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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

October 3, 2016 - 2:08 P.M.
49 Donovan Road
Concord, New Hampshire

DAY 8
Afternoon Session
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
(Presiding as Presiding Officer)

Cmsr. Jeffery Rose	Dept. of Resources & Economic Development
Dr. Richard Boisvert (Designee)	Dept. of Cultural Resources/ Div. of Historical Resources
Dir. Eugene Forbes (Designee)	Dept. of Environmental Services/Water Division
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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E X H I B I T S

EXHIBIT ID	D E S C R I P T I O N	PAGE NO.
WA-32x	Photograph depicting gravel roads and ledge cuts	8
WA-33x	Map titled "Antrim Wind Farm Tuttle Hill 2010 High Ranking WAP Habitat (Pink)"	8
WA-34X	Audubon Society of NH Response to Tech. Session Data Request #12 (07-29-16)	8
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App. 42	Copy of a brochure, indicating a Map and Map Key noting	

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dePierrefeu-Willard
Pond Wildlife Sanctuary,
and also noting
"Trail Information" 113

1 PRESIDING OFFICER SCOTT: Attorney
2 Richardson has asked to be allowed to, if we get
3 to Mr. Enman's testimony today, Attorney
4 Richardson has asked to be able to come back on
5 the 18th for his portion of that, and we're
6 asking if there's any objections, and I'm seeing
7 a lot of head nods saying no, there are no
8 objections so sounds like you're all set,
9 Mr. Richardson.

10 MR. RICHARDSON: Thank you.

11 PRESIDING OFFICER SCOTT: With that, I
12 think, there's Mr. Reimers. We have to swear in
13 the panel and then they're yours.

14 (Whereupon, **Francie Von Mertens, Douglas Bechtel,**
15 **Carol Foss** and **Michael Buscher** were duly sworn by the
16 Court Reporter.)

17 **FRANCIE VON MERTENS, SWORN**

18 **DOUGLAS BECHTEL, SWORN**

19 **CAROL FOSS, SWORN**

20 **MICHAEL BUSCHER, SWORN**

21 **DIRECT EXAMINATION**

22 BY MR. REIMERS:

23 Q Could each of you introduce yourselves?

24 A (Buscher) My name is Michael J. Buscher. I am a

1 professional landscape architect and owner of
2 T.J. Boyle Associates. We were retained to
3 provide visual animations of the proposed
4 projects from specific locations.

5 A (Foss) My name is Carol Foss. I'm Senior
6 Advisor for Science and Policy at the Audubon
7 Society of New Hampshire.

8 A (Bechtel) My name is Doug Bechtel. I'm the
9 President of the Audubon Society of New
10 Hampshire.

11 A (Von Mertens) My name is Francie Von Mertens.
12 I'm a New Hampshire Audubon volunteer.

13 Q And you have all submitted Prefiled Testimony;
14 is that correct?

15 A (All) That's correct.

16 Q Would you like to make any changes to that?

17 A (Bechtel) Yes. I would like to make one change.
18 We calculated the number of ponds in New
19 Hampshire that had unfragmented or, I'm sorry,
20 wild and undeveloped shorelines, and in my
21 Prefiled Testimony, I recorded the number of
22 those as 18, and the correct number is 16.

23 Q So this would be Exhibit 1, Attachment MJB 8.
24 That was appended to the Prefiled Testimony of

1 your predecessor, Michael Bartlett; is that
2 correct?

3 A (Bechtel) That's correct. Yes.

4 Q Other than that change, do you all adopt your
5 Prefiled and Supplemental Prefiled Testimonies?

6 A (All) Yes, we do.

7 Q And Mr. Bechtel, as President of the Audubon
8 Society of New Hampshire, do you adopt the
9 testimony of Michael Bartlett?

10 A (Bechtel) Yes, I do.

11 Q I don't have any further questions at this time.

12 PRESIDING OFFICER SCOTT: So I believe the
13 agreed upon order is to start now with
14 WindAction; is that correct?

15 MS. LINOWES: I don't remember.

16 PRESIDING OFFICER SCOTT: That's what I
17 had, Ms. Linowes, is that you were next? Are
18 you not prepared?

19 MS. LINOWES: No. That's fine. I'll get
20 the mic. Mr. Chairman, I have some exhibits I'd
21 like to hand out, if I may.

22 PRESIDING OFFICER SCOTT: Why don't we go
23 off the record while she hands out exhibits.

24 (Off-the-record discussion)

CROSS-EXAMINATION

1
2 BY MS. LINOWES:

3 Q Thank you, Mr. Chairman. Can you hear me okay?
4 New mic. Good afternoon. I just handed out
5 four exhibits. These would be Exhibits WA-32x,
6 33x, 34x and 35x. They're not in the order,
7 that's what you would have there. For today, in
8 addition to referencing those exhibits, I will
9 be referencing the application itself which is
10 App. 33. I will be referencing App. 33 Appendix
11 12 G, and also App., I believe it's 22. This
12 will be the Supplemental Testimony of Gravel and
13 Valteau. So hopefully that will be easy to get
14 around.

15 Before, so I have a number of questions
16 related to the environmental impacts of the
17 project, but before I do that, I do have one
18 question regarding aesthetics.

19 Back in the prior docket, the
20 jurisdictional docket, Attorney Iacopino had
21 asked Mr. Raphael, the aesthetics expert for
22 Antrim Wind, whether or not, he said, is it your
23 sense, I'm paraphrasing here, that if you don't
24 like the look of the turbines, just look the

1 other way. Or if you're out birding, go to some
2 place else. I mean, I truly am paraphrasing
3 there, but I think there was, I just wanted to
4 get a sense from you, those who worked on the
5 aesthetics, is that a standard approach to
6 dealing with aesthetics? Aesthetic impacts?

7 MR. NEEDLEMAN: Mr. Chairman, I'm going to
8 object to that characterization of Mr. Raphael's
9 testimony.

10 Q Okay, it's been, I'll ask the question. I won't
11 say that it was the case. I could read from the
12 testimony, but, from the actual transcript, but
13 is that a typical response to a visual impact to
14 an area that if you don't like the look, just
15 look away?

16 A (Foss) I have no experience with standard
17 responses to visual impacts. I have no comment.

18 Q Well, perhaps Mr. Buscher, I'm sorry if I'm
19 mispronouncing --

20 A (Buscher) It's Buscher.

21 Q As a landscape architect and you did some
22 visualizations in this project, is there any,
23 has that been a typical response that you might
24 hear?

1 A (Buscher) That would not be a typical response.

2 Q Okay. Thank you. Now, what I'd like to do, we
3 heard several times today, and we heard it
4 through the cross-examination of Mr. Valteau and
5 Gravel that under cross-examination there was no
6 on-site surveying of the presence of land-based
7 mammals other than vernal pools conducted at the
8 project site. Do you remember hearing that?

9 A (Foss) I do.

10 Q And if you look at section, New Hampshire Site
11 Rule 301.07, no need to pull it out, but this
12 would be Rule (c)(5). It says, "The Application
13 shall include information regarding the natural
14 environment including a description of the
15 measures planned to avoid, minimize or mitigate
16 potential adverse impacts of construction and
17 operation of the proposed facility on wildlife
18 species." Are you familiar with that rule?

19 A (Foss) Yes.

20 Q Now, one question I have regarding that is that
21 it appears in reading Appendix 12 G of the
22 Application, App. 33, Appendix 12 G, there's
23 reference and this will be on page, this would
24 be on the bottom of the first page. It talks

1 about the, it says, "In addition to the 988
2 acres of onsite conservation, AWE has committed
3 to making a \$100,000 payment to the New England
4 Foundation. This habitat conservation effort
5 coming directly from the project will assure a
6 significant portion of the habitat block will
7 remain intact."

8 There's also reference in the Application
9 itself that talks about the very small footprint
10 of the project, and it appears that those two
11 things couple, the small footprint of the
12 project and the conservation effort, are used as
13 justification for not doing the studies -- I'm
14 sorry. Sorry. Let me rephrase that. Are used
15 to say that the, there may be an impact on
16 natural environment and wildlife, but it will
17 not be unreasonable because the greater part of
18 the habitat will be left intact.

