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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

September 23, 2016 - 12:50 P.M. **DAY 5**
Public Utilities Commission.
21 South Fruit Street, Suite 10 **Afternoon Session**
Concord, New Hampshire **ONLY**

IN RE: SEC DOCKET NO. 2015-02.
ANTRIM WIND ENERGY, LLC;
Application of Antrim Wind
Energy, LLC for a Certificate
of Site and Facility.
(Hearing on the merits)

PRESENT FOR
SUBCOMMITTEE: SITE EVALUATION COMMITTEE:

| | |
|-----------------------------------------|--------------------------------------------------------------|
| Cmsr. Robert R. Scott | Public Utilities Commission |
| <i>(Presiding as Presiding Officer)</i> | |
| Cmsr. Jeffery Rose | Dept. of Resources & Economic Development |
| Dr. Richard Boisvert | Dept. of Cultural Resources/ Div. of Historical Resources |
| (Designee) | |
| John S. Clifford | Public Utilities Commission |
| (Designee) | |
| Dir. Eugene Forbes | Dept. of Environmental Services/Water Division |
| (Designee) | |
| Patricia Weathersby | Public Member |

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...
Pamela G. Monroe, SEC Administrator
Marissa Schuetz, SEC Program Specialist

COURT REPORTER: Cynthia Foster, LCR No. 014

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I N D E X

| WITNESS (Resumed) | DAVID RAPHAEL | PAGE NO. |
|-------------------------------------------------|----------------------|-----------------|
| Cross-Examination by Mr. Reimers (Continued) | | 5 |
| Cross-Examination by Ms. Maloney | | 66 |

| 1 | E X H I B I T S | | |
|----|------------------------|----------------------------------------------------------------------------------------|-----------------|
| 2 | EXHIBIT ID | D E S C R I P T I O N | PAGE NO. |
| 3 | | | |
| 4 | CP-8 | Decision and Order Denying Application for Certificate of Site and Facility Re: | 67 |
| 5 | | | |
| 6 | | SEC 2012-01 (4-25-13) | |
| 7 | | | |
| 8 | CP-15 | Printout of Webpage: dePierrefeu-Willard Pond Wildlife Sanctuary | |
| 9 | | | |
| 10 | | (Printed on 09-21-2016) | 107 |
| 11 | | | |
| 12 | CP-16 | Printout of Webpage: Bald Mountain, Antrim, NH (Printed on 09-21-2016) | 107 |
| 13 | | | |
| 14 | | | |
| 15 | CP-17 | Printout of Webpage: Goodhue Hill, Antrim, NH (Printed on 09-21-2016) | 107 |
| 16 | | | |
| 17 | | | |
| 18 | CP-18 | Printout of Webpage: Willard Pond, Antrim, NH (Printed on 09-21-2016) | 111 |
| 19 | | | |
| 20 | | | |
| 21 | CP-19 | Printout of Webpages: NHMagazine.com, et al (Printed 09-17-2016 - 09-21-2016) | |
| 22 | | | |
| 23 | | | |
| 24 | | | 132 |

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P R O C E E D I N G S

(Hearing resumed at 12:50 p.m.)

PRESIDING OFFICER SCOTT: Okay. We're back on the record, and, Mr. Reimers, we're still with you, correct?

MR. REIMERS: We are. Okay. It was pointed out to me that when I brought in Exhibit 11, today's Exhibit 11 should actually be Exhibit 13 because on one day that I wasn't here Francie had submitted an Exhibit 11 that I was unaware of. So Exhibit 11 as marked today should be marked 13.

PRESIDING OFFICER SCOTT: So 11 is 13?

MR. REIMERS: Correct.

PRESIDING OFFICER SCOTT: And 12 is 14?

MR. REIMERS: 12 is still 12. I believe just one got bumped. Sorry for the confusion.

PAMELA MONROE: Just one other question, Jason. So this is dated the 22nd. I assume you intended today's date?

MR. REIMERS: I did. I thought I was going to be beginning yesterday. That's why.

PAMELA MONROE: I wasn't here. So it got

1 handed out yesterday?

2 MR. REIMERS: No, but I had it ready in
3 case my turn came up.

4 PAMELA MONROE: Okay.

5 **CONTINUED CROSS-EXAMINATION**

6 BY MR. RIEMER:

7 Q Mr. Raphael, before the break you showed us a
8 map that you had relied on, is that right?

9 A That's correct.

10 Q Where did you get that map?

11 A It was at the kiosk in the parking lot at the
12 Willard Pond/Bald Mountain site.

13 Q Okay. And does that kiosk have an additional
14 map on the kiosk?

15 A I think it does on the board, yes.

16 Q Okay. Were you aware until -- would it surprise
17 you that that map is outdated, the map that you
18 have?

19 A I've since learned that it probably is outdated,
20 yes.

21 Q And would it surprise you to learn that Audubon
22 owns all of the shoreland except for the boat
23 launch around Willard Pond?

24 A No. I've clarified that situation.

1 Q And would it surprise you to learn that
2 Audubon's ownership includes the dam itself?

3 A No.

4 Q Okay. You state that the project, sorry. I'm
5 continuing my questions on page 126 of your
6 Visual Assessment Report. We're in the first
7 paragraph, and you state that the project will
8 not be visible from many locations in the
9 Audubon sanctuary; is that right?

10 A That's right.

11 Q This is not surprising given that the sanctuary
12 is largely wooded; is that correct?

13 A That's, in fact, part of the reasons we came to
14 that conclusion.

15 Q And you state in that paragraph, the project
16 does not appear to interfere with the mission of
17 the New Hampshire Audubon which does not
18 directly focus on scenic resources or qualities;
19 is that right?

20 A That's right.

21 Q Are you aware of any nonprofit in New Hampshire,
22 any conservation organization, whose stated
23 mission directly and only focuses on scenic
24 resources or qualities?

1 A No.

2 Q You're not suggesting that New Hampshire
3 Audubon's interest in protecting the viewshed of
4 Willard Pond is outside of Audubon's mission,
5 are you?

6 A It's not a stated part of your mission as far as
7 I read it off your website.

8 Q Is it contrary to Audubon's mission in your
9 opinion?

10 A No.

11 Q You looked at New Hampshire Audubon's website,
12 didn't you?

13 A Yes.

14 Q And you stated that the mission of New Hampshire
15 Audubon is to quote, "protect New Hampshire's
16 natural environment for wildlife and people,"
17 end quote; correct?

18 A Correct.

19 Q So people use Willard Pond, don't they?

20 A Of course.

21 Q And people use and view Willard Pond's natural
22 environment, don't they?

23 A Yes.

24 Q And would you agree that most people using

1 Willard Pond approach the pond from the area of
2 the boat launch?

3 A If they're using Willard Pond, yes.

4 Q And right now, from the boat launch people at
5 the boat launch look out at a vista with no
6 human development in sight, is that right?

7 A That's right.

8 Q If the project is approved, people would see
9 four turbines from that boat launch?

10 A Yes. That's correct. I just, again, I want to
11 qualify my last statement by saying yes, people
12 look out from the boat lunch and see no human
13 development, but they are actually in a place
14 where there is human development at that vantage
15 point. I mean, there's a kiosk, there's the
16 boat launch, so forth and so on.

17 Q I was focused on the visual aesthetics.

18 A Yes.

19 Q Then my final question was if the project is
20 approved, people would see four turbines from
21 that boat launch?

22 A Yes.

23 Q On that page, page 126 in your report, you state
24 that quote, "the pond itself," this is the

1 beginning of the second paragraph?

2 A Page 127?

3 Q Page 126.

4 A Page 126.

5 Q Second paragraph beginning of the --

6 A Hum. On my version on 126, I have photographs.
7 Would that be the next page? No.

8 PRESIDING OFFICER SCOTT: Let's go off the
9 record.

10 (Off-the-record discussion)

11 PRESIDING OFFICER SCOTT: Back on the
12 record.

13 Q Okay. Beginning of the second paragraph, you
14 say, the pond itself is not unlike many other
15 small ponds throughout the region, scenic in its
16 own way but certainly not a remote or highly
17 scenic wilderness location; is that right?

18 A That is right.

19 Q Please name the many other small ponds
20 throughout the region that are similar in size
21 and lack of development to Willard Pond.

22 A Actually, we, during the brake we had an
23 opportunity to look at Quiet Waters and do a
24 little refreshment, and we came out with a

1 number of similar ponds. I mean, let's take,
2 for example, Robb Reservoir might be one. There
3 are others that we have a listing that I came
4 across in the area that have some similar
5 qualities.

6 Q And Robb Reservoir --

7 A Would be one of them.

8 Q Completely undeveloped?

9 A I believe so. Yes.

10 Q How big is Robb Reservoir?

11 A I don't know the actual size. I'd have to check
12 that.

13 Q Are you aware that during the 2012 proceedings
14 the SEC requested a list from Audubon of other
15 undeveloped lakes and ponds in New Hampshire
16 exceeding 96 acres in size?

17 A I'm sorry. In the previous docket?

18 Q Yes.

19 A I'm not aware of that, no.

20 Q Okay. You have in front of you Audubon's
21 testimony. It's the Prefiled Testimony of
22 Michael Bartlett. Do you have that?

23 A I'm looking for it.

24 PRESIDING OFFICER SCOTT: That's your

1 Exhibit number 1, is that correct?

2 MR. REIMERS: It's our exhibit number 1,
3 yes.

4 A I don't seem to have it. Oh, I'm sorry.
5 Forgive me.

6 Q Okay. Okay. Please turn to Attachment MJB 8.
7 That would be in the upper right-hand corner.
8 There's a chart in the middle.

9 A I have that.

10 Q And I had asked you, you'd indicated that you
11 were unaware that the SEC in 2012 had requested
12 a list from Audubon of undeveloped lakes and
13 ponds in New Hampshire exceeding 96 acres in
14 size?

15 A Yes, I was unaware of that.

16 Q Looking at this chart, are you aware that the
17 chart shows that there are four undeveloped
18 water bodies in New Hampshire categorized as
19 natural?

20 A Yes, I see that.

21 Q And are you aware, does the chart indicate that
22 none of these natural undeveloped shoreline
23 water bodies are south of Plymouth, New
24 Hampshire?

1 A Are in southwestern New Hampshire, is that what
2 you said?

3 Q No, south of Plymouth.

4 A Oh, south of Plymouth. Excuse me.

5 Q Sorry.

6 A I'm not sure where, not sure where the town of
7 Albany is, but certainly the other three I'm
8 pretty certain are north.

9 Q Albany is north of Plymouth.

10 A Okay.

11 Q And looking at that chart, does the chart show
12 that for the category of water bodies with
13 undeveloped shorelines that are categorized as
14 raised by dam such as Willard Pond, that there
15 are 12 in New Hampshire?

16 A Yes. I'm looking at that same list.

17 Q Okay. And does the chart indicate that 7 of
18 those 12 are south of Plymouth?

19 A I will take your word for it. I don't know the
20 exact location of some of these towns. Stark.

21 Q I understand that you haven't seen the chart
22 before.

23 A Yes.

24 Q So does it, does this chart indicate to you that

1 Willard Pond is one of 7 remaining undeveloped
2 water bodies south of Plymouth?

3 MR. NEEDLEMAN: Could we identify the
4 source of it and what the definition of
5 undeveloped is? If this is coming from a state
6 guide it would be helpful to know that, for
7 example. Or is this just Audubon's definition?

8 MR. REIMERS: I believe that undeveloped
9 is -- I don't know where that came from. The
10 information was culled from the Official List of
11 Water Bodies, but I can't tell you off the top
12 of my head. Carol Foss is the one who prepared
13 that, and, unfortunately, her partner had a,
14 she's with her partner in the hospital this
15 morning and couldn't make it. I can get that
16 information, but I can't tell you right now.

17 MR. NEEDLEMAN: No. I understand. I'm
18 saying that I think it may well affect the
19 witness's answer if you're asking him just to
20 respond to Audubon's characteristics of these
21 water bodies as opposed to handing him a
22 document or the State has characterized the
23 water bodies. It would be helpful to just know
24 that.

1 MR. REIMERS: I agree. I can't get that
2 information from Carol right now.

3 A If I could help, it says at the bottom of the
4 page, information requested of New Hampshire
5 Audubon by Committee Member Brooke Dupuy so I
6 imagine it's developed by Audubon.

7 Q It was.

8 A Okay. And it also says the 18 water bodies
9 exceeding 96 acres judged to have undeveloped
10 shorelines so I don't have any understanding of
11 what went into that judgment.

12 Q Understood. Yes. The top of the page does give
13 a little bit of information. Shoreline
14 development status developed by CR Foss, that's
15 Carol, from combination of personal knowledge
16 and inspection of Google Earth images for
17 buildings within 500 feet of the shoreline.

18 Moving on. You state, going back to Page
19 126 of your report, you state that Willard Pond
20 is not listed by New Hampshire Fish & Game as a
21 remote trout fishery, is that right?

22 A That's right.

23 Q And are you aware that most remote trout
24 fisheries are stocked by helicopter?

1 A I'm not aware of that.

2 Q You have a website here that you list in a
3 footnote going to Fish & Game.

4 A Yes.

5 Q You could find that information there. Please
6 name a remote trout fishery in southern New
7 Hampshire.

8 A I can't. I'd have to look that up.

9 Q You state in your, I believe on this page of
10 your report that Willard Pond, you don't
11 categorize it as remote; is that right?

12 A That's right.

13 Q So why would Willard Pond even be a contender to
14 make the remote trout fisheries list?

15 A Well, we were just doing diligence to see how
16 and what categories it was listed in, how it was
17 listed and if it appeared because there are
18 representations of the pond's wilderness values
19 and remoteness and so that was probably what
20 drove us to look under the remote pond category.

21 Q Okay. You state on this page that Willard Pond
22 is not, quote, specifically designated by the
23 state as a scenic pond, end quote. Is that
24 right?

1 A That's right.

2 Q And what list of state-designated scenic ponds
3 are you referring to?

4 A It is referenced in the, we're referencing both
5 the statewide outdoor recreation plan, I mean
6 it's listed in the footnote after that. I'll
7 read the whole sentence. The pond is also not
8 specifically designated by the state as a scenic
9 pond, nor is it identified as a key destination
10 or resource specifically, or nor is it
11 identified as a key destination or resource of
12 significance in any regional state planning
13 document, and then the footnote says such as New
14 Hampshire Statewide Comprehensive Outdoor
15 Recreation Plan, New Hampshire's Fish & Game's
16 Wildlife Action Plan, New Hampshire Conservation
17 Land Stewardship Programs, Land for New
18 Hampshire, or the Councils on Resources and
19 Developments 2010 report on growth management.

20 Q Right. So that footnote references one, two,
21 three, it mentions several plans, and that's at
22 the end of your sentence, but that sentence is a
23 two-part sentence. First part of that sentence
24 is the pond is also not specifically designated

1 by the state as a scenic pond, comma, nor is it
2 identified as a key destination or resource of
3 significance in any regional or state planning
4 document. Your footnote appears to, does your
5 footnote pertain to the second part of your
6 sentence?

7 A I think it pertains to the whole sentence, but I
8 think the best way to answer your question in
9 general is that we were not aware based on our
10 research. These are citing four examples, but
11 based on our research, we were not aware of any
12 such designation of the pond as scenic per se.

13 Q Are you aware of any State of New Hampshire list
14 that designates scenic ponds?

15 A Again, we didn't come across that designation so
16 I'd have to consult with staff to see if they
17 came upon a particular listing of that sort.

18 Q Okay. So can you name one pond that has been
19 designated by the State of New Hampshire as
20 scenic?

21 A Not off the top of my head, no.

22 Q And you're not personally aware of the existence
23 of any such list?

24 A I'm not personally aware of that list, no.

1 Q And if there is no such list, what is the
2 significance of this pond not being listed on
3 that nonexistent list?

4 A Well, that is only one source of information
5 that leads us to that conclusion. So if we
6 can't find any listing, whatever that listing
7 might be, derived from or whoever puts it out,
8 then it does indicate that for whatever reasons
9 Willard Pond has not been highlighted or
10 identified specifically as a scenic pond or for
11 its scenic values.

12 Q By extension of that reasoning, would the,
13 assume that I'm correct that there is no such
14 list, would that mean that there's no list
15 because there are no scenic ponds in New
16 Hampshire?

17 A Not necessarily.

18 Q You state, and you discussed it yesterday that
19 the Antrim 2010 master plan does not include any
20 clearly written community standards that seek to
21 preserve its scenic beauty; is that right?

22 A That's right.

23 Q Willard Pond as you have now learned is
24 completely within New Hampshire Audubon

1 Sanctuary, isn't that right?

2 A That's right.

3 Q And its shoreline is permanently protected from
4 development?

5 A Correct. It's all conservation land.

6 Q So if the entire surroundings of Willard Pond
7 are already protected, you wouldn't really
8 expect the master plan to have language to
9 further protect its scenic beauty, would you?

