 MR. SCOTT: I can wait until once we
23 discuss it. Thank you.

24 CHAIRMAN GETZ: Okay. Other

1 questions? Dr. Kent.

2 INTERROGATORIES BY DR. KENT:

3 Q. What's the status of your discussions with the
4 agencies regarding the alternate interconnections?

5 A. (Walker) Aside from consulting with the Natural
6 Heritage Bureau, we haven't submitted any information
7 to DES or the other resource agencies.

8 DR. KENT: Thank you.

9 CHAIRMAN GETZ: Other questions? Mr.
10 Iacopino.

11 INTERROGATORIES BY MR. IACOPINO:

12 Q. Along that line -- and I don't know who would be best
13 to answer this. But let's say the alternate route
14 was just a separate project. Would it require as
15 standard dredge and fill permit application,
16 alteration of terrain permit application, and any
17 other resource applications?

18 MS. GEIGER: Excuse me. Could we get
19 a clarification about what we're talking about in terms of
20 "alternate route"? I want to make sure everybody
21 understands exactly what -- how we are using that term.

22 MR. IACOPINO: The "alternate route"
23 is the alternate transmission line that you've provided in
24 your supplemental materials, as contained within Mr.

1 Cherian's prefiled testimony, and also provided us with a
2 map -- I don't know what exhibit -- Appendix 42 I think it
3 might have been -- Appendix 42 in your supplemental
4 filing, which is Exhibit 5. And as I understand it,
5 that's also the subject of Applicant Exhibit 44 for
6 identification.

7 MS. GEIGER: The reason I'm asking for
8 the clarification is that I think that these witnesses, in
9 the documents they submitted this morning, provided
10 information about the part of the route that is on the
11 property of the project site. They have not looked at
12 anything beyond Route 25. So when these -- I think my
13 concern is that these witnesses have in their mind the
14 alternate route being from the switchyard to Route 25.
15 They do not have in their mind a more expansive view that
16 might be reflected in Figure 6-A.

17 MR. IACOPINO: And right now, that's
18 all I'm -- as I understand it, you haven't identified a
19 location, for instance, for the step-up transformer and --

20 MS. GEIGER: Correct.

21 MR. IACOPINO: -- those other parts of
22 the interconnection. But I'm just talking about the line
23 that goes down to Route 25 right now.

24 CHAIRMAN GETZ: Okay. Let me just

1 make sure that we're all on the same page. So when we're
2 talking about "alternate route," we're basically talking
3 about the alternative to going down Groton Hollow Road to
4 reach Route 25.

5 MS. GEIGER: Correct.

6 CHAIRMAN GETZ: And those other issues
7 are the issues implicated by the substation in the 115 kV.
8 Those are alternatives that may arise because of the
9 issues with respect to the voltage-level interconnection
10 required by PSNH.

11 MS. GEIGER: Correct.

12 MR. MULHOLLAND: Mr. Chairman, there's
13 another use of the term "alternate route" that was used
14 for Route 25 versus across the river on Quincy Road, which
15 was the initial proposal. So there's a number of uses of
16 "alternate route."

17 MR. IACOPINO: Just to make it clear,
18 for the purposes of my question, we're talking about the
19 alternate route that is alternate to going down Groton
20 Hollow Road and is described in what's been marked as
21 Applicant Exhibit 44 for I.D., and is the first portion of
22 what is contained, as I understand it, in Appendix 42 of
23 Exhibit 5. And it's basically the alternate to Groton
24 Hollow -- from Groton Hollow Road down to Route 25, not

1 using Groton Hollow Road.

2 BY MR. IACOPINO:

3 Q. And if I understand correctly, that's what you went
4 out to the field and provided Applicant 44 for
5 identification.

6 A. (Rendall) That's correct.

7 Q. Okay. If what's proposed in Applicant 44 for
8 identification was a separate project, would you be
9 required to file a wetlands application?

10 A. (Rendall) I would view the -- as you can see in the
11 report, I traversed a hundred-foot-wide corridor.
12 And the clearing width for the transmission, the
13 lines, is 34 feet. So there's a lot of room within
14 the corridor that I looked at for them to place the
15 poles and the lines to avoid direct impacts and/or
16 indirect impacts due to clearing. So I made some
17 recommendations in that, so that -- what they could
18 to avoid all direct and/or in direct impacts to
19 wetlands. So it's possible that there could be no
20 wetland impacts and no need for a wetland permit
21 application.