19 Is that your sense of what you've read as
20 well?

21 A (Foss) I got a little lost in the middle of
22 that.

23 Q Sorry.

24 A Can you repeat it straight?

1 Q Yes. Combination of conservation efforts and
2 the small footprint of the project.

3 A (Foss) You're talking about the easements?

4 Q And well as the money -- correct. The
5 conservation of the land around the project.

6 A (Foss) Okay.

7 Q As well as money that's set aside.

8 A (Foss) Okay.

9 Q Coupled with the small footprint of the project
10 suggests that overall the habitat will not be
11 impaired, general overall habitat of the area
12 will not be impaired, and, therefore, there's no
13 reason to worry about there being an
14 unreasonable effect on wildlife.

15 Is that your understanding of what you've
16 read within the Application?

17 A (Foss) Yes.

18 Q Now, do you agree with that?

19 A (Foss) At the landscape scale, I don't have an
20 issue with that. I am still very concerned
21 about the terrain alteration aspects --

22 Q Okay.

23 A (Foss) -- of the project.

24 Q So now, in App. 33, again, Appendix 12 G, on

1 page 3, in the middle of that large paragraph
2 that begins indirect effects of roads, there's a
3 statement there that says, "Increased predation
4 can occur through the use of road corridors by
5 predators. These include avian predators such
6 as hawks and owls, and mammalian predators such
7 as fox and coyote which are known to use
8 roadside edges to hunt along." Do you see that
9 statement?

10 A (Foss) I don't see it, but I'm familiar with it.

11 Q So do you agree with that statement?

12 A (Foss) Yes.

13 Q So there will be some impact on the wildlife
14 that reside at the site, possibly from hunting,
15 from predation, due to the roads being built,
16 correct?

17 A (Foss) Yes.

18 Q Now, on page 5 of your Prefiled Testimony,
19 Dr. Foss, the last answer, you discuss the
20 ecological effects of the road extending beyond
21 its footprint. Are you talking about edge
22 habitat and intrusions into interior forest
23 area?

24 A (Foss) Yes, and drying effects of the opening

1 and --

2 Q Okay. Now, you explained that very well in your
3 testimony, and I'm not going to ask you to
4 repeat that, but what I did not see in your
5 testimony, and forgive me if it's there, but I
6 didn't see where you explained how deep into the
7 forest that occurs or could occur.

8 A (Foss). It depends on a lot of things. It
9 depends on the aspect of the opening. It
10 depends on what kind of effects you're looking
11 at, whether you're looking at songbirds or small
12 mammals. It's sufficiently complicated that
13 trying to provide distances for a number of
14 different kinds of effects wouldn't be
15 particularly productive, I guess.

16 Q Okay. Are we talking about 100 feet, 300 feet
17 or it can vary? I guess what you're suggesting
18 is it will vary based on what you're studying,
19 but it could go as far as 100 feet or 300 feet
20 depending on what you're investigating?

21 A (Foss) In terms of edge effects in particular, I
22 think that would be pushing it.

23 Q Which one? 100 feet or 300 feet?

24 A (Foss) Three would definitely be pushing it.

1 100 might be pushing it.

2 Q Okay. But some distance away.

3 A (Foss) Yes.

4 Q My recollection at the Granite Reliable Project
5 because of blowdowns I think it was perceived to
6 be potentially that far. I mean, because of the
7 harsh environment up there, would you agree?

8 A (Foss) I would expect it would be because of
9 very shallow soils and shallow-rooted trees. So
10 you get a lot of blowdown and progressive
11 blowdown in that situation. This far south in
12 the state, it would likely be less of an issue.

13 Q Okay. Thank you. Now, but with that being
14 said, the Applicant has maintained that 11.3
15 acres will actually ultimately be impacted once
16 everything is revegetated back. You have an
17 operating wind project and have revegetated the
18 roads back. If you take into account the edge
19 effect, in fact, that impact is going to be
20 greater than that, correct?

21 A (Foss) Correct.

22 Q Now, you've walked a portion of this project?

23 A (Foss) I have not.

24 Q Now, Ms. Von Mertens, you have walked a portion

1 of what you believe to be the road?

2 A (Von Mertens) The entire, what I believe to be
3 the entire length of the road.

4 Q Now, what you saw up there was indication of
5 some logging that had happened up in that area?

6 A (Von Mertens) On the Bean, the Antrim Limited
7 Partnership property was logged.

8 Q Okay. If you had to describe the road, was it,
9 I don't know what you saw. But was it a path,
10 was there a gravel road? Was it just a clearing
11 of trees? What did you see?

12 A (Von Mertens) It was a broad swath along, that's
13 Tuttle Ridge there. I call it the Bean
14 property, but it's Antrim Limited Partnership,
15 but I'll call it the Bean property. That is,
16 the majority of the Tuttle Ridge somewhat level,
17 and a logging operation had cut a wide swath,
18 and I don't remember there being a road other
19 than what a logging operation would make, and
20 there was flagging, we followed flagging, and I
21 fully understand that that was preliminary
22 flagging, and that modifications have been made.

23 Q Okay. Thank you. Now, Dr. Foss, in a situation
24 like that where you have kind of a, some, maybe

1 a one-time logging event, so you don't have a
2 highly defined road, certainly don't have a
3 permanent road as you might see with an
4 operating wind project, is that edge effect
5 still in effect or is it less likely? So if you
6 were to compare a road from a wind project
7 versus a logging road from a one-time cut?

8 A (Foss) Are you talking about a logging road or
9 are you talking about a harvested area? I'm a
10 little unclear about that.

11 Q That's a good question. I'm trying to
12 characterize what Ms. Von Mertens just
13 described, and she probably described more of a
14 cut area, not a road.

15 A (Foss) Well, a cut area, particularly in this
16 part of the world, is going to revegetate pretty
17 quickly, especially if it's in a hardwood area
18 because you're going to get stump sprouts. So
19 drying effects would be a few years rather than
20 a road cut is going to be a longer term effect,
21 even if it's not a permanent paved road.

22 Q Okay. Great, thank you. Now, again, looking at
23 App. 33, Appendix 12 G, and if you can go to
24 page 2, this is one page back.

1 A (Foss) Do we have these?

2 Q I did not give you a copy of this, but I'll read
3 to you what it says. It's at the end of the
4 large paragraph there. There's a sentence that
5 says, "Gravel roads, in general, do not hamper
6 their animal, which are animal movements, and
7 narrow roads that receive only limited use such
8 as the project roads will not be a barrier to
9 the movement of any of these animals."

10 These are mammals that they're talking
11 about. Do you, do you recall seeing that
12 sentence at all?

13 A (Foss) Not specifically, but I'm sure I read it
14 at some point.

15 Q Okay. And now, you're aware that the ridge
16 roads when they're, as planned are between 35
17 and 36 feet wide?

18 A (Foss) Initially.

19 Q Do you mean before they're revegetated back?

20 A (Foss) Correct.

21 Q And in some areas it may actually be much wider.
22 Do you recall hearing that testimony depending
23 on turns?

24 A (Foss) The cleared area would be wider as a

1 result of road cuts.

2 Q Okay. And then as you said, there's a plan to
3 revegetate back to 16 feet. Now, Ms. Von
4 Mertens, when you were cross-examining one of
5 the witnesses, you had raised, you had brought
6 up Figure E.3. This will be in App. 33, E.3.
7 This is a map -- do you remember this map?

8 A (Von Mertens) Yes.

9 Q For everyone else, it would be, we're looking at
10 Figure E.3 in App. 33 which is PDF page 34 of
11 the Application.

12 Now, this map depicts the proposed
13 disturbance area, and what I wanted to point out
14 was, in particular, the spurs that are coming
15 off the main road. There's one that you see
16 turbine 1 at the very northern part of the
17 project site, and it continues, and then you see
18 a spur coming off that which would be turbine,
19 accommodating turbines 2 and 3, and then as you
20 go further down, there is a spur to accommodate
21 turbine 7. Does that sound familiar to you?
22 And I'm happy to give the panel my map if you
23 want to see if you don't have it in front of
24 you.

1 A (Von Mertens) It's hard without the map. I
2 remember the spur off for turbine 3 or 4. There
3 was a road that went out to the south.

4 MS. LINOWES: Mr. Chairman, could I just
5 hand them this map?

6 PRESIDING OFFICER SCOTT: Yes. Why don't
7 we go off the record.

8 (Off-the-record discussion)

9 PRESIDING OFFICER SCOTT: Back on the
10 record.

11 MS. LINOWES: Thank you, Mr. Chairman.

12 Q Now, what I want you to look at now, and this is
13 going to be tough because you don't have it in
14 front of you, I would like to look at App. 33
15 Appendix 7 A, sheets 10 through 18. This is a
16 plan, this is part of the detailed plans from
17 the Application.