10 A Yes, I would, because that's exactly why you
11 need a standard because the standard's what
12 identify that any view or any intrusion into
13 that scenic resource is something that should be
14 considered, you very, know carefully and no such
15 statement exists.

16 Obviously, as we know, we can have the
17 potential view of the project from Willard Pond
18 so clearly all of the areas around Willard Pond
19 have not been conserved and thus we have a
20 location for wind energy project here. The
21 purpose of a well-written and specific community
22 standard is it could state something like the
23 views from Willard Pond are so valuable to us as
24 a town that we would suggest that there be no

1 visual intrusion anywhere or visual change
2 anywhere related to the pond, and that statement
3 and that specific language does not exist.

4 Q Earlier we discussed some of the guidebooks and
5 publications that describe Willard Pond, and
6 your list is on page 62 of your report. Please
7 turn to page -- we're going to go back to 126,
8 but now we're going to 62. We'll be going back
9 to page 126. Are you there?

10 A Yes. I am.

11 Q Did I read from all of them?

12 A From all of the --

13 Q Bad question.

14 A Okay.

15 Q Did I read from all of the guidebooks or
16 publications that you list on this chart as
17 including passages about Willard Pond?

18 A I'd have to check. I don't know if you read all
19 of them with any reference.

20 Q I read, if you'll recall, from four of them.

21 A That's right.

22 Q And in addition, I believe that you list Willard
23 Pond is also being described in the Flyfisher's
24 Guide to Northern New England, right?

1 A Yes. If it says, yes, I think that's fair to
2 say.

3 Q And one other one. New Hampshire, an Explorer's
4 Guide.

5 A Yes.

6 Q Okay. And looking at Michael Bartlett's Exhibit
7 1 -- sorry, it's not marked for you,
8 Mr. Raphael, but it's the Prefiled Testimony of
9 Michael Bartlett. That's Exhibit 1?

10 A Yes.

11 Q Turn to Attachment MJB 6. Outdoor Guide. See a
12 Picture? Okay?

13 A Okay. I'm sorry. I have it here.

14 Q Okay. Do you know what this is?

15 A It's an Outdoor Guide to Antrim and Bennington,
16 New Hampshire, Compliments of Antrim
17 Bennington's Lion's Club.

18 Q What does it say in the smaller words underneath
19 the photo?

20 A It's a view of Willard Pond in Antrim as viewed
21 from Bald Mountain.

22 Q Is that photograph taken from the ledges near
23 the summit?

24 A It appears to be, yes.

1 Q Okay. So going back to page 126 and your
2 conclusions, you said at the end of the second
3 paragraph, typically when there is public
4 documentation of a particular scenic or
5 recreational resource especially in local
6 regional or state planning documents or
7 publications, it indicates broad public
8 consensus of the value of that resource.

9 Is it your opinion that the guidebooks and
10 the Lions Club Outdoor Guide are not
11 publications indicating a broad consensus of the
12 value of that resource, of Willard Pond?

13 A The guidebooks and publications are one of
14 several sources we rely on to establish broad
15 public consensus, and perhaps the most specific
16 one and valid one is the Town Plan.

17 Q Okay. Could the expenditure of public or
18 private money into conserving the SuperSanctuary
19 or the Audubon dePierrefeu Sanctuary indicate a
20 public consensus of the value of the resource?

21 A Certainly.

22 Q Are you aware that over 200 individuals and
23 families contributed money to conserve the last
24 unprotected parcel on the Willard Pond

1 shoreline?

2 A I will take your word for that.

3 Q It's in Francie Von Merton's testimony, I
4 believe.

5 You described on page 126 the road leading
6 to Willard Pond. One must also consider, this
7 is what you say, one must also consider the
8 arrival experience to the pond to fully
9 understand its context. Passing homes,
10 development, a utility line, junk cars, and
11 other intrusions to be reminded that this is a
12 developed landscape, the pond area
13 notwithstanding, which diminishes the resource's
14 overall sensitivity. Is that correct?

15 A That's correct.

16 Q You say that the pond is not developed. Is that
17 right?

18 A That's correct.

19 Q Did you do visual simulations from the homes,
20 junk cars or the utility lines?

21 A No, but those are part of the context and the
22 overall context for the pond. As surely as
23 we're looking at the wind energy site as part of
24 the context, we look at those things as well.

1 Q Are you aware of anyone who doesn't go or has
2 stopped going to Willard Pond because they
3 passed a junk car or a utility line or they
4 didn't like the road, anything about it?

5 A No, but I'm not suggesting that certainly in the
6 language you quoted.

7 Q But you do say that to be reminded that this is
8 a developed landscape, but just to be clear,
9 you're not talking about the pond.

10 A I'm talking about the context for the pond.

11 Q The context that will lead up to the pond; is
12 that right?

13 A The context that's part of the overall
14 evaluation of the area and informs the
15 conclusions of the Visual Assessment.

16 Q Okay. You also state in your report with regard
17 to the pond, there is no distinct scenic focal
18 points or wide panoramic views.

19 A That's correct.

20 Q Looking on page 128 of your report, you've got a
21 photograph. Is this the current view from the
22 boat launch?

23 A The top photograph?

24 Q Yes.

1 A Yes.

2 Q And this is not a wide panoramic view?

3 A No, it's just a view of the pond and the
4 shoreline.

5 Q And this is looking in the direction of the
6 proposed project?

7 A The project would be located to the left of the
8 photograph.

9 Q Out of --

10 A Not entirely, no. The view would be in there.

11 Q About how many from this vantage point, about
12 how many turbines would be viewed before that we
13 discussed from the boat launch?

14 A I want to compare it, if I may, with the visual
15 simulation.

16 Q Sure. I do, too.

17 A Forgive me.

18 Q Are you comparing it to your Exhibit 12?

19 A I'm just trying to place it in the view. Yes,
20 I'm trying to kind of place it in reference to
21 Exhibit 12, and it appears that the simulation
22 area would be and the project would be visible
23 in that view.

24 Q That would be four turbines.

1 A Yes.

2 Q So when you say, looking back at page 128, when
3 you say the project would be off to the left,
4 you're meaning to the left side of the
5 photograph, not off of the page to the left?

6 A No. That's correct.

7 Q Your photograph on page 128 does not capture the
8 entire view that the eye sees, does it?

9 A No.

10 Q Bald Mountain rises to the left?

11 A That's correct.

12 Q And the lower slopes of Goodhue Hill rise to the
13 right of the view?

14 A Correct.

15 Q Your photo, you say, is not a wide panoramic
16 view, but if someone standing there seeing
17 Goodhue Hill on one side, you know, the
18 beginnings of it, and Bald Mountain rising to
19 one side, the lake in front of them, you're
20 saying that wouldn't be a wide panoramic view?

21 A No. I consider wide panoramic view to be
22 similar to what you see might see on Picture
23 Mountain or at a summit where you have a long
24 distance panorama of the landscape. This is a

1 very close-in view, and I wouldn't, I mean it is
2 a form of a panorama, but it's not what I'm
3 referring to in that sense as a panoramic view
4 that we typically associate with a summit or a
5 very long distance or sweeping 360-degree view.
6 That's not to say that when you're on the pond
7 you might not have a 360-degree panorama, but in
8 terms of terms that we use to describe different
9 landscapes and effects, the implication there is
10 that it lacks a long or broad view and panorama
11 that you might find on a much larger lake on or
12 on a mountain summit.

13 Q As opposed to looking out from Bald Mountain,
14 for example?

15 A Yes. And Bald Mountain does have aspects of a
16 panoramic in certain, from the main summit,
17 which does not include the project, by the way.

18 Q We'll get to that. On page 128, looking at that
19 photograph, can you read the text of your
20 photograph? Underneath it?

21 A Near the eastern end of the pond looking south?

22 Q I'm sorry. Are you on page 128?

23 A I'm sorry.

24 Q I don't know what your page number is. The

1 primary view?

2 A The primary view as one looks out from the boat
3 launch at Willard Pond is not one of a kind or
4 strikingly memorable as compared to other ponds
5 in the study area such as Dublin Lake with its
6 stunning view of Mount Monadnock.

7 Q Just to be clear, the Antrim Wind project does
8 not plan to have any effect on Dublin Lake,
9 right?

10 A That's correct.

11 Q And how is the view of Monadnock from Dublin
12 Lake relevant to the Antrim Wind's project's
13 aesthetic effect on Willard Pond?

14 A It's relevant because when we look at scenic
15 values and scenic quality which we did in our
16 methodology, and which is a very important first
17 step, we have to put it into the context of
18 other resources in the area or the region in
19 order to make a comparative assessment of its
20 relative scenic value to other resources which
21 may have much more or less scenic value relative
22 to Willard Pond.

23 Q Okay. Earlier when I asked you a question about
24 the view from the boat launch, and I think I was

1 using the words undeveloped, you reminded me
2 that standing at the boat launch you're standing
3 on, I think what you might have described as a
4 developed spot, is that right?

5 A That's right.

6 Q Have you been to Dublin Lake?

7 A Long time ago.

8 Q Okay. Have you, well, you described the
9 one-of-a-kind or strikingly memorable view from
10 Dublin Lake. Did you, was that from memory?

11 A No. One of my staff members went to the lake
12 and recorded that view.

13 Q Okay.

14 A And, you know, this might be helpful to you.
15 Elsewhere in the report we kind of, we do
16 provide an example of what we would consider to
17 be a one-of-a-kind striking view, and I think
18 that's of Mt. Kinneo in Maine, but there are
19 other examples of views which are a bit more
20 compelling perhaps than what we see here.

21 Q Your staff member who took the picture of
22 Monadnock from Dublin Lake, where were they
23 standing?

24 A I don't know. I'd have to follow up with that

1 staff member.

2 Q Are you aware that State Highway 101 runs along
3 the entire north shore of Dublin Lake?

4 A Sounds right.

5 Q Are you aware that at times the highway comes
6 within 10 or 20 feet of the lake?

7 A Yes, but that doesn't change the view.

8 Q That wasn't my question.

9 A The difference of that view from this view, that
10 has nothing to do with, as say as you yourself
11 pointed out, we're looking at the pond. We're
12 not considering in this instance what's behind
13 you or other development elements. We're just
14 comparing the view to the view.

15 Q Okay. Then along those lines, are you aware
16 that Dublin Lake has houses built along its
17 shoreline?

18 A I believe so. Yes.

19 Q And that is a difference from Willard Pond,
20 isn't it?

21 A Yes, it is.

22 Q And the view of Monadnock from Dublin Lake, you
23 say, is one of a kind?

24 A Well, I don't know what my wording was.

1 Striking. It's different. It's a more striking
2 and memorable view, I would say.

3 Q Okay.

4 A Certainly.

5 Q Quoting you, the primary view as one looks out
6 from the boat launch at Willard Pond is not one
7 of a kind or strikingly memorable as compared to
8 other ponds in the study area such as Dublin
9 Lake with its stunning view of Mount Monadnock.
10 Have you viewed Mount Monadnock from Thorndike
11 Pond in Jaffrey?

12 A I can't believe I don't remember.

13 Q Have you viewed Mount Monadnock from Perkins
14 Pond in Troy?

15 A I don't think so.

16 Q Going back to page, well, 127, actually, do you
17 know whether Dublin Lake has public access?

18 A Again, I'd have to, I believe it does, but I'm
19 not sure. I'd have to check that.

20 Q Okay. Page 127 of your report. You state
21 second line down from the top, from this vantage
22 point, only two portions of two turbines will be
23 visible above the tree line. And you're talking
24 about the boat launch area. Is that right?

1 A Yes.

2 Q But you have said on multiple occasions today
3 that four turbines are visible from the boat
4 launch, haven't you?

5 A Well, again, I clarified how we looked at that
6 in terms of the difference between focusing on
7 the whole structure and the turbine and the
8 nacelle versus just seeing a blade or two.

9 Q Okay. But you don't explain that in this
10 paragraph, do you?

11 A No.

12 Q So someone reading your overall conclusion
13 paragraph, if they didn't want to read the whole
14 report but wanted to learn what you thought,
15 what your opinion of the effects on Willard
16 Pond, they would come away with the
17 understanding that only portions of two turbines
18 would be visible above the tree line; is that
19 right?

20 A No, it's not right because I think there's
21 enough other documentation and photographs,
22 particularly, as you pointed out with the
23 simulations that would lead them to their own
24 conclusions certainly. They could, you know,

1 put that set of information together and make it
2 a determination on their own whether numbers and
3 so forth were visible.

4 Q So they could do their own putting the pieces
5 together and fact-check your statement?

6 A I mean, certainly I would grant you that we
7 probably should have said only portions of two
8 turbines and two rotors are visible from this so
9 perhaps that was an omission on my part.

10 Q Which would total --

11 A Not adding the two blades.

12 Q And which would total portions of four turbines?

13 A Correct.

14 Q You on this page, second paragraph, you describe
15 being at Willard Pond on a beautiful day in
16 August.

17 A Yes.

18 Q Were there blue skies that day?

19 A I imagine there were.

20 Q You didn't do any photo simulations on that
21 beautiful day, did you?

22 A I did not. I'm sure I took some photographs
23 though. I could go back to my records and find
24 the photographs I took on that day and determine

1 exactly what the -- I have notes probably
2 relevant to that or certainly photographs which
3 would indicate what the exact weather conditions
4 were at that time.

5 Q But none of those photographs made their way
6 into your photo simulations?

7 A I don't know. Again, it may very well be that
8 some of the photographs we're looking at were
9 from that day, I'm fairly certain.

10 Q And you counted what visitors were doing on this
11 day?

12 A Yes.

13 Q You don't consider your counting here to be a
14 scientific analysis, do you?

15 A No, but it is certainly, again, one data point,
16 one piece of information that standard
17 methodologies require you to consider. I mean,
18 the BLM, for example, in looking at use, they do
19 say inventory, visit sites, look at how people
20 are using, record numbers and types of uses. So
21 that's a standard procedure to note those types
22 of things, but it is not an ongoing, long-term
23 demographic count, if that's what you're asking.

24 Q Yes.

1 A Okay.

2 Q And how long were you there that day?

3 A I was there, I was at Willard Pond, Bald
4 Mountain, Goodhue Hill and back pretty much all
5 day. I was there for most of the day.

6 Q How long were you at Willard Pond?

7 A I think I paddled that day on the pond for about
8 an hour and a half.

9 Q You observed a group of four paddlers and
10 kayakers in areas out of view of the proposed
11 project; is that right?

12 A That's correct.

13 Q And are you purporting to conclude that people
14 only use the portions of the pond that would not
15 view the project?

16 A No, I am not.

17 Q You state in the middle of that second
18 paragraph, this small pond lacks the variety and
19 size to draw serious paddlers or even those out
20 for an engaging lake-based experience. Did
21 anyone tell you that they lacked an engaging
22 lake-based experience?

23 A No. I mean, this is my personal take and
24 observational information, and, again, as you

1 established earlier, I'm an experienced paddler,
2 and Willard Pond is probably not a place I would
3 paddle regularly. I'm sure others would and
4 those would live nearby might visit, but, you
5 know, dedicated paddlers usually are looking for
6 something a bit larger and more varied for an
7 experience. I felt that after paddling there
8 and then being there a second day that you kind
9 of take it all in and then there's no mystery or
10 surprise or further interest unless of course,
11 as you were saying earlier, you're interested in
12 observing the loons or you might be fishing
13 certainly. But from a paddler's perspective,
14 it's a good place to visit once or maybe twice,
15 but I don't think it's a place you go back to
16 again and again. Again, unless you live nearby
17 and you're a local user.

18 Q So if it's true that Willard Pond is more likely
19 to draw non-serious paddlers, those paddlers
20 might be the type of paddlers more interested in
21 taking in the scenery as opposed to being
22 focused on the sport of paddling. Would that be
23 correct?

24 A Not necessarily. The paddlers I observed used

1 the boats, they had little flat-water boats to
2 paddle out to Pine Point, and they were swimming
3 out there. They were picnicking and swimming so
4 they weren't paddling. They used the boats to
5 get to that point and then to paddle back.

6 Q You quote a Dr. James Palmer as stating there is
7 some evidence that scenic quality may be less
8 important to people engaged in fishing or motor
9 boating.

10 First, did Mr. Palmer include paddlers in
11 his statement?

12 A No, he did not.

13 Q So Mr. Palmer did not say that there is some
14 evidence that paddlers may find scenic quality
15 to be less important?

16 A No, he did not.

17 Q Second, Mr. Palmer says that there is some
18 evidence that scenic quality may be less
19 important for fishermen and motor boaters.
20 Would you characterize this as a definitive
21 statement that fishermen and motor boaters value
22 scenic quality less?

23 A No. I don't interpret it that way. I interpret
24 it as scenic quality being secondary to their

1 experience. Not that they necessarily value it
2 less, but that it's not the primary purpose or
3 interest of their activity.

4 Q And, obviously, we're talking about Mr. Palmer's
5 statement, when you say they, that it is not the
6 primary one for them, who is the they?