22 Q. What about alteration of terrain permit application?

23 A. (Walker) Well, the -- and, Mike, maybe you may want
24 to supplement my answer. But generally, alteration

1 of terrain is an independent project. It is
2 triggered by 100,000 square feet, about 2-1/2 acres
3 of contiguous disturbed area. Very unlikely that
4 that would reach that threshold. So, an alteration
5 of terrain permit application, it's unlikely that one
6 would be required for that.

7 Do you agree, Mike?

8 A. (Leo) I mean, it's a separate -- especially since
9 it's on a separate landowner's property, it would be
10 under a separate application. And it would be
11 under -- likely be under 100,000 square-foot of
12 impact and not require a permit.

13 Q. And are there any other agencies that you would have
14 to seek a permit from, environmental resource
15 agencies that you're aware of, or any other types of
16 permits that you might need to seek from DES for this
17 portion of the project?

18 A. (Walker) There's no other state or federal permits
19 that I'm aware of that would be required for that.

20 Q. I take it, you all aren't the folks to speak to about
21 impacts on historical sites.

22 Okay. I guess my question then is, if this
23 is proposed as part of the project, does this require
24 amended review by Department of Environmental

1 Services with regard to your wetlands permit or the
2 alteration of terrain permit which have been
3 previously submitted as Appendix 52 in Exhibit A --
4 I'm sorry, not 52 -- Exhibit 51, the final decisions
5 that we've received on October 8, 2010, from DES?

6 A. (Walker) I think that we would. And certainly if the
7 decision is made to go with this alternate route, we
8 would certainly consult with DES on the alteration of
9 terrain and the wetlands permit.

10 My personal thought on this is that it
11 would be treated -- it would be regarded as a fairly
12 minor -- the impacts and the changes are fairly
13 minor. So, with regard to wetlands, I think it can
14 be designed without incurring any, you know,
15 significant new impacts. And I think DES would
16 probably look at it as a minor change.

17 Q. But it's something you would present to them --

18 A. (Walker) Yes.

19 Q. -- to seek an amended final decision and conditions.

20 A. (Walker) Yes.

21 Q. I have no further questions about that. I do have
22 some questions just about the N6 turbine.

23 CHAIRMAN GETZ: Well, let's -- I think
24 Dr. Kent has a follow-up on your previous questions.

1 INTERROGATORIES BY MR. KENT:

2 Q. The stream crossing, can you avoid that?

3 A. (Rendall) The lines themselves will go across the
4 streams, and there will be clearing within the
5 50-foot buffer. There are -- let me look at my
6 table. There are streams that cross the -- and
7 they're linear. So there would definitely be
8 clearing within the buffers, the upland riparian
9 buffers of the streams. But if you're outside the
10 banks, that's not jurisdictional. So there would not
11 be any impacts within a jurisdictional area for the
12 placement of poles, because they can move the poles
13 so they would not be put into a stream or a wetland
14 and so forth. The only possible impact would be
15 clearing from in the banks.

16 Q. So I think what you're saying, so for installation of
17 the poles, we'll have to keep coming in and out, make
18 sure we're not going through a stream with the
19 construction, with the installation equipment.

20 A. (Rendall) There is an existing skidder road that is
21 being used currently. They're actively logging in
22 this section on the green acre woodlands portion of
23 the property. That skidder road is already --
24 there's a bridge that was built over the perennial

1 stream. And there are probably -- they may be
2 driving through the streams with the skidder, some of
3 them, because there aren't culverts at some of these
4 intermittent streams. So I guess if the road in that
5 case -- I don't know the process for putting in the
6 poles, and so I don't know how that part would work.
7 So, possibly, yes.

8 Q. So if I understood you right, you anticipate using
9 that skidder road as much as possible for
10 accessing --

11 A. (Rendall) For the first -- I'd have to refer to my
12 own...

13 (Witness reviews document.)

14 Q. So we don't have to go looking for things again, I
15 guess the more important question is that you're
16 going to have a discussion with DES at some point; do
17 you know when that will be, so you'll know what your
18 obligations are?

19 A. (Walker) Again, that's a question we would -- I'd
20 pass that to the Applicant. It's really up to the
21 Applicant to direct us to DES. We don't work
22 independent of the Applicant. So the answer is I'm
23 not sure, Don.

24 Q. Thank you.

1 CHAIRMAN GETZ: Mr. Iacopino.

2 INTERROGATORIES BY MR. IACOPINO:

3 Q. Mr. Leo, previously in your testimony there was
4 discussion regarding the 5,500 square feet of
5 affected wetlands in the vicinity of the -- is it a
6 cut and fill at Turbine No. 6, N6? It's on sheet
7 C9-1, I believe.