18 PRESIDING OFFICER SCOTT: Give it to us one
19 more time?

20 MS. LINOWES: Sure. It's App. 33, Appendix
21 7 A, sheets 10 through 18.

22 Q Up on the panel, you don't see this, but it's a
23 plan showing, the actual engineering plans
24 showing where the spur for turbine 7 comes off.

1 Again, this is the detailed plans for the road
2 design where we see the spur for turbine 7
3 coming off the main road, and the reason I want
4 you to look at this is because of the proximity
5 of that spur to the main road.

6 Now, if I could call your attention to
7 WA-32x, one of the exhibits I sent out. This
8 is, 32x is an aerial photo taken at Groton Wind
9 on April 7, 2014, a year and a half after the
10 project was placed in service, and this
11 depiction shows a main road that you could see
12 closest to you and a spur coming off it to
13 accommodate a turbine. Do you see that?

14 A (Von Mertens) Yes.

15 Q Now, do you see any revegetation in that area?

16 A (Von Mertens) This is taken in April?

17 Q April of 2014.

18 MR. NEEDLEMAN: Mr. Chair, I'm going to
19 object. I don't know what relevance a photo of
20 the Groton Wind Project has to this Application.

21 MS. LINOWES: Mr. Chairman, the point I'm
22 making here is that this project, this
23 particular configuration or scenario is exactly
24 what's depicted in the Antrim Wind plan, and

1 it's showing a main road and a spur coming off
2 it, and I just wanted to demonstrate what that
3 looks like here in the State of New Hampshire
4 where we have two roads that are very close to
5 each other.

6 MR. NEEDLEMAN: I would disagree with that.
7 I'm not at all sure it represents the same type
8 of situation just because there are two roads.
9 I'm not sure there's the same cut that's going
10 to occur. I'm not sure there's the same ledge.
11 I'm not sure it's going to be done in the same
12 manner. So I object to this in any way being
13 considered a representation of something related
14 to this project.

15 MS. LINOWES: Mr. Chairman, since we don't
16 have anything but plans that are on paper,
17 there's nothing else that we can point to so
18 this, if you want to object to say that this
19 project will look nothing like Groton Wind,
20 that's okay, but this is an example of exactly
21 the same kind of -- you can ignore the ledge
22 cuts that are happening in the back there. This
23 is exactly the same kind of layout that's
24 depicted in the plan that we're seeing from

1 Antrim Wind.

2 MR. RICHARDSON: Mr. Chairman, I'm also
3 concerned because I don't know enough about the
4 Groton Wind record to know what erosion control
5 measures they have. I do know that there were
6 some violations that occurred in that project.
7 I assume DES has addressed those, and I'm not
8 sure we can connect with these witnesses the
9 experience in Groton to what the experience will
10 be in Antrim. I mean, this is a highly
11 technical field that might be appropriate for a
12 civil engineer, but I'm not sure how we --

13 MS. LINOWES: The erosion control issues in
14 Groton Wind have nothing to do with the roads
15 here. This is simply representative of what a
16 road could look --

17 PRESIDING OFFICER SCOTT: Briefly on this
18 topic, I'll let you go. We've heard the
19 objections and we'll give that due
20 consideration. Are you going to spend a lot on
21 this topic?

22 MS. LINOWES: No, I'm not. Thank you,
23 Mr. Chairman.

24 BY MS. LINOWES:

1 Q Now, one moment. Okay. So looking at the plan
2 though, look at the plan. We have a main road,
3 then we have a spur coming off it, and the
4 proximity of the main, not looking at the
5 picture now, we're looking at the plans. The
6 proximity of the spur road to the main road
7 leaves very little room for the connection
8 between the two. There's little to be forested
9 between the two roads. If you could just, let's
10 forget that this is Groton Wind in the
11 photograph, you don't have a plan in front of
12 you, but if you can envision that that
13 photograph is actually a plan for a road coming
14 off another road. That space in between the two
15 roads will be small and not highly forested.

16 So the question, where I'm going with this
17 is the idea that the claim within the
18 Application that gravel roads in general do not
19 hamper animal movements, and narrow roads that
20 receive only limited use such as the project
21 roads will not be a barrier to movement, if you
22 have two roads that are fairly close together
23 and not a lot of forest in between them, how
24 well do you think wildlife will respond to

1 something like that?

2 A (Foss) Well, it's similar to the pedestrian
3 islands that are becoming more prevalent, at
4 least in the city of Concord, across large, wide
5 streets. If there is cover in between, then
6 there is a shelter in between the two roads so
7 crossing two narrow roads is not quite as
8 dangerous as crossing one very wide road if
9 you're talking about small mammals and the risk
10 of predation.

11 Q You're saying provided there's some, there's
12 assurance there's some forested or vegetative
13 buffer that's between the roads?

14 A (Foss) Vegetated buffer and a forested buffer
15 are two, can be two quite different things.

16 Q So let's, is there, are you assured by looking
17 at the project plans that there will be an
18 vegetative buffer or forested buffer between the
19 roads that are fairly close together on the
20 Antrim Wind Project?

21 A (Foss) Unless it's all ledge, I see no reason to
22 believe that there will not be vegetation in
23 that area.

24 Q But you don't, is there anything in the record

1 that tells you that there is going to be, do we
2 know if there's going to be all ledge or if
3 there's going to be a problem? Do we know?

4 A (Foss) Well, I believe that the Applicant has
5 stated that where necessary there will be loam
6 provided to facilitate revegetation. So if we
7 are to trust that, I see nothing in the record
8 to dispute that.

9 Q So if the road is unable to be vegetated back
10 due to ledge and other topographical obstacles,
11 do you agree the impacts would be larger than
12 anticipated?

13 A (Foss) State the first part again?

14 Q If the road is unable to be revegetated back due
15 to ledge or other topographical obstacles --

16 A (Foss) My sense is that small mammals would
17 probably not venture out there rather than that
18 they would venture out there and be more subject
19 to predation.

20 Q And how about larger mammals? How about bear?

21 A (Foss) If you're talking about moose and bear,
22 they're quite willing to cross roads.

23 Q In all instances? In all instances?

24 A (Foss) Well, not if there's a convoy of trailer

1 trucks going down it at 70 miles an hour, but I
2 spend enough time on logging roads in Coos
3 County to know that large mammals don't have
4 much issue crossing gravel roads with light
5 traffic.

6 Q Okay. Let me just ask you these two quick
7 questions. Other than general statements in the
8 application regarding narrow, limited use roads,
9 are you aware of any information in the docket
10 record that discusses use of the project area by
11 bear, moose, fisher, bobcat or other mammals?

12 A (Foss) I honestly don't remember.

13 Q If there's anything in the record. Not what
14 your knowledge of the space is. Of the project
15 site. Of anything in the record.

16 A (Foss) I don't know.

17 Q Other than general statements in the Application
18 regarding narrow, limited use of roads, are you
19 aware of any information in the docket that
20 discusses the impact of the project's
21 construction or operation on bear, moose,
22 fisher, bobcat or other mammals?

23 A (Foss) I don't remember.

24 Q Okay. Thank you. Now, during cross-examination

1 of Mr. Valleau and Gravel, when they were asked
2 why did they not consider additional studies to
3 assess the use of the project area by wildlife,
4 including bear and moose, they suggested that,
5 they placed the responsibility on Fish & Game.
6 Do you recall that discussion?

7 A (Foss) I do.

8 MR. NEEDLEMAN: I'm going to object to the
9 characterization of that. I don't think they
10 placed the responsibility on Fish & Game. I
11 think they testified that they consulted with
12 Fish & Game as part of their efforts.

13 MS. LINOWES: Mr. Chairman, if I could read
14 from the transcript. This would be page, this
15 would be from September 15th, 2016, Day 2,
16 Afternoon Session, and I'm on page 95, and Mr.
17 Valleau says, "So early on in the process before
18 we set foot on the ground anywhere, we sat down
19 with New Hampshire Fish & Game and U.S. Fish &
20 Wildlife Service to talk about whatever range of
21 studies they may be interested in, and among
22 those studies they're interested in, one did
23 include amphibians, vernal pool surveys, and we
24 did perform a vernal pool survey, but at no time

1 did they request any other survey for land
2 mammals or animals."

3 Do you recall hearing that?

4 A (Foss) Yes.

5 Q And so now what I would like to do is call your
6 attention, and call your attention to WA-34x
7 which is another Exhibit I handed out, and if
8 you could go to the second page, specifically
9 this document, do you recognize this document?