7 A He's referring to the motor boaters or fisher
8 people.

9 Q Mr. Palmer mentioned scenic quality, right?

10 A Correct.

11 Q He didn't mention the quality or clarity of the
12 waters. Did he?

13 A No.

14 Q Yet you state following that, Mr. Palmer's
15 statement, quote, supports the conclusion that
16 the introduction of wind turbines in the
17 landscape will not undermine the quality of the
18 fishery or the clear waters Willard Pond is best
19 known for.

20 Your statement, you're saying that
21 Mr. Palmer's, Mr. Palmer didn't talk about
22 quality or clarity of the waters, yet you're
23 stating that his statement supports a conclusion
24 he doesn't talk about. Is that true?

1 A No, but I am using that information to also
2 identify the fact that the wind project will
3 have absolutely no effect on the fishery itself
4 and on the water quality, and those
5 considerations, I think, are part of what is of
6 interest and important to people who are fishing
7 certainly.

8 Q Okay.

9 A And boating.

10 Q But that's not what Mr. Palmer was directly
11 discussing?

12 A No, but I use that information along with
13 similar types of statements and information
14 relative to these types of uses. In fact, Jean
15 Vissering mentioned something similar about
16 hunters and other types of recreationists not
17 seeing scenic quality as, again, primary in
18 their experience so I'm just using this
19 particular statement along with the analysis and
20 then my own experience to come to that
21 conclusion.

22 Q Okay. I'm going to move away from Willard Pond,
23 and I want to ask you some questions about
24 Goodhue Hill. Are you aware that Goodhue Hill.

1 Are you aware that Goodhue Hill is part of the
2 dePierrefeu Sanctuary?

3 A Yes, I am.

4 Q That was probably my best pronunciation.
5 Hours of practice.

6 A Yes, I am aware.

7 Q You described the trail, I'm on page 117 of your
8 report. There's a photo at the top and you
9 begin your discussion of Goodhue Hill.

10 A Yes. I'm there.

11 Q You described the trail to Goodhue Hill as
12 crossing logging roads and clearing areas that
13 are not scenic or visually pleasing. Is that
14 right?

15 A That's correct.

16 Q Prior to your visit to Goodhue Hill, are you
17 aware that Audubon had opened the summit portion
18 of it to create early successional habitat for
19 mammals and birds?

20 A Yes.

21 Q I believe you state that on page 117?

22 A Yes, I did.

23 Q Okay. Now, in your Supplemental Testimony, you
24 fault Terraink, Counsel for the Public's expert,

1 for not taking into account that the area of
2 Goodhue Hill is an active logging area. Does
3 that sound correct?

4 A I'll take your word for it. I think that's
5 probably right.

6 Q What is the basis for stating that this is an
7 active logging area?

8 A I think when one sees logging going on and
9 evidence that logging has just occurred and
10 logging roads throughout the area, one would
11 assume there's been active logging going on.

12 Q Okay. Was logging happening when you were
13 there?

14 A No. Not on the day that I walked up Goodhue
15 Hill particularly.

16 Q Did you see logging equipment?

17 A I saw evidence of logging. Actually, I think I
18 did see some equipment parked somewhere else.
19 I'm trying to vaguely remember it. I might have
20 some photographs. I think there was some
21 equipment in another clearing near to this
22 point. Might have been a truck or two. I can't
23 remember.

24 Q Are you aware of any logging on Goodhue Hill

1 since the early successional habitat was created
2 in about 2011 or '12?

3 A No. I'm not, and usually logging goes over
4 ten-year periods or five-year periods so if it's
5 been logged as it was, it's probably some time
6 before it would be logged again, but -- I'm not
7 aware that there's a restriction on future
8 logging.

9 Q Have these logging roads that you wrote about
10 and clearing areas, have they since begun to
11 revegetate?

12 A I would assume that naturally there would be
13 some revegetation. I hope they've been cleaned
14 up as it was quite messy when I was there.

15 Q If you look at Exhibit 1 which is Michael
16 Bartlett's testimony?

17 A Yes.

18 Q Please turn to Attachment 2. MJB 2. Are you
19 there?

20 A Yes. I am.

21 Q Do you see the picture in the upper right?

22 A Yes, I do.

23 Q And that compares to a photograph of yours?

24 A Yes, it does.

1 Q Would you say that the picture on the right
2 shows revegetation since you've been there?

3 A Yes. I'm glad to see there's some revegetation.
4 There's no revegetation on the road though.
5 It's just become, I think, some ground cover or
6 grass that's revegetated on the road but no
7 shrubs or trees so the road is still open in
8 that photo. Logging road is still there.

9 Q Do you have any knowledge about whether Audubon
10 completely opened that road for the first time
11 when they did the clearing in 2001 and '12?

12 A I have no knowledge. That is what I saw and
13 experienced that day certainly.

14 Q When you say that all you see there is some
15 grasses rather than shrubs, you don't know
16 whether those grasses is a return to what it was
17 prior to 2011 or '12, do you?

18 A Well, I don't, but it's certainly not restoring
19 the road, and the road appears to still be
20 intact and in place much in the same way that I
21 saw it when I visited, albeit with some grass
22 growing back into it.

23 Q The second set of photographs shows what's
24 described as a trail crew and evidence of their

1 work. Did you happen to be there on a day when
2 a trail crew was there?

3 A No. I was not.

4 Q Now I want to ask you a question about one of
5 Terraink's visual simulations so you've got them
6 in hard copy, and for the committee I'm not sure
7 what form you ended up getting them. This would
8 be Terraink, Ms. Connelly's, photo simulations,
9 and, specifically, I guess they're Appendix X.
10 We're going to look at Viewpoint 33. Appendix
11 F. Are you there?

12 A Oh, yes. I'm sorry. Didn't know you were
13 waiting for me.

14 Q Have you see this before?

15 A Yes.

16 Q So Ms. Connelly of Terraink made a photo
17 simulation from Goodhue Hill; is that right?

18 A I believe actually EDR made the photo
19 simulations.

20 Q Oh, okay.

21 A Just for the record.

22 Q Good clarification. Terraink's report includes
23 a photo simulation.

24 A That's correct.

1 Q And this simulation was done under blue skies?

2 A Yes.

3 Q And how many turbines are visible or parts from
4 Goodhue Hill in that simulation?

5 A Eight are readily visible and there is a tip of
6 the ninth.

7 Q Okay. And is the met tower visible?

8 A Just barely. Yes.

9 PRESIDING OFFICER SCOTT: For the
10 Committee, it's 16 on the PDF.

11 Q Your Visual Assessment report doesn't include a
12 simulation from Goodhue Hill, does it?

13 A I don't believe so. No.

14 Q Now I want to ask you a few questions about Bald
15 Mountain. Bald Mountain is another, I think you
16 described it as a prominent, anyway, it's a
17 prominent destination in the sanctuary, isn't
18 it?

19 A Sure.

20 Q And if you're standing at the boat launch, Bald
21 Mountain rises to your left?

22 A Correct.

23 Q And looking at your testimony, you describe Bald
24 Mountain on what I have as page 120.

1 A I'm there.

2 Q Okay. This is the page that says Bald Mountain
3 at the top and there's two wide, I guess I'd
4 call them long photos?

5 A Yes.

6 Q You describe that, on the third line, second
7 line, you say from one of the more popular
8 overlooks toward Willard Pond, the project
9 ridges are not readily visible. One has to
10 creep down the ledges about 25 feet to see this
11 site project through the trees. Is that right?

12 A Correct.

13 Q Is that right?

14 A Yes.

15 Q So are you saying that from what you understand
16 to be the summit the project would not be
17 visible from?

18 A That's right.

19 Q But that there is an area approximately 25 feet
20 from the summit from which you can view, you
21 would view the project?

22 A No. No. The summit is quite some distance from
23 this viewpoint. There's a large cairn at the
24 summit.

1 Q Okay. And you're saying, when you say one has
2 to creep down the ledges about 25 feet, that 25
3 feet, what is it in reference to?

4 A Well, when you come to this particular overlook
5 which is a lower overlook, it's the only
6 overlook of many that are on this mountain that
7 has any possible view of the project. When you
8 arrive at that as we did, our first impulse was
9 to sit. There's a rock there, and we had some
10 lunch, at which point then I crept down to look
11 at the view from the simulation, and it was
12 quite striking to me that in order to get that
13 view, you know, I had to go down the rock face
14 into a place that some people might not find
15 comfortable to spend a lot of time, so it wasn't
16 a view that people would sit at and look at, and
17 I think that's a very important distinction to
18 make.

19 Q Where you had lunch?

20 A You couldn't see the project.

21 Q That wasn't my question. Where you had lunch,
22 did that seem like -- how did you pick that spot
23 for lunch?

24 A We were going specifically to locate the point

1 at which we are were taking the visual
2 simulation.

3 Q Okay, and it seemed like an appropriate spot to
4 sit and have lunch?

5 A It was a nice spot, yes.

6 Q Do you think that that spot, that other people
7 have lunch on that spot?

8 A I'm sure they linger there, yes.

9 Q Why would they linger there? Is there something
10 about it that draws you there?

11 A Yeah. When you sit back, and, again, at the
12 point where you do linger, there's a tree line
13 in between you and the project. You wouldn't
14 know the project was there, but there is a view,
15 you're kind of, it's a lower overlook so there's
16 a view right down to the pond. It's a nice view
17 looking down towards the pond surface.

18 Q And then from there, you creep down about 25
19 feet to this spot where you would overlook the
20 project. Is that right?

21 A Correct.

22 Q Looking back at that Lion's Club publication
23 that was attached to Exhibit 1 which is Michael
24 Bartlett's testimony, do you know where that

1 photograph was taken from?

2 A I think that is from the, it's not from the
3 simulation point. I'm pretty sure. It is from
4 the other overlook that is a little further, I
5 would say to the southwest and higher than the
6 other overlook, and from this location, there is
7 no view of the project as well.

8 Q You're certain at which overlook this is?

9 A Pretty sure, yes.

10 Q Pretty sure?

11 A Yes, well, I was there a couple of weeks ago so
12 it looks pretty darn familiar.

13 Q Exhibit 6 to your report -- I just got booted
14 off of Wi-Fi. If you could go to Exhibit 6 of
15 your report.

16 A Yes. I'm there.

17 Q Hold on. I'm just logging in again. So Exhibit
18 6 to your report shows a visual simulation of
19 the proposed turbines from Bald Mountain?

20 A That's correct.

21 Q I think I see 8 turbines in the simulation. Do
22 you?

23 PRESIDING OFFICER SCOTT: For the
24 committee, I'm showing that on 155 of the PDF.

1 A Six turbines, two blades.

2 Q Six turbines, two blades. That's what you see?

3 A Yes. Two rotors.

4 Q Okay. Starting at the left, that would be
5 closest to Bald Mountain, right?

6 A Yes.

7 Q I see one blade sticking up.

8 A Correct.

9 Q Moving to the right, I see a turbine.

10 A Correct.

11 Q Then I see another turbine.

12 A Correct.

13 Q Then behind that, I see another turbine.

14 A Rotor. Yes. I see a rotor.

15 Q And then behind that, I see another blade.

16 A Oh, I was referring to that. Yes. I see that.
17 Right.

18 Q Okay. So now we're up to 1, 2, 3, 4?

19 A I also just picked up another, I think that
20 might be another blade there so I guess you're
21 seeing, if I can adjust my response --

22 Q Take your time.

23 A To save you the time, you see, let's see. 1, 2,
24 3, 4, 5, 6, yes. Six turbines and nacelles and

1 then evidence of three blades, three rotors.

2 Q So that would be all nine?

3 A Correct.

4 Q And is the met tower visible as well?

5 A Yes. Very faintly. I think that is.

6 Q Right in the middle?

7 A Yeah. Between the two turbines at the end that
8 you can see and the one on the right side of the
9 simulation and then the one to the left. It's
10 about equidistant or a little less than
11 equidistant between the two of those.

12 Q Going back to spending time on the top of Bald
13 Mountain, when people climb a mountain, do they
14 tend to want a view?

15 A Do they tend to want a view?

16 Q Yes. Sure. The view is kind of the endpoint
17 and perhaps the reward. I personally like both
18 the view and the experience of being in the
19 woods.

20 Q But when you visit a treed summit, do you look
21 around to see if I might have, find a place for
22 a view?

23 A Certainly. Sure.

24 Q It's probably similar to just about anyone else,

1 I would imagine?

2 A Yes.

3 Q We just looked at your simulation of Bald
4 Mountain. Now I'd like you to look at
5 Terraink's simulation for Bald Mountain which
6 would be Appendix F Viewpoint 27.

7 A I have it.

8 Q This same simulation was done under blue skies,
9 wasn't it?

10 A Correct.

11 Q Consistent with your simulation, Ms. Connelly's
12 simulation or actually you may say EDR's
13 simulation, the simulation, how many turbines
14 are shown?

15 A Well, I see 1, 2, 3, 4, 5, wait a second. Six
16 turbines, two blades, looks like the third blade
17 is a little masked, if you will, or complicated
18 by one of the turbines in front of it so same
19 overall number of elements.

20 Q And that one also shows the met tower, doesn't
21 it?

22 A Yes, it does.

23 Q Can you explain why that simulation better shows
24 the met tower than your simulation?

1 A No, I can't. I do think that both simulations
2 are accurate and presented the light. The light
3 might have factored into that. You know, if you
4 look closely at our simulation you can almost
5 start to very closely see that the latticework
6 has been modeled. This simulation it looks like
7 just a line was put in there, but I don't know.
8 I'm not sure you would see it quite in that
9 manner, but you know, I have no reason to
10 question that subtle difference.

11 Q Okay.

12 A And I would say that, you know, looking at both
13 simulations, you know, ours is equally sharp
14 under the same conditions of clarity viewing
15 from that point.

16 Q Okay. I'm done with Bald Mountain. I want to
17 circle back to a discussion we had earlier today
18 about typical viewer versus reasonable viewer.

19 A Sure.

20 Q If I recall correctly, you were going to look in
21 your report to see where you adressed typical
22 viewer, correct?

23 A Yes.

24 Q Would it surprise you that a word search of

1 reasonable viewer or reasonable person reveals
2 that one of those comes up 16 times in your
3 report?

4 A Not necessarily, no.

5 Q And would it surprise you that typical viewer
6 only comes up once in your report?

7 A I think I found at least two times where we used
8 the word, the term, typical viewer.

9 Q Okay. I only found one. If you look on page 4
10 of your report, and recall we were talking about
11 this because of the language of the rule, right?
12 New Hampshire's rule?

13 A Correct.

14 Q On page 4 of your report, in that paragraph that
15 begins with, in Maine.

16 A Yes.

17 Q That's the only, you say in the fourth line, the
18 beginning of the third, these criterion include
19 project, purpose and context, the extent, nature
20 and duration of public use and -- sorry. I
21 skipped over a line.

22 These criteria include the significance of
23 the resource, the existing character of the
24 area, the expectations of the typical viewer.

1 You're talking about in this paragraph
2 Maine's criteria, aren't you?

3 A It is a reference to the Maine criterion, yes.

4 Q Given the fact that New Hampshire's criteria
5 requires the expectation of the typical viewer,
6 where in your report do you mention or apply New
7 Hampshire's standard of the typical viewer?

8 A Throughout the entire report. The whole
9 methodology adopts and considers the specific
10 rules that we are charged to analyze, and if you
11 look at the -- I'll get to that point here if I
12 might. Give me a second here. So if you look
13 at Section 301.14, in determining whether a
14 proposed energy facility would have an
15 unreasonable adverse effect on aesthetics the
16 Committee shall consider 1, 2, 3, 4, 5, 6, 7 so
17 we took those considerations and those
18 characteristics and criteria and applied our
19 evaluation based on those 7. We addressed them
20 directly. You know, we can quibble, if you
21 want, about whether reasonable is different than
22 typical. There was no intention to ignore or
23 avoid the notion of the typical viewer. I think
24 in this instance, we're substituting reasonable

1 for typical. We actually use it elsewhere. I
2 think there's a reference somewhere else in the
3 summary analysis to the typical hiker, and, you
4 know, the typical nomenclature, I think, speaks
5 to the notion of a reasonable person who is or
6 an average, they've been interchanged with
7 average person, reasonable person, typical
8 viewer, they're more or less interchangeable.
9 So I will assure you there was no intention to
10 skirt or ignore that particular reference. We
11 may have used the word reasonable
12 interchangeably.

13 Q Would you agree that one could fail to comply
14 with a rule even if it was not done
15 intentionally?

16 MR. NEEDLEMAN: I'll object. That's
17 calling for a legal conclusion.

18 MR. REIMERS: He's testified a few times
19 about how, questions about that Mr. Block has
20 had and that I've had how he's emphasized that
21 there is no intent to not comply with the rule,
22 but my question suggests is there any other way
23 that you could not be in compliance with the
24 rule.

1 MR. NEEDLEMAN: I think, Jason, he's
2 testified that he used it interchangeably. He's
3 referenced it in his report. He certainly used
4 it interchangeably in his testimony on this
5 exact issue so I think he's made his point.