8 A. (Leo) It's a cut in the immediate vicinity of --

9 Q. And that's what causes that largest wetlands impact?

10 A. (Leo) Well, I guess I think I misspoke. I was kind
11 of looking in the wrong way in the plans. Actually,
12 past N6 is where the wetland impact is. And that
13 provides access to N1 through N5.

14 So, here is N6. That's the large wetlands
15 impact just above it. That's how they get access to
16 the north ridge.

17 Q. Okay. So it wasn't for the installation, for
18 instance, of the area where the turbine would
19 actually be. It's a continuation of the road?

20 A. (Leo) Right. It's the main access road that goes up
21 to the north ridge.

22 Q. So the elimination of Turbine N6 wouldn't do anything
23 to eliminate that wetlands impact?

24 A. (Leo) No. There's only a minor 40-square-foot impact

1 required for N6.

2 Q. Okay. Thank you.

3 CHAIRMAN GETZ: Okay. Other
4 questions? Mr. Harrington.

5 INTERROGATORIES BY MR. HARRINGTON:

6 Q. Just a follow-up. I guess we're into Applicant's 44
7 with the alternate route --

8 CHAIRMAN GETZ: Well, actually --

9 MR. HARRINGTON: We're waiting on
10 this?

11 CHAIRMAN GETZ: We were going to hold
12 off on cross-examining on Exhibit 44 itself. I wanted to
13 hear additional argument on that, that issue, because I
14 still have my -- the concerns I expressed earlier in the
15 day. So let's -- and then Mr. Scott, I think, had some
16 similar types of issues. But let's do that separately.

17 I want to see now if there's any other
18 further questions on the prefiled direct and the
19 supplemental. Ms. Lewis?

20 MS. LEWIS: I do have a few follow-up
21 questions, if that's okay.

22 CHAIRMAN GETZ: Follow-ups to
23 questions raised by the Subcommittee?

24 MS. LEWIS: One was raised from Mr. --

1 sorry. I forget his last name.

2 CHAIRMAN GETZ: Mulholland?

3 MS. LEWIS: -- Mulholland, regarding
4 the blasting that was going to be done just over the
5 Rumney line.

6 CHAIRMAN GETZ: Okay. Let's proceed
7 through those questions then.

8 MS. LEWIS: Okay.

9 INTERROGATORIES BY MS. LEWIS:

10 Q. Given that the blasting is going to be occurring just
11 over the line, with nearby houses right amongst that
12 area, will there be any structural surveys done on
13 these homes prior to the blasting and, therefore, be
14 able to make a comparison if there are any issues
15 that occur during the blasting?

16 A. (Leo) We don't have structural surveys as part of the
17 plan right now. Any reputable blasting company will
18 go out, based on their own criteria, and survey homes
19 within a certain distance of the work they're
20 performing. They do that to protect both themselves
21 and the people around them. Most reputable blasting
22 companies have done quite a bit of this work, and
23 they know where to look and what to look for in
24 foundations. So...

1 Q. So, is that done at the expense of the Applicant or
2 the homeowners?

3 A. (Leo) That would be not the homeowner.

4 Q. Okay. Thank you. Is that a routine thing, or is
5 that something that needs to be required as a
6 condition?

7 A. (Leo) That's a routine thing. There's only a few
8 blasting companies in the New England area that could
9 take on this kind of work. All those companies would
10 conduct some type of a pre-blast survey.

11 Q. Thank you. My second question just had to do with a
12 little more follow-up on the muck that was discussed.

13 Would there be any muck that was reused
14 along any area where the new transmission lines are
15 proposed? Is that any possibility at all or...

16 A. (Leo) I mean, there could potentially be some gravel
17 that's put down to firm up the roads for access to
18 the transmission lines.

19 Q. Okay. Given that the new transmission lines that
20 have been proposed do run directly over the aquifer
21 in that area, is that something that further
22 conditions or further plans would need to be done, to
23 make sure that any of that reused muck somehow does
24 not get into the aquifer?

1 CHAIRMAN GETZ: Well, I think this
2 question effectively goes to the request made by
3 Mr. Steltzer, that what it appears at this point is these
4 witnesses don't have the knowledge to comment, as I take
5 it, on what the muck pile management plan is or what DES's
6 expectations are. Is that correct?

7 WITNESS LEO: Well, I understand what
8 their expectations are. It's to keep the muck pile out of
9 surface waters and to manage it with that respect. You
10 know, and we will have downstream controls, filter
11 barriers and things like that, that will help filter out
12 any nitrates leaving the site anywhere.

13 Her question about, I think the
14 interconnect, is whether or not we'd be transporting any
15 of this rock down into that area. And I think we can
16 certainly, you know, agree not -- agree to not have any of
17 the rock that was blasted on the site, you know, hauled
18 and used off site.