10 A (Foss) I do.

11 Q Okay. Can you tell us what it is?

12 A (Foss) It is the notes from a joint meeting of
13 New Hampshire Audubon's Environmental Policy
14 Committee and Sanctuaries and Land Management
15 Committee on August 12th of 2011.

16 Q Thank you. And this was provided to, in
17 response to the Applicant's data request from
18 the technical session, is that correct?

19 A (Foss) Correct.

20 Q Okay. By you? Or by Audubon? It was made
21 available, correct?

22 A (Foss) Correct.

23 Q Thank you. And what I want to do is point out
24 at the top it says who's present so, Dr. Foss,

1 you were present at this meeting?

2 A (Foss) I was.

3 Q Ms. Von Mertens, you were also present?

4 A (Von Mertens) Yes.

5 Q And Ms. Von Mertens, I believe that you prepared
6 these minutes; is that correct?

7 A (Von Mertens) I seem to be stuck with that any
8 committee I'm a member of. Yes, I did.

9 Q This was a meeting where Mr. Steve Webber and
10 Charlie Bridges from New Hampshire Fish & Game
11 came to speak to you about wind energy
12 development? Or was there something else? Was
13 there a more overreaching discussion?

14 A (Foss) I believe that we were discussing
15 potential impacts of wind energy development on
16 wildlife in general.

17 Q Okay. Thank you. Now, and the third paragraph
18 beyond, after where it talks about attendance,
19 the last sentence of that paragraph, this is the
20 paragraph that begins Charlie Bridges
21 referenced. The last sentence says he, Charlie
22 Bridges, said, "New Hampshire Fish & Game is in
23 the learning stage, relying on environmental
24 consultants hired by developers to learn impacts

1 on wildlife as best they can."

2 Do you see that?

3 A (Foss) I do.

4 Q Then he goes on to say, "So the big question is
5 buildout, cumulative impacts, and what happens
6 to a site after the turbines are gone. At the
7 State level, no one is having those discussions
8 or has funding to do so." Do you see that?

9 A (Foss) Yes.

10 Q So this document was 2011. This would have been
11 August 2011. I believe this would have been
12 after the Groton Wind Project was approved and
13 perhaps it was under construction. Do you
14 recall?

15 A (Foss) I do not know the timetable of the
16 various projects.

17 Q It would have been around the same time that
18 Antrim Wind was also speaking to Fish & Game
19 about their project; is that correct?

20 A (Foss) I can't comment on that timetable.

21 Q In essence, what I'm reading here is that Fish &
22 Game relies on the environmental consultants for
23 the wind companies to help them understand what
24 studies could be done. Would you say that was a

1 fair characterization of what he's saying?

2 A (Foss) If it was a fair characterization in
3 2011, I would not presume that it is a fair
4 characterization in 2016.

5 Q I understand that. And that's, this is, this is
6 Mr., what I read was Mr. Valleau's description
7 of his first meetings with Fish & Game back on
8 the prior docket.

9 A (Foss) Say that again?

10 Q What I had read from the transcript that Mr.
11 Valleau was describing, he was talking about his
12 first meetings with Fish & Game and U.S. Fish &
13 Wildlife Service on the prior docket.

14 A (Foss) That was not my interpretation of what he
15 said.

16 Q From a couple weeks ago?

17 A (Foss) Correct.

18 Q He says, so early on in the process, before we
19 set foot on the ground anywhere? That's how he
20 precedes his statement.

21 A (Foss) Okay.

22 Q Okay. I'll move on. Now, one of the other
23 points raised in that same paragraph, the
24 sentence just before where he says in the case

1 of Antrim Wind, New Hampshire Fish & Game. He
2 says in that sentence, "In the case of Antrim
3 Wind, New Hampshire Fish & Game mentioned the
4 bald eagles nesting near the site as they have
5 federal status." Do you see that?

6 A (Foss) Yes.

7 Q Okay. Now, are you aware of any active bald or
8 golden eagle nests in the project site or around
9 it?

10 A (Foss) There are no golden eagles nesting in the
11 eastern United States. There is a bald eagle
12 nest within five miles perhaps of the project
13 area.

14 Q Within five miles? Do you know where it is?

15 A (Foss) I don't remember the exact miles, but
16 within --

17 Q You've seen it --

18 A (Foss) -- within the radius that the Fish &
19 Wildlife Service requires aerial surveys which
20 were completed for this project.

21 Q Okay. And do you know how many nests were
22 identified?

23 A (Foss) I believe at the time of the prior docket
24 there was one. I believe there are now two

1 within, I believe it's a ten-mile radius.

2 Q Okay. And if I may ask, when there's a nest,
3 that means there's a mating pair? So there
4 would potentially be four eagles? I'm just
5 asking you generally.

6 A (Foss) Well, there would definitely be two, a
7 male and a female. I'm not sure where you're
8 getting the four.

9 Q Per nest. You said two nests.

10 A (Foss) Oh, two nests. Yes. Two pairs.

11 Q Okay. So now I want to, I would like to look
12 back at E.3 again, very quickly, and you have
13 the map in front of you, but this map, what you
14 can see from the map is you have a very large
15 water body called Gregg Lake on the eastern side
16 of the project, and you also have Willard Pond.
17 And on the other side of the ridge you have the
18 North Branch and you have a, what appears to be
19 a very large wetland area called Loverens Mill
20 area. Do you see that?

21 A (Foss) Yes.

22 Q Would you expect eagles to fly or any water fowl
23 to be flying in that area? I'm talking,
24 specifically eagles, bald eagles?

1 A (Foss) Well, from the nest sites in question,
2 it's unlikely that members of either pair would
3 be crossing the ridge in the area of the
4 project.

5 Q Because of where they're located?

6 A (Foss) Correct.

7 Q Are you not able to say where they're located?

8 A (Foss) One is north of the project area and a
9 bit to the east. One is south of the project
10 area and a bit to the west. So, for example, if
11 either of those pairs were to access Willard
12 Pond, they would likely come in either below the
13 project area or above the project area. Willard
14 Pond is not, well, let me rephrase that. The
15 project area is not in a direct line from either
16 nest area to Willard Pond.

17 Q I want to make sure I understand what you're
18 saying. So you're saying that they would bypass
19 the ridgeline? All together? They would fly
20 around it? There's no direct route, you're
21 saying, if they were trying to get to Willard
22 Pond?

23 A (Foss) Correct. I'm suggesting that whether or
24 not there were turbines on the ridge, it is

1 unlikely that eagles from either nesting area
2 would cross the ridge traveling between their
3 nest site and Willard Pond.

4 Q Okay. Then I just have a few more questions.
5 If I can draw your attention to App. Appendix 12
6 B, and this will be PDF page 18 of 24. In any
7 event, it says, the document here is App. 33,
8 Appendix 12 B, PDF page 18.

9 MR. IACOPINO: B?

10 MS. LINOWES: Yes. B as in boy.

11 Q There's a discussion about bald and golden
12 eagles recorded in the vicinity of the project
13 site, and it states, a total of 14 bald eagles
14 were recorded; three in the spring, 11 in the
15 fall. Six were judged to have passed within 50
16 to 500 foot -- six were judged to have passed
17 within the 50 to 500 foot above-the-ground
18 range.

19 A (Foss) I think that's from the migration
20 studies?

21 Q 12 B. Sorry. I lost web access so I'm dark --

22 MR. IACOPINO: 12 B is the Daytime Raptor
23 Migration Survey Report.

24 MS. LINOWES: Thank you very much.

1 Q So yes, that would be it.

2 MR. IACOPINO: What page were you on?

3 MS. LINOWES: PDF page 18.

4 Q And it also says, "A total of three golden
5 eagles were observed in the fall of 2011. Two
6 of those were judged to have passed within the
7 50 to 500 foot above ground range within the
8 proposed project area." So they did observe
9 eagles in the project area.

10 A (Foss) Yes.

11 Q Does that surprise you?

12 A (Foss) Not during migration.

13 Q So you're saying that they may not be resident
14 eagles, but they may be flying through the area?

15 A (Foss) Correct.

16 Q Is it conceivable if they're flying through the
17 area, they may stop over at Loveren Mill area,
18 they may stop over in the Willard Pond --

19 A (Foss) It's conceivable. Yes.

20 Q Okay. Thank you. To your knowledge, has U.S.
21 Fish & Wildlife Service recommended an eagle
22 take permit for this project?