6 MR. REIMERS: Okay. I'll move on.

7 Q Another question about the rules. This is one
8 that I started to ask earlier but wanted to make
9 sure I was looking at the right section. 301.05
10 (b)(10). It has, no, I'm sorry. (b)(9). Has
11 to do with lighting.

12 A Yes.

13 Q And it says, if the proposed facility is
14 required by Federal Aviation Administration
15 regulations to install aircraft warning lighting
16 or if the proposed facility would include other
17 nighttime lighting, a description and
18 characterization of the potential visual impacts
19 of this lighting, including the number of lights
20 visible and their distance from key observation
21 points, where in your report is the description
22 and characterization of the potential visual
23 impacts of the lighting?

24 A We did not need to address this issue because

1 the project developers have committed right from
2 the outset to use the radar activated lighting
3 which means that, for the most part, there will
4 be no lighting at night of the facility. So
5 it's not necessary to evaluate that in depth.

6 Q Okay. In the rule that I just stated, did it
7 state an exemption for that type of lighting?

8 A No. It doesn't speak to that.

9 Q Okay.

10 A I think it's based on assumption that, I don't
11 think it anticipated or at least identified that
12 option in this regard, but I can't speculate on
13 that certainly.

14 Q How many other, what other projects in the
15 United States are the radar activated lights in
16 operation?

17 A I think there was pilot project elsewhere. I
18 think there's a reference to it either or we
19 looked up in our research, I can't remember the
20 exact place, but I can tell you that radar
21 activated lighting is now being installed for
22 another project in Vermont. Kingdom Community
23 Wind is now in the process of installing it.

24 Q Have they received FAA approval?

1 A Yes, they have.

2 Q So is it your conclusion that it was a foregone
3 conclusion that this project would obtain that
4 approval? And therefore, you did not provide a
5 description and characterization of the
6 potential visual impacts as required by the
7 rule?

8 MR. NEEDLEMAN: Well, Jason, I think that
9 is a slight mischaracterization because there is
10 a portion in the VIA entitled Project Lighting.

11 MR. REIMERS: If you can point me to it.

12 MR. NEEDLEMAN: I think it's page 37.

13 Q Mr. Raphael, does page 37 describe why no such
14 visual impact description and characterization
15 was provided?

16 A If you would give me a moment, I'll review it.

17 I think we addressed the lighting and then
18 we represented the fact that it was expected
19 that the radar assisted lighting system would be
20 employed and that the intent has been to do so
21 all along, and, therefore, that was incorporated
22 into our approach and we did not discuss
23 lighting further from that point.

24 Q Okay. How much have you been paid for your work

1 on this project?

2 A I believe we looked at our billings with regard
3 to the testimony and VIA and I think it is
4 around \$90,000 total which is, by the way, very
5 consistent with several other recent wind
6 projects that we've been involved with.

7 Q Thank you. I'm finished. Thank you,
8 Mr. Raphael.

9 A Thank you.

10 PRESIDING OFFICER SCOTT: Ms. Maloney? You
11 need a minute? We'll go off the record while
12 Ms. Maloney is getting prepared.

13 (Off-the-record discussion)

14 PRESIDING OFFICER SCOTT: Actually, since
15 we took the break and now we're back on the
16 record so a couple things. We had talked
17 verbally before about additional dates to be
18 scheduled. Attorney Monroe, can you go over
19 those again?

20 PAM MONROE: It will be October 3rd
21 starting at 10:30. We will not be here. There
22 will be a notice out on Tuesday. We're going to
23 be at 49 Donovan Street in Concord. This
24 facility was not available. As well as October

1 18th and we'll start at 9 a.m., and October
2 20th, we'll start at 9 a.m. All the October
3 hearings are at the 49 Donovan Street location.

4 PRESIDING OFFICER SCOTT: Also on the 3rd,
5 again, as Ms. Monroe mentioned, our intention,
6 we'll start that a little bit later in the day
7 at 10:30. My intention for that is to basically
8 allow for an hour and a half or so of public
9 comments if anybody so desires and wants to
10 provide that public comment with the
11 understanding is certainly written public
12 comments acceptable at any time for the
13 Committee. This would be an opportunity for
14 oral comment if somebody else wants to come in.
15 So that will be the opportunity during this
16 process for that.

17 MR. NEEDLEMAN: Will that be first thing in
18 the morning?

19 PRESIDING OFFICER SCOTT: That will be
20 starting at 10:30.

21 MR. NEEDLEMAN: The public comment will
22 start at 10:30?

23 PRESIDING OFFICER SCOTT: Yes.

24 MR. REIMERS: I'm sorry. What date was

1 that?

2 PRESIDING OFFICER SCOTT: The 3rd. October
3 3rd.

4 MR. REIMERS: And I believe on a day that I
5 wasn't here, Carol Foss mentioned to you that
6 she has a pre-existing business trip at the end
7 of October and that she, the 18th and 20th she
8 will be in Michigan or something, and so I just
9 wanted to remind you of that so that we can get
10 the Audubon panel in in a sooner session.

11 PAM MONROE: That would be the 3rd.

12 PRESIDING OFFICER SCOTT: That would be the
13 3rd, it sounds like.

14 PAM MONROE: Unless we get it in before
15 that. We have next week, the 28th and 29th.

16 PRESIDING OFFICER SCOTT: Mr. Block?

17 MR. BLOCK: The starting time on the 18th
18 and 20th, are they different?

19 PRESIDING OFFICER SCOTT: Those will be
20 9:00.

21 MR. BLOCK: Both at 9. Thank you.

22 PRESIDING OFFICER SCOTT: And, again, we'll
23 do a written order that will go out also, but we
24 just wanted to let you know for your planning

1 purposes. Any other administrative questions?

2 MR. REIMERS: Did we just resolve when
3 Audubon would be?

4 PAM MONROE: Not on the 18th and 20th.

5 MR. REIMERS: Perfect.

6 PAM MONROE: That's about as far as I can
7 go right now.

8 MR. REIMERS: Pam, that works fine.

9 PRESIDING OFFICER SCOTT: I think the
10 answer is we'll have to see where we are as we
11 get closer, and then perhaps if need be, maybe
12 we can jockey some, you can consult with some of
13 your friends in the audience and maybe jockey
14 the panels around a little bit.

15 MR. REIMERS: No problem. We'll be ready.

16 MS. MALONEY: Just a question. So if the
17 Intervenors haven't finished their testimony on
18 the 3rd, there will be a break and you'll take
19 public comment. Is that how you're going to do
20 it?

21 PRESIDING OFFICER SCOTT: My intent was to
22 start with the public comment in the morning.

23 MS. MALONEY: And then move on. Great.

24 PRESIDING OFFICER SCOTT: So again, for

1 those panels that are planning on coming, I'll
2 leave it up to you whether you want to be there
3 in the morning. I don't know how much public
4 comment we'll get. I'm guessing an hour and a
5 half or so. Mr. Kenworthy, you had some ideas,
6 I thought.

7 MR. KENWORTHY: I just know we've been
8 asked by a number of people as to when it was
9 going to be scheduled and so, seems reasonable
10 to me. I think that's what it was the last time
11 we had a hearing on this docket was about an
12 hour and a half.

13 PRESIDING OFFICER SCOTT: This will be the
14 opportunity. I'm not going to open up the
15 proceedings again for comments. Again, written
16 comment can be entered any time.

17 PAM MONROE: We've received a number
18 recently that have been distributed to the
19 Committee and posted on the website.

20 PRESIDING OFFICER SCOTT: Okay. All right.
21 Go ahead.

22 MR. NEEDLEMAN: Since we're doing
23 housekeeping, I wanted to mention one other
24 thing that Mr. Iacopino asked me to mention.

1 Last week a letter was filed from Fish & Game,
2 and I'm not sure the committee has caught up
3 with it yet, but it was referenced when our
4 environmental witnesses were testifying. The
5 letter was from Fish & Game recommending
6 adoption of Audubon's conditions in their
7 testimony with respect to the bird and bat
8 strategy.

9 Antrim Wind has since met with Audubon and
10 Fish & Game and come up with a Memorandum of
11 Understanding to address those issues that all
12 those three parties are now comfortable with and
13 we expect to file that later this afternoon.

14 PRESIDING OFFICER SCOTT: Thank you for
15 that, and that reminds me, too, yesterday we
16 talked about a data request, and I was told
17 perhaps you would have it today. Or your
18 witness said you'd have it today.

19 MR. NEEDLEMAN: I understand we're still
20 working on it.

21 PRESIDING OFFICER SCOTT: Okay.

22 MR. REIMERS: Mr. Chair, Jason Reimers from
23 Audubon. I just want to follow up on Attorney
24 Needleman's statement about the MOU. I just

1 want to reiterate that Audubon signing of that
2 MOU does not at all change their position in
3 opposition to the project.

4 MR. NEEDLEMAN: I certainly didn't mean to
5 imply that it did.

6 MR. REIMERS: I know you didn't.

7 MR. NEEDLEMAN: I appreciate your
8 clarification. That's correct.

9 PRESIDING OFFICER SCOTT: So we're not done
10 here? (Laughter)

11 **CROSS-EXAMINATION**

12 BY MS. MALONEY:

13 Q Good afternoon, Mr. Raphael.

14 A Good afternoon.

15 Q I just wanted to go over some background. When
16 you were hired for or retained for this project,
17 you were aware that this project had already
18 been denied a Certificate in the 2012 docket?

19 A Yes, I was aware.

20 Q And you were also, I believe at the time you
21 drafted your visual impact assessment, the New
22 Hampshire Site Evaluation Committee had not yet
23 enacted its rules.

24 A That's right.

1 Q And so then you have submitted some supplemental
2 information in order to comply with those rules?

3 A That's correct.

4 Q I just wanted to go over what your understanding
5 was of the SEC Decision in the 2012 docket, and
6 I note on Page 1 of your Executive Summary of
7 your visual impact assessment you reference it
8 there.

9 A That's correct.

10 Q I'm just pausing to give people a chance to get
11 to it.

12 You indicate that there were three primary
13 reasons under aesthetics for the rejection of
14 the project, and you list them as the turbines
15 would be out of scale and out of context with
16 the region and the viewshed's significant value
17 within the State of New Hampshire. Is that
18 correct?

19 A Yes.

20 Q And you're aware that, and I've also handed out
21 as Counsel for the Public's Exhibit 8, the
22 actual decision April of 25th, 2013, and this is
23 just for a reference so that people can follow
24 along. And you are aware that the subcommittee

1 and the committee were concerned, particularly
2 concerned with the impact to the valuable
3 resources within the geographic region here.

4 A I think my awareness is really summed up in the
5 statement that you just asked me to quote.

6 Q Right. Did you review the decision?

7 A I did review the decision some time ago, yes.

8 Q So prior to commencing work on this, you did
9 review the decision?

10 A Correct.

11 Q And with respect to scale, I wonder if you could
12 take a look at page 49 of 71 of Exhibit 8.
13 Particularly, the last paragraph. Could you
14 read that paragraph?

15 A Did you say 48?

16 Q 49.

17 A 49. I'm sorry. Starting the last paragraph?

18 Q Right.

19 A The Tuttle Hill ridgeline is a prominent
20 topographical feature in the Town of Antrim.
21 The ridgeline extends along the northwest border
22 of the Town of Antrim and along with Willard
23 Mountain, Robb Mountain, Bald Mountain and
24 Goodhue Hill and creates a cradle that

1 encompasses Willard Pond, Gregg Lake, Meadow
2 Marsh and a number of areas containing sensitive
3 viewpoints.

4 Q And it continues at the bottom and on to the top
5 of page -- and by the way I asked you to read it
6 because I thought I was going to talk too fast
7 and I thought you were going to talk slower.
8 Sorry.

9 And it continues on the bottom and the top
10 of page 50?

11 A Sure. Do you want me to continue?

12 Q Yes. Please.

13 A At least one of these visually sensitive areas,
14 Pitcher Mountain, already has an existing view
15 of the Lempster wind project located in
16 Lempster, New Hampshire.

17 Q And as it concerns scale, could you read the
18 next paragraph?

19 A The Subcommittee finds that the size of the
20 proposed wind turbine generators when imposed
21 upon the Tuttle Hill/Willard Mountain ridgeline
22 would appear out of scale and out of context
23 with the region. This is particularly so when
24 considering the viewshed impacts on a

1 combination of visually sensitive areas. There
2 are significant qualitative impacts upon Willard
3 Pond, Bald Mountain, Goodhue Hill and Gregg
4 Lake. There are moderate impacts on additional
5 locations, including, but not limited to, Robb
6 Reservoir, Island Pond, Highland Lake, Nubanusit
7 Pond, Black Pond, Franklin Pierce Lake, Meadow
8 Marsh and Pitcher Mountain.

9 Q So it's evident from these paragraphs that the
10 Committee had identified what it deemed as being
11 sensitive resources in the area, correct?

12 A Yes.

13 Q And it also addressed the issue of out of scale
14 within the context of the region, correct?

15 A Correct.

16 Q And I think you talk about scale as being,
17 context as being part of the scale analysis,
18 correct?

19 A Correct.

20 Q Again, on page 50, if you could begin with the
21 first paragraph, or the last paragraph. And
22 could you read that for us?

23 A Beginning with The Subcommittee?

24 Q Right.

1 A The Subcommittee found Mr. Guariglia's
2 limitation of qualitative considerations only to
3 areas meeting his definition of statewide
4 significance to be an overly restrictive
5 approach.

6 Q And then the next -- continue, please.

7 A Okay. Moreover, it appears that Mr. Guariglia
8 may have misunderstood the status and values of
9 certain viewpoints. For instance, the Audubon's
10 wildlife sanctuary is an area to which state and
11 federal funds have been designated. Regardless
12 of the definition used by identifying an area as
13 being of statewide significance, it is clear
14 that the facility would have significant impact
15 on areas that are of significant value for their
16 viewshed in the town of Antrim and the
17 surrounding region.

18 Q Okay. And you, so it's very clear that the
19 Subcommittee was concerned about not necessarily
20 national impacts or statewide resources, but
21 just the resources within that region.

22 A As they articulated in this, yes.

23 Q Right. You also identified that the Committee
24 particularly noted that the impact on Willard

1 Pond would be unreasonably adverse, again citing
2 context for the scale. That's page 1 of your
3 report.

4 A Yes. I believe I did say that.

5 Q And I think on page 53 of the order if you take
6 a look at the second paragraph?

7 A Yes.

8 Q The Committee references the Willard Pond area
9 again.

10 A On page 53?

11 Q In the middle of the page. Down, the last
12 sentence.

13 A Yes. I see that.

14 Q Actually, I think I skipped a page. I'm sorry.
15 52. If you could take a look at the middle of
16 the page there?

17 A Yes.

18 Q The visual impact of the Facility?

19 A Yes.

20 Q Could you read that, please?

21 A The visual impact of the facility on Willard
22 Pond and the dePierrefeu Wildlife Sanctuary as
23 well as illustrated in the photo simulations
24 prepared by Mr. Guariglia and Ms. Vissering.

1 AWE 3, Appendix --

2 Q You don't have to read the exhibit.

3 A Okay.

4 Q Could you continue?

5 A In addition, the Subcommittee had occasion to
6 visit the Willard Pond area as part of a site
7 visit prior to the public hearing in this
8 docket. Having visited the area, the
9 Subcommittee was able to understand firsthand
10 the context and setting of Willard Pond and the
11 Wildlife Sanctuary. Having visited the site and
12 understanding the size and specifications of the
13 proposed facility, a majority of the
14 Subcommittee is convinced that the facility
15 would impose an reasonable adverse effect on the
16 viewshed from Willard Pond as well as of other
17 areas throughout the dePierrefeu Wildlife
18 Sanctuary.

19 Q So based upon your review of the Order, the
20 Subcommittee refers to the Willard Pond and the
21 dePierrefeu Wildlife Sanctuary throughout; isn't
22 that correct?

23 A That is correct.

24 Q So they didn't divorce the two properties from

1 one another.

2 A You mean, they didn't divorce Willard Pond from
3 the Sanctuary as a whole?

4 Q Correct.

5 A Correct.

6 Q And finally, you noted the third primary reason
7 for the rejection of the project was that the
8 mitigation measures presented by the Applicant
9 were not sufficient.

10 A Correct.

11 Q And now I want to direct your attention to page
12 53. Middle of the page after consideration and
13 deliberation. Could you read that?

14 A After consideration and deliberation, a majority
15 of the Subcommittee found that the proffered
16 mitigation does not appropriately mitigate the
17 unreasonable adverse aesthetic impacts of the
18 facility.

19 Q And continue on.

20 A The physical mitigation efforts as described by
21 the Applicant, while appreciated, are comparable
22 to what is the standard design of any wind
23 turbine facility in the region.

24 Q If I could hold you right there.

1 Do you know what those physical mitigation
2 efforts were?

3 A You know, that was a previous docket that I was
4 not involved with so I'm not familiar with the
5 specifics of that.