19 BY MS. LEWIS:

20 Q. Just one more follow-up on that. Do you know if
21 there would be any blasting necessary to create that
22 new proposed transmission line?

23 A. (Leo) There would not be any blasting necessary.

24 MS. LEWIS: Thank you. That's all I

1 have.

2 CHAIRMAN GETZ: Okay. Thank you.
3 Rather than do redirect now, I think we should hold that
4 until the -- until we make a decision on what to do about
5 Exhibit 44, unless there are issues that you would like to
6 address on redirect. Maybe I'll give you the option.

7 MR. PATCH: That's fine. We don't
8 need to at this point. Thank you.

9 CHAIRMAN GETZ: Then the witnesses
10 will be subject to recall.

11 I'd like to take the lunch recess now,
12 but this is how I would suggest that we proceed:
13 Effectively, this panel is excused, pending how we -- the
14 decision to be made about the appropriate treatment of
15 Exhibit 44. And I want to consider over the lunch break
16 what's the best approach to dealing with that issue and to
17 make sure everyone gets an opportunity to weigh in on how
18 we should proceed.

19 But Mr. Mulholland, is the expectation
20 that Mr. Roth will be here this afternoon?

21 MR. MULHOLLAND: Yes.

22 CHAIRMAN GETZ: I'd like to get on the
23 record his cross-examination of Mr. Gravel. It's almost
24 12:30. I would suggest we resume at 1:45 and that the

1 first thing we do then is pick up with the completion of
2 the cross-examination of Mr. Gravel. We would hear from
3 Mr. Roth and then turn to the Subcommittee for an
4 opportunity for redirect. And hopefully I'll be able to
5 give some more concrete guidance about how to deal with
6 the alternate route to the Groton Hollow Road distribution
7 line.

8 But let me re-emphasize a couple
9 things, because I think this goes to, in the first
10 instance, the motion to suspend that was filed by the
11 Buttolph Group and that we dealt with at the prehearing
12 conference, and it goes to comments made at the beginning
13 of the hearing, and it also goes to some comments made
14 today, and these are some of my concerns at this juncture.
15 Part of it was taken up by Mr. Iacopino on this
16 alternative information. It looks like there may or may
17 not have to be some DES review of some sort. Another
18 issue is, of course, the weight to be given to this type
19 of information. Ultimately, it's a -- both sides of the
20 coin are implicated here. What's the -- and I'm looking
21 at R.S.A. 162-H:16, and it goes to what's the Applicant's
22 burden of proof with respect the Subsection 4, the things
23 that we must find in order to approve an application. So,
24 of course, the Applicant has the burden of proving certain

1 issues by a preponderance of the evidence. And then we
2 must find, among other things, that the project would not
3 have an unreasonable adverse effect on a list of items,
4 including aesthetics, historic sites, air and water
5 quality, the natural environment, and the public safety.
6 So, of course, the obligation is on the Applicant to prove
7 that there will not be unreasonable adverse effects. So
8 my concern is what is the status of the record and how we
9 would address all of those issues. And it also implicates
10 where we are with the historic sites and any interaction
11 with the Division of Historic Resources. And I've also
12 got concerns about appropriate measures for due process,
13 especially with this newer information, to make sure the
14 parties and Public Counsel have a way to address those
15 issues, conduct the cross-examination in a fair way. So
16 those are my concerns at this point.

17 I'm prepared to do a couple of things.
18 I think maybe the best way is to give the parties an
19 opportunity to think about these issues today and have
20 argument tomorrow morning on those issues, on what's the
21 best way to proceed, and, of course, give some time for
22 the parties, if they can reach an agreement on a way to
23 proceed. That certainly would be a useful measure. But
24 if there's no agreement among the parties, then we'll take

1 argument and be prepared to rule on how we should proceed
2 with the remainder of the case.

3 But having said all that, I'd like to
4 get the -- complete the Gravel testimony. Certainly the
5 Applicant, I think, should be permitted to make its case.
6 And then I think what we were going to try to do is
7 accommodate Public Counsel's witness, Mr. Tocci, his
8 schedule, and to conduct the direct and cross-examination
9 of him this afternoon.

10 So, any questions before we take the
11 lunch recess?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. Hearing
14 nothing, then let's recess and resume at 1:45. Thank you.

15 (WHEREUPON, the Day 3 AM Session
16 recessed for lunch at 12:32 p.m.

17 Day 3 Afternoon Session to resume
18 under separate cover so designated.)
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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)

**SEC 2010-01 DAY 3 MORNING SESSION - November 3, 2010
GROTON WIND, LLC**

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