23 A (Foss) To my knowledge, they have not.

24 Q To my knowledge, has Audubon encouraged Antrim

1 Wind to seek out an eagle take permit?

2 A (Foss) Well, I know that they are not issuing
3 take permits for goldens east of the
4 Mississippi.

5 Q We're talking about bald eagles.

6 A (Foss) Balds. I have discussed this project
7 with the Fish & Wildlife Service, and they do an
8 analysis to determine when they feel a take
9 permit is appropriate, and I defer to them in
10 this situation.

11 Q Do you know when you had that conversation?

12 A (Foss) I would say after the application was
13 filed and before April 1st. So some time late
14 winter/spring.

15 Q Of this year?

16 A (Foss) Correct.

17 Q And they didn't give you any finding at all? Or
18 did they?

19 A (Foss) My question to them was would this new
20 application require new migration studies, and
21 they reviewed the information that had been
22 submitted previously and concluded that it was
23 within whatever time frame and that escapes me
24 at the moment, but it might be ten years. That

1 when migration studies are done, they consider
2 them adequate for a certain period of time, and
3 that they were not going to require new studies
4 or new analysis.

5 Q Did you ask them if they were going to require
6 an incidental take permit on eagles?

7 A (Foss) I honestly don't remember.

8 Q Thank you. So now I'd like to call your
9 attention to WA-33. This is the last of my, no,
10 I have one more after this. WA-33. Do you
11 recognize these maps? There are two there. Do
12 you recognize them?

13 A (Foss) Yes.

14 Q So the only, these would be the maps from the
15 Wildlife Action Plan for New Hampshire showing
16 high-ranking habitat, correct?

17 A (Foss) Correct.

18 Q The first one is from 2010 and then they were
19 updated in 2015. Do you see that?

20 A (Foss) Yes.

21 Q Okay. Good. Now, the magenta, I'm going to
22 call your attention to the magenta and green and
23 I don't have the legend here, but do you recall
24 what those mean?

1 A (Foss) I believe that the magenta is the highest
2 ranking habitat.

3 Q Correct. Okay. And the second, the green is
4 the highest ranked habitat in the biological
5 region?

6 A (Foss) Yes.

7 Q And then you have the dark yellow is supporting
8 landscapes?

9 A (Foss) Correct.

10 Q Now, what I have imposed on here are the turbine
11 sites, and there's a difference between what
12 happened in 2010 and 2015, do you see that?

13 A (Foss) Yes.

14 Q So most of the turbines in 2010 under the 2010
15 ranking fell outside of the high value area.
16 Would you agree with that?

17 A (Foss) Yes.

18 Q And then when you went into this year, or 2015,
19 now all of the turbines appear to be either in
20 the highest ranked habitat or highest ranked
21 biological, in the biological region, you see
22 that?

23 A (Foss) Yes.

24 Q Do you disagree with what you're looking at?

1 A (Foss) No.

2 Q Can you tell me what changed? Granted, the maps
3 changed, but do you know what the thinking was
4 in Fish & Game for expanding that area?

5 A (Foss) I would need to go back to the, I
6 shouldn't say formula, but to the process that
7 they used for analysis for the state. I know
8 that there were some changes in the process. I
9 was not personally involved in the revision of
10 the Wildlife Action Plan, and I can't comment on
11 the details of the changes.

12 Q When you say that the process changed, are you
13 saying that the weighting that they used back in
14 2010 versus 2015 changed? Or the
15 characteristics that they were looking at? Or
16 was something identified or found in that area
17 that changed the ranking? Do you know?

18 A (Foss) I do not know.

19 Q Do you know if there's a bat hibernacula in that
20 area?

21 A (Foss) Hibernaculum. I know there's a colony in
22 the barn at Willard Pond. Whether it is a
23 winter hibernaculum or not, perhaps someone else
24 on the panel knows. I'm not our bat specialist.

1 Q But there is a, but there are bats?

2 A (Foss) There are certainly bats in the summer.
3 I am not aware of any caves or old mines in the
4 vicinity that would be suitable as a
5 hibernaculum.

6 Q All right. Thank you. And if I could draw your
7 attention, I know that you don't have this, but
8 just for others looking at this, in App. 22,
9 which is the Supplemental Testimony Valleau and
10 Gravel, there is an attachment DV&AJG-1. It's
11 attached to their Supplemental Testimony. And
12 there they have the map, the updated map where
13 they also show that now there's been an increase
14 in the amount of impact, number of acres, that
15 are in the, that have been impacted now that are
16 high value ranking so, okay.

17 Now, the reason I'm asking about the bats,
18 I have my last set of questions, and I'll be
19 done. If you can, if we can look back and
20 WA-34, this would be your minutes again from
21 2011. And, Dr. Foss, if I could draw your
22 attention to the last page, there's a paragraph
23 that reads, "In terms of impact mitigation".
24 It's about the fourth paragraph from the bottom,

1 and there, Dr. Foss, you're saying there are
2 three levels, avoidance, minimization and
3 compensation, and then you talk about, little
4 bit further down, you talk about feathering the
5 blades, mandating blades that can be feathered
6 at certain times thereby creating less
7 barotrauma to bats. Do you see that?

8 A Yes.

9 Q So you're aware that turning the turbines off at
10 certain -- or raising the cut-in speed on the
11 turbines can reduce mortality on bats?

12 A (Foss) Yes.

13 Q During the migration period or when they're
14 active?

15 A (Foss) Yes. I will say that the phenomenon of
16 barotrauma has come into considerable question
17 since 2011 so --

18 MR. IACOPINO: Of what trauma?

19 A (Foss) Barotrauma. There was a time when some
20 evidence suggested that rather than direct
21 collision with the hard surface, bats and some
22 small birds were being killed by collision with
23 the air pressure. That has come into
24 considerable question in the scientific

1 community. I won't say that it's been decided
2 one way or another. The jury is still kind of
3 out, but it has been called into serious
4 question so I just wanted to --

5 Q That's fine. Are you okay with that, Mike?

6 But you're not saying, there's no question
7 in your mind that by raising the cut-in speed of
8 the turbines during migration period that that
9 has resulted in a significant reduction in bat
10 mortality at the operating wind projects?

11 A (Foss) Yes.

12 Q And you're aware that the BBCS, the Bat and Bird
13 or Bird and Bat Conservation Strategy that's
14 provided us part of the Application calls for
15 testing of half the turbines or some of the
16 turbines and raising the cut-in speed on some of
17 them and evaluating the effect?

18 A (Foss) Correct.

19 Q And you were also present when we discussed with
20 Mr. Gravel that in the State of Vermont that's a
21 requirement that the ANR is imposing on
22 operating projects within the State of Vermont?

23 A (Foss) Yes.

24 Q For all turbines?

1 A (Foss) Yes.

2 Q You're aware there was significant study that
3 was done at the Sheffield Wind Project. Are you
4 aware of that?

5 A (Foss) I was not.

6 Q Okay. Now, the reason I'm bringing this up, I
7 want to draw your attention to one last exhibit,
8 and I promise, Mr. Chairman, I'll be done. This
9 would be WA-35x. Now, what this is is a press
10 release written in North American wind power
11 from the American Wind Energy Association?
12 You're familiar with American Wind Energy
13 Association?

14 A Yes.

15 Q They put out an announcement in 2015 stating
16 that their member companies are going to
17 voluntarily implement a program where they are
18 raising the cut-in speed on their projects.

19 A (Foss) Yes.

20 Q And you're aware of that?

21 A (Foss) Yes.

22 Q And so it says here, this is the fourth
23 paragraph down, "AWEA says that on the ground
24 research over the past decade at a number of

1 operating wind farms has shown that slowing down
2 the blades' rotation can significantly reduce
3 the collision risk for bats in low wind speeds
4 conditions." You see that?

5 A Yes.

6 Q So the American Wind Energy Association, its
7 members and State of Vermont and others have
8 decided that the science is solid on this issue,
9 and it doesn't vary from project site to project
10 site. Are you aware of that? Do you agree with
11 that?

12 A (Foss) I'm thinking about the variation from
13 project site to project site. Certainly bat
14 densities vary from project site to project site
15 so -- but the effectiveness of this mitigation
16 technique has been demonstrated to be effective
17 at all project sites.

18 Q So in that case, would it not be prudent given
19 the loss of bats in the State of New Hampshire
20 so far to white nose and other impacts, would it
21 not be prudent to simply adopt what AWEA has
22 already put out there as the plan rather than
23 running yet another test at the Antrim Wind
24 project?

1 A (Foss) Well, there's two pieces of my answer to
2 that. One is that yes, it would doubtless be
3 prudent. However, the bat species that are
4 affected by white nose are primarily different
5 species than the primary mortality cases with
6 wind farms. So there isn't a direct
7 relationship between white nose and wind turbine
8 mortality.