6 Q Okay. Could you flip back to 52?

7 A Sure.

8 Q Take a look at the bottom, last sentence on this
9 page.

10 A Okay.

11 Q The Applicant asserts.

12 A You want me to read it?

13 Q Sure.

14 Q Okay. The Applicant asserts, among other
15 things, that the color of the turbines will be
16 neutral to minimize reflective glare and visual
17 contrast with the background sky. The Applicant
18 notes that the turbines will not be used for
19 commercial advertising. The facility will also
20 maximize the use of underground transmission
21 lines and interconnects. The Applicant also
22 lists additional physical measures taken to
23 minimize the visual impact of the facility.

24 Q And then the next paragraph I think there's

1 reference to the offsite conservation land. Do
2 you see that?

3 A Yes, I do.

4 Q What did the Committee say at that point? Could
5 you read that, please?

6 A Where do you want me to start?

7 Q In addition?

8 A In addition to physical mitigation, the
9 Applicant submits that its overall environmental
10 mitigation for the project consists of
11 dedicating in excess of 800 acres of land in and
12 around the facility to conservation easements.

13 Q And then the bottom of the page. Rather, you've
14 already addressed the physical mitigation that
15 the Committee indicated was comparable to what
16 they would expect at any wind farm project,
17 correct?

18 A No. I haven't addressed anything.

19 Q I said the Committee.

20 A I've read that, yes.

21 Q That was my question.

22 A Okay. I'm sorry.

23 Q The Committee.

24 A Yes.

1 Q And you were aware of that when you started this
2 project?

3 A Aware of the fact that they didn't think the
4 mitigation measures were sufficient?

5 Q The physical mitigation measures.

6 A Yes.

7 Q They said that that was comparable to what would
8 be on any project, correct?

9 A Yes.

10 Q And with respect to the offsite conservation
11 down at the bottom of page 53, could you read
12 that paragraph beginning similarly?

13 A Starting with the majority?

14 Q Starting with similarly.

15 A Similarly, the Subcommittee finds that the offer
16 of more than 800 acres of conservation easements
17 in and around the proposed facility is a
18 generous offer by the Applicant. However, the
19 dedication of lands to a conservation easement
20 in this case would not suitably mitigate the
21 impact. While additional conserved lands would
22 be of value to wildlife and habitat, they would
23 not mitigate the imposing visual impact that the
24 facility would have on valuable viewsheds.

1 Q So when you, before you commenced work on this
2 project, you were aware of, I'm not saying you
3 knew by intimate detail, but you were certainly
4 aware of what the Committee had determined in
5 the 2012 docket.

6 A Yes.

7 Q As it affects those three areas that you
8 identified on page 1 of your report?

9 A Yes.

10 Q I just wanted to bring up one other point, and I
11 think you'll agree with it. I want to refer you
12 to, actually, it was the NonAbutter's Exhibit 15
13 which is the Order on Pending Motions that was
14 issued September 10th, 2013. And I think this
15 is an excerpt of that order. That's what I'm
16 referencing. It was handed out yesterday. You
17 don't have a copy?

18 A No.

19 MS. MALONEY: May I approach with my copy?

20 PRESIDING OFFICER SCOTT: Please do.

21 A I have not seen this before.

22 Q I think I can ask you a question without you
23 looking at this. The top of the Order indicates
24 that the Subcommittee is statutorily obligated

1 to determine on a case by case basis the impact
2 of each particular project on the affected
3 region, and then it cites RSA 162-H.

4 You would agree with that, wouldn't you?
5 That each project should be determined on its
6 own merits and on a case by case basis?

7 A Yes.

8 Q Okay. So now I wanted to ask you some questions
9 about your methodology, and I understand you've
10 been asked a lot of questions on your
11 methodology, and I will try very hard not to be
12 too redundant, but I may end up covering some
13 ground that was covered before.

14 Before I go there, I have one more
15 housekeeping. Even though the site regulations
16 were not enacted until after you completed your
17 report, you have reviewed them since they have
18 been enacted, correct?

19 A Correct.

20 Q And when it comes to the definition of scenic
21 resource which is at 102.45, you did review
22 that?

23 A Yes.

24 Q So you're aware that the SEC has defined scenic

1 resources to mean resources to which the public
2 has a legal right of access that are designated
3 pursuant to applicable statutory authority by
4 national, state or municipal authorities for the
5 scenic quality or, colon, conservation lands or
6 easement areas that possess a scenic quality;
7 Subsection 3, lakes, ponds, rivers, parks,
8 scenic drives, rides and other tourism
9 destination that possess a scenic quality;
10 Subsection D, recreational trails, parks
11 established to protect to maintain in whole or
12 in part the public funds; E, historic sites that
13 possess a scenic quality, or town and village
14 centers that possession a scenic quality.

15 You're familiar with that?

16 A Yes, ma'am.

17 Q And there is nowhere in the rules that establish
18 any particular pecking order for any of these,
19 is there?

20 A No.

21 Q And that's different than, for example, the
22 state of Maine, correct?

23 A Well, the state of Maine has a different
24 definition of scenic resources and what you are

1 charged to address.

2 Q Correct, and if it hasn't been designated a
3 scenic resource by the state of Maine, it isn't
4 considered as part, it isn't considered as part
5 of the visual impact analysis; isn't that
6 correct?

7 A No. It actually, the phrase is state or
8 national resources of scenic quality.

9 Q Right. It's the acronym is --

10 A It's state and national, but I don't think that
11 precludes local resources as well.

12 Q You don't?

13 A No. I think it, you know, often they are part
14 of the review.

15 Q Well, certainly great ponds are.

16 A Yes. Thank you.

17 Q And you indicate that you have done a lot of
18 work in Maine and Vermont?

19 A Correct.

20 Q And you're familiar with the process there.

21 A Yes.

22 Q And I think you indicate in your report that New
23 Hampshire hadn't developed criteria for visual
24 assessments, but I believe you wrote that prior

1 to the enactment and the regulations, correct?

2 A That's correct.

3 Q And so New Hampshire doesn't specify any one
4 methodology for visual impact assessments, do
5 they?

6 A No, because they specify criteria that you need
7 to address.

8 Q Correct. And they do specify some outliers that
9 you're supposed to address as well?

10 A Yes.

11 Q And specifications for photo simulations that
12 you're supposed to address?

13 A Correct.

14 Q So there are various aspects to which they've
15 addressed various criteria as applying to visual
16 impact assessments?

17 A Correct.

18 Q I'm just going to quickly run through your
19 methodology, which I believe you have testified,
20 at least in your Prefiled Testimony, that your
21 methodology is an amalgamation of a number of
22 established practices which include the Bureau
23 of Land Management Visual Resource Management,
24 correct?

1 A Correct.

2 Q The U.S. Forest Service Scenery Management
3 System?

4 A Yes.

5 Q The Federal Highway Administration Visual Impact
6 Highway Projects?

7 A Yes.

8 Q And then you've incorporated guidelines from the
9 National Research Council and Visual Impact
10 Assessment Process for Wind Energy Projects by
11 Clear Energy State Alliance?

12 A Yes, and there are other references, obviously,
13 throughout the document to other sources that
14 guide our methodology.

15 Q Right, and so you have combined different
16 processes that these different groups and
17 agencies have developed to develop your own
18 methodology.

19 A No. Actually, no, that's not correct. The
20 methodology that we use is basically the same
21 methodology that is used universally in visual
22 assessments for assessing projects of this
23 nature. Obviously, the BLM standards, the U.S.
24 Forest Service standards and others are

1 applicable to Forest Service management
2 guidelines, to their management classes. Both
3 the BLM and the Forest Service have different
4 approaches to management classes. So they
5 tailor their methodologies to reflect those
6 particular requirements, but the overall basic
7 methodology that we use is one that, again, I've
8 used for many years, and I think is accepted in
9 and among visual experts throughout the country
10 and really is outlined in that section on
11 methodology which starts with understanding the
12 project, it's description.

13 Q Okay.

14 A Conducting an inventory.

15 Q We're getting far afield.

16 A I'm sorry.

17 Q You're not suggesting that every single visual
18 impact assessment uses exactly the process and
19 exactly the steps that you have used in this
20 particular assessment?

21 A They're very similar. Most visual assessments
22 cover all of these items. Absolutely.

23 Q So they cover all these steps but not exactly
24 how you've done them?

1 A Yeah, there are differences as I mentioned.
2 Again, for federal lands and properties, they
3 have to address their visual assessment within
4 the parameters of their management classes, and
5 their management goals and the activities that
6 are permitted on those lands, and so you can't
7 lift the entire methodology or the entire
8 scenery management system or BLM and use it in
9 this instance, and that's, you know, essentially
10 what has evolved over the last 20 years, 30
11 years where we've had to address new energy
12 projects such as solar and wind, has been this
13 sort of consistent methodology within this frame
14 work we've established.

15 Q And you indicated on page 3 of your report that
16 there were a multitude of resources and
17 approaches that have been developed across the
18 United States, correct?

19 A Right. As I just said. Essentially, and you
20 identified a number of them. For example, the
21 Federal Highway Administration, they have a
22 visual assessment that is specific to highways
23 so it's not entirely applicable to this
24 particular project and that's why you use

1 various aspects of these methodologies,
2 particularly as they occur over and over again,
3 and I believe that's why we stated that our
4 methodology does reference those but has
5 incorporated various aspects of them as
6 applicable specifically over time, and that has
7 formed the framework that we use and have used
8 numerous times.

9 Q Okay. And you indicate that all methodology
10 share some commonality. I think you just
11 discussed that in great detail.

12 A Yes.

13 Q But what you really start with is, I guess,
14 identifying sensitive receptors, that's what
15 we're really the heart at what we're trying to
16 get at, aren't we?

17 A No. We don't start with that.

18 Q No, don't start with, but that's the heart of
19 what you're trying to get at.

20 A You want to identify, absolutely, the landscapes
21 with sensitivity.

22 Q Okay. In those particular case, you started out
23 with your inventory, correct?

24 A That's right.

1 Q And you used a lot of different resources to
2 develop that inventory, correct?

3 A Correct.

4 Q And then your second stage would be identifying
5 sensitive scenic resources?

6 A Well, no, the next stage is visibility.

7 Q Okay. Next stage is visibility, correct, and
8 then the next, I skipped over one here. Then
9 you identify sensitive scenic resources.

10 A That's correct.

11 Q And to do that, you use two steps. One is to
12 measure the cultural designation?

13 A Identify the cultural designation.

14 Q And then to, I guess, adjudge or make a
15 determination of scenic quality?

16 A Yes.

17 Q So of the variety of authorities that you have
18 drawn on to develop your methodology, would the
19 cultural designation, would that be from the
20 Bureau of Land Management?

21 A In part. The Bureau of Land Management does
22 identify some aspects of cultural value
23 certainly in their methodology. Another really
24 excellent guideline or publication that we rely

1 on is the publication which is called Guidelines
2 for Landscape and Visual Impact Assessment.

3 It's one of the best guidelines that I've seen
4 that really cover this whole process and that
5 also reaffirms the notion of ways in which you
6 identify cultural value, and we certainly are
7 consistent with that approach as well.

8 Q But the specific processes that you used under
9 cultural designation, did that come from the
10 Bureau of Land Management?

11 A It came from, in part, from there. Their
12 management guidelines as well as the publication
13 I just started, and, again, just referenced, and
14 you know, the way in which we have identified
15 cultural values is certainly consistent with how
16 that is done in other projects and by other
17 reviewers.

18 Q So if you used the two different resources, it
19 would be fair to say you blended them somewhat?

20 A I'm sorry?

21 Q If you used the two different resources that you
22 just identified, would it be fair to say you
23 blended them?

24 A No. I basically, no, I wouldn't say blended

1 them as much as just reflected basically what
2 they all are stating about how you get about
3 gauging cultural significance and interest in a
4 resource.

5 Q Okay. And scenic quality. That comes from the
6 Bureau of Land Management.

7 A Yes. We use their basic approach.

8 Q Did you modify any of their criteria?

9 A Very slightly because the nature of BLM reviews
10 and properties is primarily for western
11 landscapes. So I think just in terms of how we
12 assess scenic quality, you know, we take into
13 account that we're not usually dealing with
14 deserts, for example. So that's not articulated
15 in the table which we provided in our report
16 which sort of explains how that scenic quality
17 assessment is conducted.

18 Q We'll get there.

19 A Okay. I'm sure we will.

20 Q Your next stage then is to determine visual
21 effect; is that correct?

22 A That's correct.

23 Q Those six criteria you use are number of
24 turbines, percent of visibility, proximity,

1 angle of view, dominance and clutter.

2 A That's correct.

3 Q And the number of turbines, this is the
4 rather -- strike that.

5 Is this, again, what the, from the Bureau
6 of Land Management? Is this how do they do it?
7 Is this part of their process?

8 A No. This is different. We depart from Bureau
9 of Land Management specifically beyond the
10 scenic quality assessment.

11 Q Okay. So is this something you developed?

12 A No. I mean, this is pretty standard
13 nomenclature and analysis tools that are used to
14 assess visual effect.

15 Q Well, for example, that first, the number of
16 turbines, you said that was developed by
17 Dr. John Palmer, correct?

18 A Correct.

19 Q And you have worked with him before?

20 A Yes.

21 Q And so as far as you know, those six criteria
22 are the standard practice using Dr. Palmer's
23 practice throughout the professional field?

24 A No. It's not all Dr. Palmer. I mean, these,

1 you know, I think you've seen references, for
2 example, to in the Clean Energy Alliance
3 document that was being, that we were talking
4 about earlier. A number of documents talk about
5 all of these types of tools for assessing visual
6 effect.

7 Q So is it correct to say that these tools were
8 developed from using a variety of sources?

9 A Well, I mean, you know, they probably evolved
10 over time from input of professionals and
11 application, but these, most of these are, if
12 not all of them, are pretty standard accepted
13 practice for assessing wind energy in
14 particular.

15 Q Okay. Then we come to a determination of effect
16 on the viewer. Is that correct?

17 A That's correct.

18 Q And we're getting near the end there.

19 A Right.

20 Q And with that you use activity, extent of use,
21 duration of view and remoteness. Correct?

22 A That's correct.

23 Q And that's sort of, we're getting to the end of
24 the line there. That's where you come up with a

1 conclusion?

2 A No, we assess the visual effect and then the
3 viewer effect separately. We look at those
4 results and the viewer effect is the last step
5 in this particular analysis process, but then in
6 the final integration of these elements, we also
7 bring into consideration cumulative impact, the
8 mitigation measures being employed, and several
9 other important considerations that weigh on the
10 overall reasonableness or unreasonableness of
11 the project.

12 So the overall conclusion includes a review
13 of the resources with significant visual and/or
14 viewer effect. It addresses context in an
15 overarching way. It discusses cumulative impact
16 and mitigation and then the reasonable or
17 typical person and how they would take this and
18 respond to the proposed project.

19 Q Okay. There was some discussion yesterday about
20 when using your viewshed maps and what you used
21 to identify those properties that would have
22 potential views and that you used Viewshed map
23 4, correct?

24 A We used all the viewshed maps, I mean,

1 collectively to really assess visibility, but we
2 used in part that Viewshed 4, but, again, as I
3 also said yesterday, that's not the only test of
4 visibility that we employ. We do desktop 3-D
5 modeling. We look at Google Earth. We often,
6 we visited many sites including sites that
7 didn't emerge to have visibility in the viewshed
8 map but we checked nonetheless because they
9 might have been proximate to potential
10 visibility or they were an important resource
11 that needed to be reviewed anyway and wanted to
12 ensure that we had covered those.

13 So the viewshed map, as I said yesterday,
14 is a point of departure. It's again, one of the
15 tools we use on the way to defining what is
16 visible and what is not visible from that
17 resource list.

18 Q But there was some discussion yesterday about
19 whether or not you determined visibility based
20 upon the hub or the rotors. Do you recall that
21 discussion?

22 A Yes, I do.

23 Q And is it fair to say that throughout this
24 report it indicates that you're using the hub as

1 the measure?

2 A For some of the criteria we do use hub, but in
3 terms of the initial visibility we, as I said a
4 moment ago, we do start with the overall
5 viewshed map, certainly rely on hub height, you
6 know, went back last night, for example, and
7 calculated the difference in visibility between
8 doing the viewshed map with hub height and top
9 of blade was less than one percent so, in other,
10 words by incorporating the tips it only
11 increased visibility .9 percent overall.

12 Q How many meters?

13 A Excuse me?

14 Q How many meters higher would the rotors be above
15 the hub?

16 A Well, the project, I can tell you exactly. It's
17 wherever the tip might be visible above the tree
18 line so it's not, it is based obviously on the
19 height of the turbine, but I know I was asked
20 that question before. So I just have to find
21 that document. It's 100, and I think the
22 overall diameter is, I want to say it's 370, but
23 let me see if I can find the actual exhibit.
24 Bear with me for a moment, please. Do you want

1 me to come back to that?