9 Q I appreciate that, and I apologize for making
10 that connection. I should not have done that.
11 I was talking about our bat population overall.
12 Granted that different species of bat are under
13 different stresses. Would it be prudent to
14 simply, to implement what other projects are
15 already doing?

16 A (Foss) Yes, it would be prudent.

17 Q Thank you very much. Thank you, Mr. Chairman.

18 PRESIDING OFFICER SCOTT: Thank you.
19 Mr. Ward? You said you had no questions, is
20 that correct?

21 MR. WARD: No.

22 PRESIDING OFFICER SCOTT: Okay. Ms. Allen,
23 do you have questions?

24 MS. ALLEN: Yes.

CROSS-EXAMINATION

1
2 BY MS. ALLEN:

3 Q Concerning the well-established bald eagle nest
4 at Nubanusit Lake in Hancock, there have been
5 reported sightings of young eagles fishing or at
6 least practicing their new fishing skills at
7 Gregg Lake. Are you aware of those reports?

8 A (Foss) I am not.

9 Q Well, if they are true, given the location of
10 the nest site at Nubanusit, how would the eagles
11 approach Gregg Lake?

12 A (Foss) I am not an eagle, and to my knowledge
13 none of these birds have been telemetered so
14 this is more conjecture, but it wouldn't
15 surprise me if they were to follow a route that
16 went over as much water as possible. So it
17 wouldn't surprise me if they went, say, from
18 Nubanusit to Willard and then up that east side
19 to Gregg Lake. That's what I'd do if I was an
20 eagle, but failing telemetered birds, we really
21 don't have any way to know.

22 Q Okay. Thank you.

23 PRESIDING OFFICER SCOTT: Is that all for
24 your questions?

1 MS. ALLEN: Yes. That's the last question.

2 PRESIDING OFFICER SCOTT: Thank you.

3 Mr. Jones? Do you have anything?

4 MR. JONES: Yes, I do.

5 **CROSS-EXAMINATION**

6 BY MR. JONES:

7 Q Raptors use hills for, and the updrafts that are
8 created from topographic relief to gain
9 altitude?

10 A (Foss) Correct.

11 Q And I can remember years ago flying over Tuttle
12 Hill right over Gregg Lake. And I was impressed
13 with the acceleration of speed as we went right
14 over the top of Tuttle Hill, and it wasn't
15 really that windy a day, but it was windy. So
16 recognizing that this hill has some unique
17 aerodynamics to it, and I'm sure the birds use
18 it, how would a wind farm affect that air flow
19 and their use of a hill like this for updrafts?

20 A (Foss) I am not an aerodynamic engineer.

21 Q Do you think it would impact them at all?

22 A (Foss) That's an interesting question, and I
23 really don't know how the turbulence generated
24 by rotating turbines would affect that updraft.

1 My last physics class was a long time ago. I
2 really can't comment on that.

3 Q But it's reasonable to at least expect it might
4 influence it.

5 A (Foss) Yes.

6 Q Can you explain what forest fragmentation is?
7 Forest fragmentation involves interruptions to
8 continuous forest cover which can be in patches
9 or can be linear.

10 Q And if you have a road that's three miles in
11 length on a ridgetop 20, 30, 40 feet wide, that
12 would create an edge effect, a linear edge
13 effect that would be a form of fragmentation?

14 A (Foss) Yes.

15 Q Would you agree with this statement: Edge
16 effects are more complicated than other kinds of
17 fragmentation. They alter growing conditions
18 within interior forests through drastic changes
19 in temperature, moisture, light and wind.

20 Would you agree with that?

21 A (Foss) I agree with the last part of it. The
22 part about more complicated than other forms of
23 fragmentation, I don't really understand what
24 that is saying so I don't want to go there.

1 Q That might be taken out of context so just
2 ignore that part. These kinds of edge effects
3 trigger a cascade of ill effects on health,
4 growth and survivability of trees, flowers,
5 ferns and lichens and an array of secondary
6 effects on animals that depend upon them in this
7 area?

8 A (Foss) I would agree with that. I think I've
9 already testified to that this afternoon.

10 Q Okay. And one other continuation of that
11 thought is that while edge effect fragmentation
12 may not impact generally species like deer,
13 raccoon, blue jays which may actually benefit
14 from this form of fragmentation, it is hell on
15 interior dependent species like salamanders,
16 goshawks and bats and flying squirrels. Would
17 you agree with that?

18 A (Foss) I would agree with the statement that
19 edge effects benefit some species and are
20 detrimental to others. I don't want to get into
21 a discussion of the details of particular
22 species at this point.

23 Q But it could have a negative impact on a number
24 of species, would you agree?

1 A (Foss) Correct.

2 Q In the Supplemental Testimony by Dana Valteau
3 and Adam Gravel on page 2, lines 7 and 8, they
4 say that the construction of Antrim Wind project
5 will not result in any significant habitat
6 fragmentation or adverse impacts on wildlife.
7 Would you agree with that?

8 A (Foss) Not entirely, no.

9 Q What do you disagree with?

10 A (Foss) Well, I think that they themselves have
11 acknowledged that there will be impacts. I
12 think that professionals can disagree on how
13 significant given impacts may be.

14 Q Well, one of the biggest threats facing wildlife
15 and biodiversity is habitat loss. Is it not?

16 A (Foss) That is true.

17 Q And fragmentation of large forest blocks results
18 in habitat loss.

19 A (Foss) Correct.

20 Q And even if you have a small incision of a road
21 and a wind farm in a large unfragmented forest
22 block, it may seem harmless in the beginning,
23 but is it not the incipient stage of
24 fragmentation of a larger area?

1 A (Foss) I would say that depends on the
2 circumstances. I would say that were that road
3 to be built, it would have a substantial impact
4 on the size of that unfragmented block in a
5 future iteration of the Wildlife Action Plan's
6 analysis.

7 Q And you're familiar with the Wildlife Action
8 Plan?

9 A (Foss) Yes.

10 Q What role does it have in a project like this
11 and in a process like this?

12 A (Foss) That's a really good question. Fish &
13 Game clearly has no regulatory authority in this
14 process. The Wildlife Action maps are provided
15 as guidance for communities and individuals to
16 point them in directions of areas that are of
17 high quality that should be avoided to the
18 extent possible for fragmentation and
19 development, and areas that would have less
20 impact, i.e., the areas that are not magenta or
21 green or orange on the maps, which are areas
22 where development can occur with less impact to
23 wildlife habitat.

24 Q So in the absence of a statewide master planning

1 process, it seems like a document like this
2 might be useful for the Site Evaluation
3 Committee in assessing what kind of decision
4 they might make?

5 A (Foss) Yes.

6 Q Do you think they should place a fair amount of
7 weight on this plan?

8 A (Foss) That would be nice.

9 Q Niceties set aside, I mean, it is the intent of
10 the Fish & Game Department to have this document
11 be used in land use decisions that are made
12 either on a local level or on a statewide or
13 regional level; is it not?

14 A (Foss) Yes.

15 Q Does New Hampshire Audubon agree with the fact
16 that we need to curb greenhouse gasses?

17 A (Foss) Yes.

18 Q Does New Hampshire Audubon agree with the fact
19 that we need to curb our fossil fuel
20 consumption?

21 A (Foss) Yes.

22 Q Does the Audubon Society agree that we need to
23 protect land?

24 A (Foss) Yes.

1 Q Antrim Wind Energy on paper does all three of
2 these. Yet the Audubon Society does not support
3 this project. Can you tell me why?

4 A (Foss) As we have heard testimony earlier today,
5 there is some controversy regarding the total
6 savings of carbon output afforded by wind
7 projects. This is not our area of expertise,
8 but we do hope that the SEC will investigate the
9 analysis that Mr. Wilgus provided this morning
10 and get a clear picture. With wind projects, as
11 with many other things, it's not just the
12 immediate project, but the, I guess, the
13 collateral energy sources that are associated
14 with use of a particular source. For example,
15 in New Hampshire, we burn coal. In the southern
16 Apps, they remove mountaintops to get coal. So
17 it's not just generation, but you have to look
18 at generation and use and what else is involved.
19 Anyway. We aren't convinced that the
20 contribution of this project to reduction of the
21 state's carbon output as a benefit of the
22 project outweighs the costs of the project in
23 terms of disturbing this particular landscape.

24 Q So do you think that there's a place for wind

1 energy as a renewable alternative in New
2 Hampshire's landscape?

3 A (Foss) In some locations.

4 Q So site makes a difference.

5 A (Foss) Site is everything when it comes to wind.

6 Q So if you were going to locate one of these wind
7 farms, you would rather see it put on a hill
8 where it does the least amount of damage as
9 opposed to the most amount of damage?

10 A (Foss) Certainly.

11 Q Thank you.

12 PRESIDING OFFICER SCOTT: Mr. Block?

13 **CROSS-EXAMINATION**

14 BY MR. BLOCK:

15 Q Hello. Just a few questions. First question
16 really any of you could answer for me.

17 Mr. Raphael in his Visual Impact Assessment on
18 page 90 describes Willard -- actually, let me go
19 first to page 89 under, talking about Duration
20 of View, he describes views of the project are
21 present, but they're ever-changing due to
22 shifting location and viewpoint; i.e., a paddler
23 or fisherman is constantly moving and shifting
24 direction. He continues below that. Views are

1 continually changing and are mitigated by the
2 activity; e.g., paddling or fishing. Focus is
3 ever-changing from immediate shoreline to
4 distant shoreline to long-distant views to
5 water.

6 Have any of you ever sat in a boat on
7 Willard Pond or any other pond for that matter
8 and just sat still for a while and looked at the
9 scenery?

10 A (Bechtel) Yes.

11 A (Von Mertens) Yes.

12 Q I see nodding. Do you think that you would be
13 affected sitting on Willard Pond in a boat by
14 views of the turbine?

15 A (Bechtel) Yes.

16 Q On the next page, page 90 in here, Mr. Raphael
17 under remoteness describes --

18 A (Von Mertens) Could I expand my answer a little
19 bit? You know, here's two individuals saying
20 yes. That's who we are. We like to, that's
21 why, we like to relax. Can't wait for tomorrow
22 actually. Probably other people, too. People
23 who know Willard Pond, boaters, dawdle, and I
24 think Mr. Raphael said well, it's not some place

1 you're going to go for a cardiac exercise. I
2 absolutely agree. You would not go there to get
3 your exercise. It's where you go to dawdle and
4 enjoy, and I think everyone here has been in
5 that situation.

6 Q Thank you. Continuing here on page 90 under the
7 topic of remoteness. Mr. Raphael's description
8 of Willard is this is not a remote wilderness
9 pond. It is a human-altered pond where water
10 levels are regulated. It is not identified by
11 the New Hampshire Department of Fish & Game as a
12 remote trout fishery. And he then describes,
13 says, development is minimal.

14 This results, this statement results in
15 Mr. Raphael's making a moderate overall viewer
16 effect rating, and then he describes any
17 resource that emerges with a low to moderate
18 rating, the effect to the reasonable viewer is
19 not considered significant.

20 So getting down to the bottom line here, do
21 any of you anticipate that the potential
22 presentation of these turbines will be
23 significant or not?

24 A (Bechtel) I would say the decision for us to be

1 at this table reflects that we think the impact
2 is significant to visitors of Willard Pond.

3 A (Foss) I'd like to expand upon that a little
4 bit. I spend a fair amount of time in the
5 spring doing field work in Coos County, and I
6 have occasion to observe the Granite Reliable
7 Project from distances varying from half a mile
8 to over 11 miles. While at a distance, say,
9 from Errol Hill, what strikes your eye is the
10 row of vertical elements on the ridgeline. At
11 close distances, say, within four or five miles,
12 what you're aware of is the movement of the
13 blades. It's that, I think we're programmed as
14 human beings to be drawn to movement. Certainly
15 folks who are observing wildlife are drawn to
16 movement. And I believe that the furthest
17 turbine from the dam at Willard Pond is within
18 four miles. I may be a little off, but it's in
19 that range. So in my experience, the motion of
20 those turbines would be very distracting to
21 someone using the pond.

22 Q Turbine number 9 seems to keep coming back in
23 these discussions, particularly on its specific
24 effect now that the project has been altered

1 somewhat. Its specific effect on Willard Pond.
2 On page 1 of the Visual Assessment, Raphael
3 states, quote, "Turbine 9 has reduced in height
4 whereby eliminating those turbines that were
5 most prominent particularly when viewed from
6 Willard Pond and Bald Mountain."

7 In Jack Kenworthy's Prefiled Testimony
8 which is App. 10, he says on the bottom of page
9 8, quote, "In the reconfigured project design,
10 AWE has significantly reduced the height of
11 turbine 9 to eliminate visibility of the tower
12 and the nacelle from Willard Pond and thus
13 substantially reduce its visual impact."

14 In your opinion, again, any opinion there,
15 how much reduced visible impact could be
16 expected from turbine 9?

17 A (Foss) Again, in my experience at that distance,
18 it's not the tower or the nacelle that draws
19 your attention. It's that moving blade, and in
20 my experience even when I am trying really hard
21 to focus my attention on a particular area, that
22 one blade coming over the horizon draws the eye.

23 Q So do you think that this changed configuration
24 would now at all be acceptable to reasonable

1 users of Willard Pond?

2 A (Foss) I'm having trouble with the word
3 acceptable.

4 Q I'm speaking of turbine number 9 specifically.

5 A (Foss) I'd like to get rid of your word
6 acceptable and say that I believe that turbine 9
7 would still have a significant effect on users
8 of the pond. What someone considers acceptable,
9 I don't know.

10 Q Ms. Von Mertens, were you present on the
11 Intervenor site visit to the Tuttle Ridge on
12 July 10th, 2012? The hike across the ridge.

13 A (Von Mertens) I was thinking the Site Evaluation
14 Committee, and I didn't remember them coming
15 along. I was. I did walk it with you.

16 Q Do you recall the large boulder formations on
17 the ridge?

18 A The glacial boulders, yes.

19 Q Did the proposed access road appear to be laid
20 out right through these boulders?

21 A (Von Mertens) When I was questioning the fellow
22 the other day about the roads and cuts and
23 fills, I said that it was, those flags were as,
24 my assessment was that those flags were as the

1 crow flies. They were just a straight shot.
2 And as we all agreed you couldn't build a road
3 down there. So they've reconfigured to get the
4 12 percent grade so I think those flags were
5 very preliminary.

6 Q So for anybody up there, did you hear
7 Mr. Cavanagh's use of the word "demolished" a
8 couple of weeks ago to describe the fate of
9 those boulders?

10 A (Foss) I did.

11 Q Other than their geologic interest, do you have
12 any thoughts about the boulders' significance in
13 terms of habitat for flora and fauna?

14 A (Foss) Well, fauna more significantly than
15 flora, but there are a number of mammal species
16 that use such boulder piles, so to speak, as
17 denning sites, and even turkey vultures will
18 nest in crevasses in such boulder piles.

19 Q So, therefore, do you have any concerns about
20 the impact to the ridge if those boulders are
21 demolished?

22 A (Foss) Those boulders are actually one of my
23 personal greatest concerns about habitat change
24 on the ridge.

1 Q Okay. Another question for you, Ms. Foss. I'm
2 not sure if this was specifically addressed in
3 your testimony, but do you see any potential
4 effects or impacts to the watersheds of Willard
5 Pond, Gregg Lake and the North Branch River as a
6 result of the construction of this project?

7 A (Foss) I think that the most, that the greatest
8 risk to those watersheds would be if a forest
9 fire were to start as a result of this project
10 which is probably a very small probability, but
11 were such an event to take place, there could
12 definitely be impacts to the affected
13 watersheds.

14 Q Do you think the clearing and installation of a
15 road would affect anything with the storm runoff
16 or anything with water quality?

17 A (Foss) One hopes that the storm water management
18 required by DES would prevent issues from
19 getting that far down into the watershed.

20 Q Okay. One last question, and this I'm going to
21 direct to Mr. Buscher as a visual impact expert.
22 I'd like to quote for those of you who weren't
23 here from the transcript, a short passage of the
24 transcript, Day 4 in the afternoon back on

1 September 22nd. If you've got the transcript
2 it's page 96, line 7 through 16. This was
3 Mr. Raphael's statement in regards to questions
4 about the impact of spinning blades and
5 comparing that to the impact of seeing hubs and
6 towers, and I quote: "So we state and in terms
7 of understanding overall visibility, we find
8 that the hub height and hub visibility is an
9 important consideration because of the scale of
10 the hub itself and the fact that I think most
11 people agree its mass and presence as you look
12 at visual simulations tends to draw the eye more
13 specifically," unquote.