2 Q Yes. That's okay. I think we did discuss and I
3 think you've explained the first two stages
4 fairly well.

5 I think what I'd like to do is look at the
6 next stage which is identification of scenic
7 resource.

8 A Sure.

9 Q I think that begins, that's on page 59 and 60
10 and you start with Table 3. Resources with
11 potential visibility. Do you see that?

12 A I just did find the reference. The rotor
13 diameter is 113 meters.

14 Q Okay. And on the opposite to Table 3 on page 61
15 there's narrative that identifies how you have
16 rated these low, moderate and high. Do you see
17 that?

18 A For cultural designation.

19 Q Correct.

20 A Yes.

21 Q Where did these descriptions come from?

22 A We developed these descriptions, specifically,
23 but they are based again on standards that have
24 been employed in other projects.

1 Q Okay. If you turn the page to page 62, I think
2 that's when you begin the actual or at least you
3 have charts that indicate the actual analysis?

4 A Correct.

5 Q Rather, you didn't do this solely by yourself,
6 correct?

7 A No.

8 Q So you had a team of people that assisted you in
9 doing that?

10 A That's right.

11 Q And these are the results here listed in these
12 tables?

13 A For the inventory. Yes.

14 Q Correct. And then you have ratings in, I guess
15 that's brown on the far right side of these of
16 each of these tables?

17 A Correct.

18 Q And then from those ratings you have under Table
19 5 on page 68, those are your cultural
20 designation ratings. Correct?

21 A That's correct.

22 Q Now, between cultural designation and scenic
23 quality, do you weight one of them more than the
24 other?

1 A No.

2 Q And by the way, is it important for you to go
3 all through these steps? Is it important for
4 you to not to skip over any of these steps?

5 A Correct.

6 Q And are they all equally important?

7 A Which steps are you referring to?

8 Q All five of your steps, all the steps you go
9 through in your visual impact analysis.

10 A Yeah. The methodology relies on the integrity
11 of those sequential steps.

12 Q Okay. So directing your attention to page 62,
13 table 4, titled Inventory of Resources, Books,
14 Websites, et cetera, of Statewide or National
15 Appeal, and you've started listing on the left 1
16 through 4 and it continues on several pages, do
17 you see that?

18 A Yes.

19 Q And then you've, I guess, reviewed these
20 publications to find out if there was an
21 indication or some mention of one of these
22 resources, correct?

23 A Correct.

24 Q And so, for example, let's start with Pitcher

1 Mountain State Forest. Under the books and
2 publications, you've got listed there, you have
3 the official, and I'm reading sideways, by the
4 way.

5 A Yes.

6 Q The Official 2014/2015 New Hampshire Visitor's
7 Guide?

8 A Right.

9 Q The second one was Flyfisher's Guide to the
10 Northern New England, Vermont, New Hampshire and
11 Maine?

12 A Right.

13 Q The third one is the New Hampshire -- I'm not
14 sure if that's a typo, the New Hampshire the
15 Hiking, The New Hiking, the Monadnock Region?

16 A Might be, I might have eliminated The New Hiking
17 Guide. Might have been a short form of that.

18 Q Next one is Quiet Water, New Hampshire and
19 Vermont, Second Edition.

20 A Correct.

21 Q The next one is Fodor's Maine, Vermont and New
22 Hampshire?

23 A Correct.

24 Q Southern New Hampshire Trail Guide?

1 A Yes.

2 Q New Hampshire, An Explorer's Guide, 7th Edition?

3 A Correct.

4 Q Correct?

5 A Yes.

6 Q And Hiking New Hampshire, Second Edition?

7 A Yes.

8 Q And Moon...New Hampshire Hiking?

9 A Yes.

10 Q Off the Beaten Path, New Hampshire?

11 A Yes.

12 Q Monadnock Sunapee Greenway Trail Guide, 7th
13 Edition?

14 A Yes.

15 Q And the Wildlife of New England. Those were the
16 sort of books or publications you looked at?

17 A Correct.

18 Q And who selected that list?

19 A Our staff reviewed all available and relevant
20 publications that we felt would inform us in
21 this regard and perhaps contain references to
22 these various resources. That's why you see
23 everything from hiking and paddling to fishing
24 guides so we're trying to get at publications

1 and websites that would potentially reference
2 these types of resources.

3 Q Because you want to learn about as much about
4 these resources as possible while you're trying
5 to make a determination of the cultural
6 designation.

7 A We want to understand how they are referred to,
8 whether they're actually mentioned or not, and
9 whether there's a reference specifically to the
10 resource.

11 Q So you don't want to learn about them?

12 A Well, of course we want to learn about them,
13 but, you know, if they, unless they're a very
14 specific guide, the mention of the reference
15 could be fairly brief so it does, it's one
16 element that informs our understanding of the
17 resource, yes, so it does certainly help us
18 learn about the resource.

19 Q Let's take a look at the websites you've listed.
20 You have US National Park Service website.

21 A Correct.

22 Q The U.S. Forest Service Discover the Forest
23 website?

24 A Yes.

1 Q The US DOT National Scenic Byways website.

2 A Correct.

3 Q The New Hampshire DOT Scenic and Cultural Byways
4 website?

5 A Correct.

6 Q Visit New Hampshire.

7 A Yes.

8 Q New Hampshire Parks and Recreation website?

9 A Yes.

10 Q New Hampshire Fish & Game website?

11 A Yes.

12 Q And New Hampshire Division of Forest and Lands
13 website?

14 A Correct.

15 Q So these were the finite resources that you
16 looked at to try to arrive at your determination
17 of cultural designation.

18 A Yes.

19 Q Correct? Okay. You wouldn't really expect to
20 find much about the Pitcher Mountain fire tower
21 in the Flyfisher's Guide to Northern New
22 England, would you?

23 A No.

24 Q Or On Quiet Water, would you?

1 A No.

2 Q And you wouldn't expect to find a lot about some
3 of these trails and scenic byways in the
4 Flyfisher's Guide, would you?

5 A No. And as I said before, we're trying to list
6 a range of resources that might reflect the
7 different recreational use of the resource and
8 how that resource is identified or articulated.
9 So, obviously, they don't all apply to all the
10 resources. They are, I think, a reasonable and
11 what-we-found-available collection of
12 information that covers a variety of the
13 resources and a variety of the activities on the
14 resources. Not all of these certainly would
15 apply to every resource in that regard.

16 Q But you're actually tallying how many of these
17 resources are mentioned in these. There's
18 actually a mathematical calculation, you're
19 tallying how many mentions of the resources are
20 in these books, publications or websites,
21 correct?

22 A Right, and the mentions for the resources, if
23 they're, you know, hiking resource will emerge
24 as a mention in all the hiking guides and that

1 might affect its tally certainly.

2 Q But you wouldn't expect a mention for any of the
3 trails or Pitcher Mountain fire tower to be in
4 the Flyfisher's Guide?

5 A Actually, that's not true. I think it was
6 pointed out in a couple of the guides like the
7 Quiet Waters or the Hiking Guide actually refers
8 to Willard Pond and Bald Mountain.

9 Q It refers to Willard Pond, but certainly you
10 wouldn't expect the fire tower to be in there.

11 A Not specifically for fishing, no.

12 Q I get Willard Pond sort of stands out, but with
13 regard to most of these as I've reviewed these,
14 you wouldn't expect some of these water
15 resources to actually be trail guides and
16 vice-a-versa.

17 A No. That may or may not be the case, that's
18 right.

19 Q Okay. I'm sort of curious as to why you limited
20 your search to these publications and websites.

21 A These represent, I mean, we looked at town
22 websites as well. We looked at town plans and
23 municipal documents in the process to inform our
24 understanding. So, again, this is one tool that

1 we use to identify the cultural value and this
2 is what's available to assess that and so we
3 relied in part on those publications and
4 websites.

5 Q This is the only tool you used to assess the
6 cultural designation.

7 A It is -- well, no. It's not the only tool we
8 used for the cultural designation --

9 Q Do you see the tally --

10 A -- because if you read through the conclusion we
11 do make mention and throughout the evaluation
12 process we do make mention of the local
13 identification and if it's listed or identified.
14 But we are looking at local, as we say in the
15 cultural designation outline, we're looking at
16 local, regional statewide or national cultural
17 significance of a particular resource, and it
18 also states that we incorporate current or
19 recent official planning document that
20 recognizes cultural and natural resources.

21 Q Where in those charts are those tallies?

22 A They don't exist. I mean, they're not --

23 Q So you used these books and websites to tally,
24 to count how many times these resources were

1 mentioned.

2 A Yes.

3 Q And you used that to come up with your chart on
4 cultural designation?

5 A Correct.

6 Q And you didn't add any other information into
7 that, correct?

8 A No. As I said, we used other information to
9 inform our understanding of the cultural value.
10 In this ranking, yes, as we went through we
11 relied on these particular sources. These were
12 what were available to assess those.

13 Q Is there a step anywhere in your report between
14 Table 5 and the overall sensitivity ratings that
15 take into consideration what you just discussed?
16 These other --

17 A Yes. I mean. In the overall conclusion.

18 Q Where is that in this report?

19 A In the overall conclusion, there's mention of
20 that. Absolutely.

21 Q So after you've already determined cultural
22 designation as a result of tallying these
23 websites and these resources that you have
24 determined here, after doing that, you then

1 change your mind and add other things in?

2 A No. We reinforce, we zero in on the actual
3 resource that emerges, and I think at that point
4 we go to a finer level of detail to really weigh
5 and enter into our understanding of the overall
6 value and significance of that resource, you
7 know, whether it's local or national so it is
8 embedded throughout the process. It is true
9 that this was a first step that identified
10 through these tools and these publications how
11 these resources were viewed from a larger
12 perspective.

13 Q And you didn't, and that's an after-the-fact
14 analysis, is that what you've told me?

15 A No. It not after the fact. It's part of the
16 process.

17 Q Okay. As part of the process. But you don't
18 mention that in your narrative anywhere, do you?

19 A No, actually, I quoted to you earlier how in the
20 final analysis and our conclusion we actually
21 talk about context, and the context includes an
22 understanding of the use, the local value, and
23 its significance to those users and its
24 frequency of use. So those things are

1 incorporated throughout the process.

2 Q Did your cultural designation rating change as a
3 result of that?

4 A No. Because those resources clearly emerged as
5 the most sensitive ones. The 30 that emerged,
6 you know, and I think you could add more
7 categories if they exist or more references and
8 I'm not sure you would come up with anything
9 different than the 30 resources that emerge from
10 those two steps.

11 Q You'll agree that the title on Table 4 indicates
12 Inventory of Resources of Statewide or National
13 Appeal.

14 A Correct.

15 Q I just have an exhibit to hand out.

16 PRESIDING OFFICER SCOTT: While you're
17 doing that, I just want to remind both of you
18 one at a time. I think it was something that
19 was a little bit difficult for the transcriber
20 here.

21 COURT REPORTER: Thank you.

22 (Off-the-record discussion)

23 Q Mr. Raphael, I want to show you what I've
24 identified as Counsel for the Public CP 15, 16

1 and 17 and 18. I will admit I'm not a landscape
2 architect and I'm not a researcher for landscape
3 architect, but I have basic technical skills
4 when it comes to computing, and this is, these
5 are just Google searches.

6 A Um-hum.

7 Q And I just plugged in the dePierrefeu-Willard
8 Pond Wildlife Sanctuary, Bald Mountain, Willard
9 Pond, and Goodhue Hill.

10 A Right.

11 Q And you'll note, for example, on the first one,
12 I've listed checkmarks next to the variety of
13 websites that are either dedicated to these or
14 mention these resources. And I think you'll
15 note that they're fairly extensive. They're
16 mentioned in multiple places on a variety of
17 times in books and publications alike. Do you
18 see that?

19 A Yes.

20 Q And these aren't limited to national or state
21 websites or books or publications. They're
22 just, I guess, the worldwide web. Did you think
23 about doing anything like this to help assist
24 you?

1 A Oh, yeah. We looked at all these websites, and
2 in fact, if you look at the last paragraph of
3 the cultural designation, it says that in
4 addition to reviewing relevant municipal and
5 regional planning documents and then we go on
6 and say 20 different guidebooks, books,
7 publications and websites. Certainly we say of
8 statewide and national appeal were evaluated to
9 see if any of the 30 resources were identified
10 as possible destinations. The fact that you've
11 brought up all these Google searches certainly
12 reaffirms the fact that Willard Pond and Bald
13 Mountain came through that process and were
14 evaluated throughout the steps of the
15 methodology that we employed. So nothing
16 changed by finding various references. I mean,
17 as you know, when you do a Google search, all
18 you have to do is put the word in and it may
19 have no relevance to this particular topic and
20 it will emerge. So, and indeed, to your point,
21 Bald Mountain and Willard Pond did emerge as
22 sensitive resources, and we did review them
23 accordingly.

24 Q You did review them, but you didn't use any of

1 those to root as part of your rating system
2 under cultural designation.

3 A We did check websites and look at references to
4 see if there were any that would inform this,
5 but, you know, relying, you know, relying on
6 just references or annotations where a sentence
7 is referenced in some document may not be the
8 most reliable way to get at it. It is one of
9 the ways, and the way in which you really get at
10 overall identification and significance is to
11 look at the publications that are available to
12 people and resources that inform that, and I
13 think we did that. I know we did that.

14 Q You selected these books for your rating system
15 and the websites, correct, you and your team?

16 A Yes.

17 Q And you had an awareness that there were other
18 mentions of these resources if you had used
19 Google because you said you did that.

20 A Yes, and, actually, if you look through the --

21 Q Let me finish because, you know, Mr. Raphael, I
22 thought I could get this done in 6 hours, but if
23 you don't just answer my questions it could be
24 longer. I just, I'm going to try to move as

1 quickly as I can.

2 MR. NEEDLEMAN: I do think, Mary, he's
3 answering your questions.

4 MS. MALONEY: He's answering my questions
5 and then some. So --

6 Q If you look at these charts, is there any place
7 for rating where they were mentioned in various
8 Google websites, various books? For example, if
9 we look at CP-18, obviously it's the
10 dePierrefeu-Willard Pond Sanctuary is under the
11 New Hampshire Audubon, but it's also under
12 paddling.net, wildlife state, it's under Town of
13 Antrim website, www.trails.com, alltrails --
14 it's just, I could go on, but you get my
15 picture.

16 A Yes.

17 Q There's no place for these mentions, these
18 ratings in your chart here.

19 A They're not ratings, first of all, that you're
20 talking about. These are just notations.
21 They're identifications.

22 Q That you tallied. That you tallied.

23 A No. We didn't tally -- we did research Google,
24 we did look at websites and see what references

1 were in here, but the, you're right that the
2 cultural designation is primarily based on the
3 books and the websites that we used, but there
4 are footnotes which also indicate that other
5 sources were looked at and included in the
6 consideration.

7 Q But they're not included in your tally.

8 A If they emerged as, you know, another, something
9 that was different from what we had already
10 identified, they would have been added in, but
11 they didn't.

12 Q Do you see those websites that you've listed?

13 A Yes.

14 Q Is there anything other than a state or federal
15 website there?

16 A No. There's not.

17 Q And I'm assuming there aren't long dissertations
18 about these resources in some of these books,
19 websites or periodicals. I mean, there may just
20 be one paragraph, correct?

21 A It varies.

22 Q It varies.

23 A Yes.

24 Q So even though you knew that there were mentions

1 in other websites that, for example, maybe
2 typical users of Willard Pond would go to to
3 find out about it, you didn't include any of
4 those on this list.

5 A I'm sorry. Say that again?

6 Q Even though after your Google search you were
7 aware that there were websites that some of
8 these resources appeared on that typical users
9 of, say, for example, Willard Pond would access,
10 you didn't include those on your list.

11 A We did not include them in the list that you see
12 in the table.

13 Q Scenic quality ratings, and you derived from
14 that from Bureau of Land Management?

15 A Primarily, yes.

16 Q And again, you did your moderate/low rating,
17 moderate/medium/high, high/moderate/low and
18 you've got the table for those on, I think it's
19 page 16, the numerical equivalents? There's a
20 footnote there. Is that right?

21 A No. You're talking about -- oh, I'm sorry.
22 Yes. The scenic quality inventory and
23 evaluation chart is what you're referring to?

24 Q Yes, I'm referring to Table 6. You've done your

1 cultural designation rankings on Table 5 on page
2 68 and page 69. And then you do your, scenic
3 quality ratings starting on page 69 and ending
4 on page 70.

5 A Correct.

6 Q And you've rated them numerically for the
7 variety of categories, and then you've
8 translated that into a low, moderate or high,
9 correct?

10 A That's correct.

11 Q And that scale is found on page 16 in a
12 footnote, the rating system?

13 A The overall inventory and evaluation chart on my
14 document is actually 15, but I guess it's
15 shifted so it's probably 16.

16 Q Okay.

17 A So that gives you the basic for how we assess
18 scenic quality. Again, using the structure that
19 the BLM provides and also providing a
20 descriptive guide for how to understand the
21 rating and the scoring.

22 Q And then on Table 3 you do your overall
23 sensitivity rating. Do you see that?

24 A Yes.

1 Q On page 71. And I'm assuming you indicated that
2 both of these are considered equally important.
3 Cultural designations and scenic quality. One
4 is not weighted more than the other?

5 A That's correct.

6 Q So, for example, I just had a question. I think
7 I know the answer, but I need to be clear. I
8 see, for example, something like the Hillsboro
9 Rail Trail which is number 2 where you have
10 rated that moderate on culture designation and
11 low on scenic quality and then the overall
12 sensitivity is low/moderate. Do you see that?

13 A Yes, I do.

14 Q And then Pitcher Mountain fire tower which you
15 have listed as moderate cultural designation but
16 high scenic quality but that's listed as
17 moderate/high, I'm assuming that when it comes
18 to the overall sensitivity rating you're just
19 putting the lowest rating first?

20 A I guess so, yeah. We're going, yes,
21 sequentially.

22 Q Because in some cases where scenic quality is
23 high, they end up second and then sometimes it's
24 the inverse and so I'm just assuming for all --

1 A I think we just said, you know, low, moderate,
2 high. If you have a two ratings that are, if
3 you have two ratings, one's low and one's
4 moderate, we would just say low to moderate and
5 if you're moderate to high, you'd say moderate
6 to high.

7 Q So you put the lowest rating first and then
8 you --

9 A It's just in response to how you would normally
10 do that, I think.

11 Q Okay. And then if you could turn to page 72.
12 That's, actually, this from Table 6 from the
13 overall sensitivity rating, that's one of your
14 winnowing stages, isn't it?

15 A Overall sensitivity ratings.

16 Q Yes.

17 A Right.

18 Q You go from 30 to 10 after that?

19 A Correct.

20 Q So under Subsection C, determination of visual
21 effect from sensitive scenic resources with
22 potential visibility, starting on page 72, and
23 you list your number of turbines visible
24 criteria. The percent of visibility, the

1 proximity or distance, the angle of view, the
2 visual dominance and visual landscape coherence,
3 correct?

4 A Correct.

5 Q And again, with respect to the first three, your
6 descriptor is how many hubs are visible from a
7 given resource, percent of visibility, what
8 percent of the resource has visibility of the
9 turbine hubs, proximity or distance, how
10 close/distant is the nearest visible hub. Isn't
11 that what that says?

12 A That is correct.

13 Q Okay. And the number of turbines visible, this
14 again is the method that was developed by
15 Dr. John Palmer?

16 A Yes.

17 Q And you said that he did, he developed it after
18 doing a number of studies?

19 A I believe so.

20 Q And what kind of studies?

21 A I think, no, he basically, he made the
22 conclusion that the number of turbines visible,
23 low, moderate or high ranking is derived from
24 statewide numbers and scale and size of wind

1 energy projects. So in Maine where there are
2 many projects that are multiple turbines, up to
3 62 turbines, the threshold for number of
4 turbines visible for low would change based on
5 that, and in New Hampshire we took the average
6 of the three, I think, built projects and
7 determined that, you know, obviously the, the
8 rating would adjust accordingly.

9 Q Okay. So I thought earlier your testimony was
10 as a result of some studies, but you do agree
11 that how you've described that as visibility the
12 hub, correct?

13 A Correct.

14 Q So I know you were asked some questions about
15 this yesterday, and I don't want to repeat that
16 too much, but the truth is with respect to a
17 smaller wind farm like this one, the likelihood
18 of them getting a moderate rating would be
19 pretty hard.

20 A Again, just depends on numbers.

21 Q Right. Yet some did. So I know that Mr. Block
22 had given an example. He pointed to a
23 particular photograph in here of a turbine
24 looming over a farm in New York. And I have to

1 think similarly that under Mr. Palmer's rating
2 system here, if, for example, you put a couple
3 turbines on the Cathedral Ledge in North Conway
4 that would get a low rating under the system,
5 correct?

6 A Again, I don't want to comment on a, I'd have
7 to, I'd want to review that project.

8 Q There's two turbines. Under Mr. Palmer's system
9 it says low is 1 through 7 turbine hubs. And if
10 there were only two turbines sitting on
11 Cathedral Ledge in North Conway, that would get
12 a low rating.

13 A It depends on where you're seeing it from
14 certainly.

15 Q It depends on if you see two turbines --

16 A Yes.

17 Q I don't care where you see it from. If you can
18 see two turbines from on Cathedral Ledge, that
19 would get a low rating under this system?

20 A Not under the system. Under this criteria.

21 Q Under this criteria. Okay. On this criteria.
22 And similarly, are you familiar with White Horse
23 Ledge right next to Cathedral Ledge? You put
24 three turbines up there, that gets a low rating.

1 A Yeah, but you know --

2 Q Is that correct?

3 A I guess, I mean, I would, I mean, I think you
4 and I would both agree that there would be no
5 likelihood of turbines being put on top of those
6 ledges.

7 Q I'm talking about his system.

8 A Okay. Fine.

9 Q If you put four turbines on the Moats between
10 North Conway and Conway, that would get a low
11 rating.

12 A If you say so, yes.

13 Q Well, it's between 1 and 7. It's this rating
14 system that you've used. If you can see four
15 turbines from the Moats, low is 1 through 7.

16 A Right.

17 Q Okay. So the percent of visibility, again, this
18 is the percent of the resource that has
19 visibility of turbine hubs, correct?

20 A Yes.

21 Q And you would agree, and I think you already did
22 agree with Mr. Reimers, that if you're on a
23 trail and that there's a scenic overlook that --
24 if there's a scenic overlook on a trail and

1 that's the only place where you're going to see
2 the turbines but you see all the turbines, that
3 could be a very small number percent. If a
4 trail is, say, two miles long and you can see it
5 from just one scenic overlook, that's going to
6 and very small number, correct?

7 A That is potentially correct, yes, but again
8 other factors go into overall --

9 Q I understand that. Let me just ask my
10 questions, Mr. Raphael.

11 Proximity and distance, again, that's the
12 close distant to the nearest visible hub,
13 correct?

14 A Correct.

15 Q Angle of view. How much of the total possible
16 field of view the project occupies. Now, on
17 page 3, you describe angle of view, and I note
18 that bottom paragraph, this is at page 23, the
19 second sentence says the central field of view
20 occurs within 40 to 60 degrees and is the area
21 that most highly influences human perception of
22 a scene given a fixed viewing direction. Is
23 that what that says?

24 A That is what that says, yes.

1 Q I just want to see how that was applied. Got
2 all these pictures in the middle. Table 11 on
3 page 84. Pitcher Mountain, you indicate
4 possible field of view, 360 degrees. Do you see
5 that? Are you there?

6 A Yes. I don't see --

7 Q Table 11. The top item. Pitcher Mountain.

8 A I'm sorry. Yes. I do see it.

9 Q There you go. 360 degrees with a total possible
10 field of view and then percent of view of
11 project 4.47 percent. Do you see that?

12 A Yes.

13 Q Willard Pond you said top again, 360, and very
14 low percent view of the project, 7.46 percent.

15 A Correct.

16 Q Do you see that? And Clark Summit 125.5
17 degrees; Hedgehog Mountain 134.78. Scenic
18 viewshed north of Clark Summit, that's 102.9.
19 Wilson Hill scenic viewshed 360. Kimball Hill
20 Road 185.11. Bald Mountain Trail at the
21 dePierrefeu-Willard Pond Wildlife Sanctuary
22 143.37. Monadnock Sunapee Greenway 138.11, and
23 Summit Trail at Crotched Mountain 162 degrees.
24 That's a total possibility field of view,

1 correct?

2 A Correct.

3 Q And, correspondingly, you have in the
4 percentages the percent of view of project next
5 to each of those resources. When I look back at
6 page 23 again, where you indicate that the
7 central field of view occurs within 40 to 60
8 degrees and is the area that most highly
9 influences human perception of a scene given a
10 fixed viewing direction, I guess my question is
11 why would you use a 360-degree view of Pitcher
12 Mountain fire tower?

13 A Well, the key word there I think is given a
14 fixed viewing direction, and actually when
15 you're on top of Pitcher Mountain, I think you
16 would agree it has a 360-degree view.

17 Q But a human being can't see 360 degrees.

18 A But a human being has access to that 360 degrees
19 and that 360 degree view is part of the
20 experience on the summit of Pitcher Mountain.
21 So that's how you come to these conclusions when
22 you look at the entire field of view as one does
23 as I did when I was on Pitcher Mountain and I
24 walked around and I looked at the entire view,

1 the Pitcher Mountain project took up only a very
2 small part of that view.

3 Q Would you agree if that you used the 40 to 60
4 percent as a possible field of view of a project
5 that the percent of view of a project would have
6 been much higher?

7 A Yeah, but that's not the appropriate --

8 Q So the answer is yes.

9 A No. The answer is not. I don't think --

10 Q If you used the 40 to 60 percent cone of view
11 which you've identified on page 23 as being the
12 central field of view and is the area that most
13 highly influences human perception of a scene
14 given a fixed view and direction, if you had
15 used that, you would have a much greater
16 percentage of the view of the project, correct?

17 A Sure. If you'd used it, but it's not the
18 appropriate use of it.

19 Q Thank you. Under your next, I guess I'm going
20 to call it tool or procedure determining effect
21 on the viewer from sensitive scenic resource,
22 here the four, on page 88, here the four
23 criteria are activity, extent of use, duration
24 of view, and remoteness. Do you see that?

1 A Yes.

2 Q And I think you had some discussion with
3 Mr. Block yesterday and I think you agreed that
4 with respect to extent of use and remoteness,
5 those two seem to be a little contradictory. I
6 think that was your testimony.

7 A I don't recall that being contradictory. He
8 cited one instance, I think, but that didn't
9 apply to how you apply remoteness. I mean, if
10 it's not, you know, extent of use as I said in
11 that response could be very high even if it were
12 remote, and I cited an example of that. So that
13 was not contradictory actually.

14 Q You cited one example, but that's pretty rare,
15 Mr. Raphael.

16 A Not at all. Not at all.

17 Q Can you cite more examples?

18 A Any, you know, summit in the White Mountains,
19 you know, it can be very remote, it can be very
20 distant, take Pemigewassett Wilderness. There
21 are times when you can be up -- let's not take
22 that. But there are places certainly throughout
23 the mountain ranges and in different locations
24 where it takes a while to get there, it's

1 considered remote, but it's very, very popular,
2 and you will find a lot of people on the summit
3 at any given time.

4 Ridge of the Caps, let's use that as an
5 example, in the Presidential Range. I'm sure
6 some people are familiar with that. You know,
7 that takes an hour or two to get to depending on
8 which side you're accessing it, and I've been on
9 the top of Ridge of the Caps with dozens of
10 people so that says there's a high extent of use
11 even though that could be potentially considered
12 a remote location.

13 Katahdin is another great example. I mean,
14 they've started to limit numbers of people that
15 can be up on that mountain at certain times, and
16 that's, you know, an issue that's emerged. You
17 may have read the article in the paper about
18 that last year where that was an issue. Very
19 remote location, primitive but has a high amount
20 of use.

21 Q You testified yesterday that in some cases, this
22 is contradictory. Did you not?

23 A I don't recall what exactly I said so I probably
24 want to look back at that if I might.

1 Q Okay.

2 A Before I comment on it.

3 Q I was going to move on this quickly, but I'm
4 going to spend a little bit more time on it.
5 There are ratings here, low, moderate or high,
6 do you see that?

7 A Under activity?

8 Q Talking about extent of use and remoteness?

9 A Sure.

10 Q And there are descriptions of what low, moderate
11 or high is. Do you see that?

12 A Yes.

13 Q And these descriptions, where did you source
14 this description from?

15 A Again, I think we relied on various tools. I
16 think probably looked at everything from the
17 recreational opportunity spectrum to various
18 sources and visual assessment that I've cited
19 before.

20 Q Okay. And then you used the word-for-word from
21 these various sources?

22 A No. We, I'm sure these are our own words, but
23 they, again, reference other examples or
24 narratives that talk about these types of

1 ratings and uses, certainly.

2 Q Okay. If you look at extent of use, a low
3 rating is access is difficult, limited and/or
4 unclear. Walk in and portage. Do you see that?

5 A Correct.

6 Q Interaction between uses is extremely rare and
7 evidence of other users is negligible. There
8 are no boat launches, campsites, picnic areas,
9 or other maintained areas. Motorized or
10 mechanized use is not permitted, if possible.
11 Do you see that?

12 A Yes.

13 Q So that gets a low rating.

14 A Correct.

15 Q And I'm assuming you put a numerical equivalent
16 to that when you actually go to add these things
17 up?

18 A I think so. Yes. Just use a simple --

19 Q Remoteness, however, low is resources noticeably
20 developed. This is page 89. Interaction
21 between users is moderate to high. There are
22 boat launches, campsites, picnic areas, or other
23 maintained facilities which can accommodate a
24 large number of people, pavilions, parking lots,

1 motorized or mechanized use is allowed and
2 evident. Do you see that?

3 A Yes.

4 Q Okay. And similarly, if you look at the high
5 rating, under remote activity, access is quick,
6 obvious and easy, interaction between users is
7 moderate to high. There are multiple boat
8 launches, campsites, picnic areas or other
9 maintained facilities which can accommodate a
10 large number of people. Motorized or mechanized
11 use is allowed. Do you see that?

12 A Yes.

13 Q On remoteness, high. Page 89. Resources that
14 are essentially unmodified and pristine. Access
15 is generally difficult and off the beaten path.
16 Interaction between users is extremely rare and
17 evidence of other uses is negligible. There are
18 no boat launches, campsites, picnic areas or
19 other maintained facilities. Motorized or
20 mechanized use is not permitted or possible.

21 So you're saying that if a resource was
22 rated high under activity, that being rated high
23 under remoteness is possible?

24 A It's possible. Again, every resource is

1 different. Obviously, not all of these
2 characterizations are present at every resource
3 so these definitions provide you with a point of
4 departure with which to assess the rankings.

5 Q You said that yesterday several times, the point
6 of departure. Could you explain what you mean
7 by that?

8 A I would not, I think you would agree that you
9 wouldn't be able to articulate or necessarily
10 articulate every possible instance where you
11 would consider high. These are generalized
12 statements that are indicators of the high,
13 moderate or low quality under the remoteness
14 category or under the extent of use category.

15 Q So under high under extent of use where it says
16 motorized or mechanized use that are allowed are
17 evident, and high under remoteness it says
18 motorized or mechanized is not permitted or
19 possible, it really wouldn't be possible for one
20 resource to get a high under both of those,
21 correct?

22 A There could be exceptions. I mean, I think
23 there are degrees that you could find a remote,
24 obviously, as we talked about, a remote what you

1 would consider to be a remote resource might
2 have a lot of use. Those are very infrequent to
3 be sure.

4 Q Okay. So that would be the exception and that
5 would be infrequent, correct?

6 A Infrequent.

7 Q When it comes to activity and duration of view,
8 I think that you relied a lot on your
9 investigation, correct?

10 A Among other things.

11 Q So your field work?

12 A Field work. Again, that's probably one of the
13 places we looked at websites. We did look at
14 websites and we quoted websites. Whatever
15 evidence, you're right, observations sometimes
16 if log books are available. That's another good
17 tool. So there are a number of tools that you
18 would rely on for that regard. In that regard.

19 Q Is it accurate to say you don't identify
20 precisely how you did that in this visual
21 impact?

22 A No. There's an explanation, again, the
23 explanation is here, and then in the beginning
24 there is a description of the methodology

1 describing how we walked through it and
2 established that methodology.

3 Q Okay. But there's nothing here on this page
4 that indicates how you came about this
5 determination?

6 A Well, let's see. I think we discussed it
7 elsewhere. I think in the methodology. It
8 doesn't appear on this page.

9 Q Okay. You said you did look at websites. Is
10 that correct?

11 A Yes.

12 Q I just have an exhibit.

13 PRESIDING OFFICER SCOTT: We'll go off the
14 record while we're passing those out.

15 (Off-the-record discussion)

16 Q I'm showing you what's identified as Counsel for
17 the Public 19. The numbers are out of order
18 because I had to get rid of exhibits because
19 they were already used.

20 I'm going to represent this as a sampling
21 of some websites that mention some of these
22 resources, and in particular this one is Willard
23 Pond, and I'd just like to review some of those
24 with you.

1 A Sure.

2 Q And the first website is nhmagazine.com, and if
3 you turn to page 3 of 11 there. It indicates
4 Saturday afternoon. Do you have that?

5 A Yes.

6 Q And it starts, "We love rockbound Willard Pond
7 in the dePierrefeu-Willard Pond Wildlife
8 Sanctuary where we were the only people on still
9 waters. Just us, the great blue heron and a
10 family of loons. We let the loons come to us
11 sitting in the still water and not paddling.
12 When they had inspected us from a discrete
13 distance, they ducked suddenly and resurfaced on
14 our other side. We stretched our legs
15 afterwards with a woodland walk on the Tudor
16 Trail." Do you see that?

17 A Yes. I do.

18 Q And that sort of describes just the activities
19 and the extent of use there, doesn't it?

20 A Doesn't describe the extent of use per se, no.
21 It's one indication that somebody was there one
22 day and they had it to themselves.

23 Q Well, it's an indication of activities.

24 A Yes. It's an indication of activity.

1 Q The next is the littleriverbedandbreakfast.com.
2 This is just interesting if you look at,
3 obviously, it's a local proprietor that is
4 sending people to Willard Pond. I'm trying to
5 find it in here. Here it is. It's on the
6 second page under kayaking and fishing. About
7 midway down the page before the halfway point.

8 "Whether it is the cozy 100-acre Edward
9 MacDowell Lake just a mile up the road, the
10 incredibly secluded Willard Pond, or the large
11 750-acre Nubanusit Lake or Contoocook River,
12 you'll find a place to paddle that fits your
13 speed and style."

14 Not a great description but it definitely
15 gives an idea that they're sending people there
16 for a particular activity, correct?

17 A Yes.

18 Q And the next one is www.outdoornews.com, and
19 this on the second page talks about, fourth
20 paragraph down, in the middle of that paragraph.
21 If you travel over to Antrim and fish Willard
22 Pond (produced the state record tiger trout
23 caught in 2011), you will be treated to
24 forested, undeveloped shorelines and the triple

1 treat of fly-fishing: brook, rainbow and tiger
2 trout."

3 Do you see that?

4 A Yes.

5 Q Definitely describes activity and use in this.

6 The next is the New Hampshire Bird Records,
7 and I think this is an Audubon publication that
8 was accessible on the internet as well. In this
9 particular document they talk on page, it's
10 listed as page 32. It's the second page of this
11 website. Birding Locations where there's a
12 description of Willard Pond, and it describes,
13 tells people how to access it, what to do, what
14 they will see. There's a picture of the loons
15 there. Talks about home to a pair of breeding
16 common loons. So we've already talked about
17 that today, that there's loons there, the bird
18 watching there. There's also mention on page 33
19 about Goodhue Hill. It talks about reflects the
20 age of sheep grazing and succeeding pasture
21 abandonment. The mile long Goodhue Hill Trail
22 is a transect of decreasing forest age as
23 evidenced by composition of forest species and
24 overall tree canopy height, and then they talk

1 about birds that they're seeing there.

2 Again, all of these describe the many uses
3 that you can find there at Willard Pond and the
4 dePierrefeu-Willard Pond sanctuary, correct?

5 A The activities possible, yes.

6 Q Right. And then the next article is on
7 wmur.com. That's, again, fly-fishing season
8 opening so they have to let you know, again, I
9 think is this actually might be, I'm sorry, a
10 repeat of the other article, but it was just
11 carried under a different website where they
12 talk about being treated to the triple treat of
13 fly-fishing: brook, rainbow and tiger trout.
14 That's the bottom paragraph on the second page
15 of that article.

16 And in the day of social media there's all
17 kinds of websites. This one is paddling.net
18 that talks about Willard Pond. It's the next
19 document. Willard Pond, it starts, the top
20 paragraph, it says Destination Report, nearest
21 city Antrim, difficulty easy, and it's submitted
22 by, I guess, a blogger, I'm not sure, or just a
23 user.

24 Description: Willard Pond is tucked away in

1 the southeastern corner of the state, a little
2 off the beaten path. Even with the high price
3 of gasoline -- and this article is dated -- I
4 would recommend making the trip to Antrim to
5 enjoy Willard's crystal clear water and quiet
6 seclusion. The pond is protected as part of the
7 New Hampshire Audubon's largest sanctuary. The
8 entire property is well over a thousand acres
9 and includes two large hills, Bald Mountain and
10 Goodhue Hill. While we were out on the water we
11 saw hikers as small specks making their way up
12 the trails. There's only one privately owned
13 house on the pond, and it's set back from the
14 water. We paddled here early one morning in
15 June but not early enough to see too much
16 wildlife with one exception. And then there's a
17 discussion of the loons and they're nesting
18 chick.

19 The shoreline of Willard is dotted with
20 boulders. You'll also see boulders that appear
21 to be just below the surface of the water but
22 they're actually submerged deep enough for you
23 to paddle right over them. It's an illusion
24 created by the clear water. Willard Pond isn't

1 large. It's around 100 acres and has a maximum
2 depth of 15 feet. Protected and peaceful are
3 the key words here. Willard Pond is a real
4 treasure. Gas-powered boats are not allowed and
5 fishing is restricted to fly-fishing.

6 Wouldn't you agree that gives you a sense
7 of the extent of use and the activity and extent
8 of use of that resource?

9 A Gives a sense of activity, yes. Not extent of
10 use necessarily.

11 Q The next article is under www.summitpost.com.
12 Reference there is Bald Mountain and I think if
13 you turn that page they talk about, under
14 Overview, Bald Mountain, located in the heart of
15 the Monadnock region, is home to great hiking
16 which a pretty hike along the pond and a nice
17 10-degree vista of Mount Monadnock, the Wapack
18 Range and all other mountains south and east.
19 The mountain is the signature mountain in the
20 dePierrefeu-Willard Pond Wildlife Sanctuary and
21 is bordered by the beautiful Willard Pond to the
22 east. The 2.2-mile 900 foot elevation gain loop
23 hike, and they discuss the trail is YDS class 1
24 with a mix of gradual to steeper but at no time

1 do you need to go on all fours. What makes this
2 mountain so special is the fact that the
3 mountain is not crowded, unlike other mountains
4 in New Hampshire. I hiked up this mountain on a
5 beautiful weekday and I saw absolutely no one on
6 the trail. If you choose to complete a loop
7 with a walk next to beautiful Willard Pond, if
8 you're also looking for a quick hike that's not
9 well known with good views, this one is it.

10 Again, describes hiking activity, birding
11 activity, fishing activity. The next is
12 newhampshirefamilyhikes.com.

13 MR. NEEDLEMAN: Mr. Chair, there wasn't
14 even a question after reading that.

15 PRESIDING OFFICER SCOTT: Do you plan on
16 reading every one of every bit of your exhibit
17 to us?

18 MS. MALONEY: I asked him if he looked at
19 websites so, yeah, I'll be asking if he saw
20 these websites, if he read these websites.

21 A I haven't read these particular ones that you've
22 brought. I've seen others similar. I'm aware
23 of the interest and use. In fact, I think these
24 substantiate our finding under extent of use

1 that it's moderate. If you, particularly the
2 last one that you mentioned says it's not very
3 well crowded, so these are only confirming the
4 conclusions that we came to in that regard.

5 Q And with that extent of use, then the flip side
6 is the remoteness part of it, isn't it?

7 A No. I don't understand what you're saying in
8 that.

9 Q Well, we had that discussion. I'm going to
10 continue on in newhampshirefamilyhikes. There
11 is a point I wanted to make here. They describe
12 actually the trail, the one-mile trail to the
13 top of Bald Mountain. It begins as a winding
14 path through rock-filled woodland, and you've
15 been up that trail, correct?

16 A Yes.

17 Q Begins, it says halfway through the climb the
18 trail steepens to a moderate grade for the
19 remainder of the hike. And then it says at the
20 top of Bald Mountain is wooded and viewless.
21 That there are ledges nearby. Do you see that?

22 A Yes, I do.

23 Q And it says to continue to this viewpoint, you
24 must descend a short distance from the summit.

1 The broad ledges provide an expansive southerly
2 view. Notable peaks in view include Mt.
3 Monadnock, Crotched Mountain and the -- I can't
4 pronounce that. Uncanoonuc Mountains. You can
5 also see Willard Pond, a large pond in the
6 reservation. Do you see that?

7 A Yes, I do.

8 Q And then on the next is www.trails. It gives a
9 description of Willard Pond. It's on the flip
10 side of that. Glacial erratics line the
11 shoreline of this pond surrounded by hills and
12 homes to loon and ospreys. Willard Pond defines
13 quiet water. Motorboats are prohibited in the
14 pond which is 100 acres and nestled between Bald
15 Mountain and Goodhue Hill. Glacial erratics
16 covered in lichens line the shoreline. The
17 surrounding forest is alive with bird activity.
18 There is one small cabin near the put-in, and I
19 guess that was before. But otherwise, the land
20 bordering the pond is building free. The
21 seclusion of Willard Pond is protected by the
22 New Hampshire Audubon's dePierrefeu-Willard Pond
23 Sanctuary which at 1000-plus acres is Audubon
24 Society of New Hampshire largest sanctuary.

1 Again, I'm just going to go to my last one
2 because it's my favorite here, the stayworkplay.
3 These are blogs, and this, I'm assuming when you
4 did your research you looked at all kinds of
5 websites to try to ascertain how these resources
6 were used, correct?

7 A That was one part of how we ascertained, yes.

8 Q Okay. This one talks about spring is a
9 wonderful time to live in New Hampshire,
10 especially if you're a lover of the great
11 outdoors. This past weekend I had an
12 opportunity to visit one of my favorite hiking
13 and kayaking spots, Willard Pond in Hancock, New
14 Hampshire. Well, Antrim. Willard Pond is
15 located at the base of Bald Mountain in the
16 dePierrefeu-Willard Pond Sanctuary. It is the
17 largest preserve owned by New Hampshire Audubon.
18 I'm going to skip over that.

19 It says on the next page if you're not
20 familiar with the area, getting to the secluded
21 location can feel like a bit of an adventure
22 leading you down windy dirt roads. However,
23 once you're there you'll understand why this
24 place is such a popular spot for locals and

1 visitors alike. The many visitors enjoy
2 swimming, exploring pondside trails, fishing,
3 bird watching, climbing Bald Mountain and
4 paddling around the pond.

5 One interesting aspect of Willard Pond is
6 its unique landscape. Huge boulders deposited
7 by a receding glacier are scattered among a
8 diverse mixture of trees and plant species. In
9 the summer, I love to kayak around Willard Pond
10 enjoying sandwiches and other assorted goods.
11 Spending a sunny afternoon among the water
12 lilies and loons on Willard Pond is always an
13 adventure.

14 As I said, you did say you did research
15 websites to determine activity of use. Would
16 you agree that these kinds of websites and blogs
17 do assist you in that regard?

18 A Sure.

19 Q And they also sort of identify what the typical
20 user of these types of properties would be.
21 Would you agree?

22 A To some extent, yes.

23 Q Sure. When you tallied up, I note that, you
24 know, one of the things that you didn't do with

1 regard to your investigation here was user
2 surveys; is that correct?

3 A That's correct.

4 Q And have you used user surveys before?

5 A Yes.

6 Q And you did not in this project.

7 A We did not.

8 Q Is there some reason why you didn't do user
9 surveys?

10 A Very hard to administer in a scientific way.
11 The cost and implementation of those types of
12 surveys. You know, requires quite a bit of work
13 to do, but regardless of that, it would be, you
14 know, you'd have to spend a lot of time there at
15 different times to get a good sampling from
16 there because of the use patterns.

17 Q You did say you spent a lot of time there.

18 A Yes. And, you know, did survey the use and the
19 activity and the numbers in the parking lot,
20 but, no, we did not conduct a user survey.

21 Q Other landscape architects also will use
22 cameras. Have you ever used those?

23 A Used cameras?

24 Q Yes.

1 A Sure. Of course.

2 Q And you've used those before?

3 A Cameras?

4 Q Not taking pictures but cameras to record user
5 activity.

6 A I'm not aware of that. Give me an example.

7 Q I'm not being questioned. I'm asking you.

8 A I was just curious.

9 Q And I'm not under oath.

10 A That's interesting. I've not heard of that.
11 User surveys are not typically done in many of
12 these visual assessments. They have become
13 something that Maine has looked to as an option.
14 And we can look at user surveys, for example, to
15 find out that hikers and paddlers actually are
16 okay postconstruction with wind energy projects.
17 So there is some evidence that I could, I think,
18 we pointed to, in fact, in the report to that
19 effect.

20 Q And that was anecdotal evidence, correct?

21 A No. Jim Palmer has done studies. There's a, in
22 that same article that I think we referred to
23 called the effect of size, there is a conclusion
24 about postconstruction and user surveys.

1 Q Okay. Hang on for a second. I have another
2 exhibit. And it's not a user survey.

3 A I would definitely refer you to that because it
4 is about user surveys.

5 PRESIDING OFFICER SCOTT: While she's doing
6 that, I'll just ask you one more time. Don't
7 forget the microphone.

8 A Oh, so sorry.

9 MS. MALONEY: I'm looking at my time. You
10 said you were going to 4:15.

11 PRESIDING OFFICER SCOTT: That was the
12 intent. How much time do you think --

13 MS. MALONEY: This will take long than --
14 it's 4:05. It's going to take longer than ten
15 minutes to get this exhibit.

16 PRESIDING OFFICER SCOTT: How long do you
17 think you'll be on that section you're looking
18 at? Put another way, is this a good breaking
19 point for you or would you rather try to go to
20 4:20 if we can stretch it out?

21 MS. MALONEY: I think it will take longer
22 than that.

23 PRESIDING OFFICER SCOTT: Okay. So sounds
24 like this may be a good breaking point.

1 MS. MALONEY: I'm sorry. I tried.

2 PRESIDING OFFICER SCOTT: That's fine. So,
3 again, we'll be back on September 28th at 9
4 o'clock, September 29th at 9 o'clock. Attorney
5 Malone, maybe you could have those handed out
6 before we start.

7 MS. MALONEY: Yes, I will.

8 PRESIDING OFFICER SCOTT: And then, again,
9 we talked about October 3rd. We'll send out an
10 Order of Notice. At 10:30 we will start with
11 any interested members of the public wanting to
12 make comments. I'm not sure how long that will
13 last but that conceivably may take us until the
14 lunch break but maybe not. In either case then
15 we'll start regular proceedings after that.
16 Again, the 18th of October and the 20th are also
17 we'll start at 9. Generally speaking, we'll try
18 to go to five o'clock, that time frame, for all
19 the days.

20 MS. BERWICK: Can I ask? On the 28th will
21 it be taken it from here where we left on or
22 will it be the Selectmen?

23 PRESIDING OFFICER SCOTT: I think it makes
24 sense to finish this first. Let me ask

1 Mr. Richardson. Mr. Thurber has the day, right?
2 Or does he just have a particular time when he
3 can be here?

4 MR. RICHARDSON: Mr. Thurber has the day.
5 To be clear, I don't think the Antrim, although
6 I don't know this for certain. I don't believe
7 the Antrim Selectmen are constrained to other
8 days. I know we had surveyed availability on
9 the 29th. I've had not a chance to circle back
10 on the new dates in October, but the Antrim
11 Selectmen, I don't think, will have to go on the
12 28th. Mr. Thurber would.

13 PRESIDING OFFICER SCOTT: Okay.

14 MR. RICHARDSON: It's just a question of
15 coordinating the schedules, but I know all were
16 available on the 29th so if that helps give
17 flexibility on the 28th, I think that we can do
18 that.

19 PRESIDING OFFICER SCOTT: So in answer to
20 your question, my intent would be to finish with
21 Mr. Raphael first before we move on to other
22 panelists.

23 MS. BERWICK: And then it would be
24 Mr. Thurber?

1 PRESIDING OFFICER SCOTT: If the Town needs
2 that and if the Applicant is okay with that.

3 PAM MONROE: We need to get the Audubon
4 panel in sooner than we think.

5 PRESIDING OFFICER SCOTT: Correct. So
6 that's why I was asking if the Applicant's okay
7 because the Applicant, correct me if I'm wrong,
8 still has -- I'm sorry. I missed what you said,
9 Ms. Monroe.

10 PAM MONROE: Jason indicated that the
11 Audubon panel can't do the 18th or 20 so we need
12 to get them in next week.

13 PRESIDING OFFICER SCOTT: Or after the 3rd.

14 PAM MONROE: They're not available on the
15 18th.

16 PRESIDING OFFICER SCOTT: And the Applicant
17 still has Mr. Will and Mr. Stevenson and comes
18 back to Mr. Kenworthy, correct?

19 MR. NEEDLEMAN: Right. I think we have Mr.
20 Kenworthy first and then Will and Stevenson, and
21 my understanding was that certainly Will and
22 Stevenson were not expected to take very long.
23 Can't remember what the expectations were for
24 Mr. Kenworthy, but I didn't think it was very

1 long.

2 PAM MONROE: We have four hours, and hour
3 and a half for Will and Stevenson.

4 PRESIDING OFFICER SCOTT: So I guess I'd
5 let you and the town work it out whether
6 Mr. Thurber goes before those two or after.

7 MR. NEEDLEMAN: I understand Mr. Thurber's
8 limitation. That's pretty tight. Our
9 limitation is we've got those two, I think,
10 flying in. So we may have to work to
11 accommodate both of them that day.

12 PRESIDING OFFICER SCOTT: Do you have any
13 more questions, Ms. Berwick?

14 MS. BERWICK: I think I understand what's
15 happening next, and that's all we need to know.

16 PRESIDING OFFICER SCOTT: Thank you. Off
17 the record.

18 (Hearing recessed at 4:10 p.m.)

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