14 Do you agree that the scale of the hub
15 tends to draw the eye more than spinning blades
16 does?

17 A (Buscher) No. I do not.

18 Q Can you expand on that at all?

19 A (Buscher) We do use the hub as an important
20 component in assessing the impact of visibility.
21 It does not happen to coincide with the mass and
22 scale of the hub. It starts to indicate a
23 certain percentage of what you're going to see.
24 So if you see less than the hub, then it's only

1 the spinning blades, and it's still going to
2 attract your attention, but once you get to the
3 hub you know you're seeing at least half of the
4 rotor so it indicates that you're seeing at
5 least a significant portion of the turbine.

6 Q Thank you. That's all my questions.

7 PRESIDING OFFICER SCOTT: Off the record.

8 (Discussion off the record)

9 PRESIDING OFFICER SCOTT: Back on the
10 record.

11 **CROSS-EXAMINATION**

12 BY MS. BERWICK:

13 Q Ms. Foss, you said the furthest turbine was
14 going to be within four miles. Do you have any
15 idea how close the nearest turbine would be to
16 Willard Pond?

17 A (Foss) I want to say less than two miles, but I
18 don't have the exact distance in my head, and
19 that would be from the dam so the furthest away
20 part of the pond.

21 Q I love to listen to the birds all day long.
22 Does a steady background noise level affect
23 birds?

24 A (Foss) There has been some research that highway

1 traffic affects bird, at least some species of
2 birds' activity levels and home range sizes.
3 The study of Bicknell's thrush at Groton
4 Reliable found that on the days when the
5 turbines were operating, the thrushes in the
6 vicinity of the turbines used larger home ranges
7 which suggests that they were needing to go
8 further from the sound in order to hear the soil
9 insects that they get for food. So yes, there
10 is some impact from noise.

11 Q Do you happen to know what, how far away, what
12 the distance was in that study?

13 A (Foss) I do not.

14 Q So potentially, these wind turbines could
15 disturb the birds in my yard and Jan's yard and
16 the Schaefer's yard in that we might not have as
17 many?

18 A (Foss) No. I would not say at those distances.
19 I mean, we're talking feet and meters, not half
20 a mile.

21 Q Okay. Do fluctuating noise levels affect birds?
22 Because we know that besides the steady noise
23 that the nacelle produces, there will also be
24 fluctuating noises related to the wind, to the

1 blades.

2 A (Foss) Birds deal with a lot of different noises
3 in their environment from highway traffic to
4 natural noises such as thunderstorms and wind.
5 Trying to study that effect in a scientific way
6 kind of boggles the mind, and I don't know how
7 it could be done.

8 Q Okay. I think you might have been asked this
9 one. Could noise from the turbines put birds in
10 dangers from predators?

11 A (Foss) I would suspect that the benefit would go
12 to the prey rather than to the predators because
13 the predators are the ones that are using their
14 hearing to hear the prey, and they're the ones
15 that are trying to be really quiet. So from a
16 noise perspective, I would expect it would be
17 owls, for example, that would have a harder
18 time, not the songbirds trying to escape from
19 the predators.

20 Q Okay. Do you have any idea what the decibel
21 level is for any type of birds or the normal
22 decibel levels of birds singing in the morning?
23 Do you have anything like that?

24 A (Foss) I do not know.

1 Q Do you have any idea how many birds we should
2 expect to be killed from the wind turbines each
3 month or per year or --

4 A (Foss) There are figures out there in the
5 literature. I do not carry them in my head. I
6 believe that Mr. Gravel provided mortality data
7 somewhere in his Prefiled Testimony, but I don't
8 carry that information in my head.

9 Q I know you're the Audubon Society, but other
10 people have asked you questions about larger
11 mammals. Do you have knowledge about bears?

12 A (Foss) It depends on what one defines as
13 knowledge.

14 Q Okay. I'll get to my question. I recently,
15 last week actually went up to Clark's Trading
16 Post for the first time in my life, and I saw
17 their bear show, and during the bear show they
18 said that bears give birth in the very, in
19 January, and specifically, they have found
20 basically around the 20th and 21st, 22nd. So my
21 question is, if this construction starts and if
22 the baby bears are just born and then the mother
23 gets disturbed, will those babies die or will
24 they survive? And will the mother be able to

1 survive moving during the middle of their
2 hibernation period? So there's a couple of
3 questions in there all together.

4 A (Foss) I think you need a bear biologist to
5 answer those questions.

6 Q Okay.

7 A (Foss) I do know that it's not uncommon for
8 biologists to, particularly when they have
9 radioed bears, to go to the dens in the winter
10 and determine how many --

11 Q Babies?

12 A (Foss) -- babies there are which clearly is
13 disturbing the sow. They tranquilize her, take
14 her out, take measurements, and that does not
15 affect the survival of the cubs.

16 Q Right.

17 A (Foss) So they can be disturbed without
18 affecting the survival of the cubs.

19 Q But they also put them back in the same place,
20 correct?

21 A (Foss) A mother's instinct is pretty strong.

22 Q Could you tell me if land fragmentation will
23 affect the bird and bat biodiversity?

24 A (Foss) I would say that was unlikely.

1 Q Are you familiar with the Meadow Marsh area?

2 A (Foss) I am not.

3 Q Well, Meadow Marsh is quite a large area so this
4 is me, large, you know, I really don't know the
5 acreage. I do know that it goes all the way
6 from Gregg Lake all the way to the end of our
7 road where Craig Road and Old Pond Road meet.
8 That's considered Meadow Marsh, and so it goes
9 all the way to Gregg Lake Road, and so it is a
10 large marsh area. It's right on the bottom of
11 the ridge. Really right on the bottom of the
12 ridge. I just wondered how -- this definitely
13 is an area with a lot of wildlife and a huge
14 Marsh. Can you see any effect that the wind
15 turbines would have on the wildlife in that
16 area?

17 A (Foss) Without knowing the distance and
18 looking --

19 Q It would be very close. I don't know. Anybody
20 got any -- do you know?

21 A (Foss) I would need to look at the sound isobars
22 to comment on that.

23 Q So it would be related to the sound? Not to the
24 actual action of the turbines?

1 A (Foss) That would be my expectation.

2 Q Do you allow ice fishing at Willard Pond?

3 A (Foss) That's not ours to allow. That's a state
4 regulation, and I honestly know nothing about
5 ice fishing on Willard Pond. There's no ice
6 fishing on Willard Pond.

7 A (Von Mertens) Unless you can cast a fly into
8 that very little hole.

9 Q That's what I thought. Do you allow gasoline
10 engines?

11 A (Foss) No, and actually that's a state
12 regulation, not an Audubon regulation.

13 Q Okay. Do you have any picnic tables in the
14 area?

15 A (Foss) Not to my knowledge.

16 Q Do you have any issues with the conservation
17 land that will be left, in other words, Antrim
18 Wind has stated that they're going to put this
19 land into conservation. Do you have any issues
20 with what's going to be allowed on the land
21 after they leave, after the project is
22 decommissioned? Am I making myself clear?

23 A (Foss) I think so. We're concerned about the
24 terrain alteration. We're concerned about

1 potential for invasive species to establish as a
2 result of decommissioning, and I believe that at
3 least one of the easements allows for a road to
4 cross the ridge which is a concern. Other
5 members of the panel may wish to add to that.

6 A (Von Mertens) I think Jason Reimers brought out
7 that one of the easements allows a house on the
8 ridgeline and a cell tower. It allows
9 utilities, that would be a cell tower,
10 potential. I think Carol's testimony mentioned
11 the forestry management. I think she could
12 probably talk, it was in her testimony, she
13 could probably talk about that better than me.

14 Q Jason brought out the question about the
15 culverts or somebody did on the Audubon Society
16 about the culverts that would be left after
17 decommissioning and whose responsibility it was
18 to maintain those culverts. Do you remember
19 that question?

20 A (Von Mertens) I raised that issue.

21 Q Oh, you raised that issue. What is the problem
22 there?

23 A (Von Mertens) The culverts are erosion control
24 methods, among others. There's plunge pits,

1 plunge pools as well. It's erosion control.
2 Whatever the road and cuts and fill need, you
3 have to have erosion control, and culverts
4 usually need to be maintained, and that would
5 become the landowner's responsibility after
6 decommissioning.

7 Q So if that was not maintained by the landowners,
8 would there be problems with erosion?

9 A (Von Mertens) Possibly.

10 Q Okay. Do you receive feedback from the public
11 about dePierrefeu-Willard Pond area? Do you
12 receive much emails or mail or anything from the
13 public?

14 A (Foss) Our Sanctuaries Manager would be the one
15 to receive that, and I can't comment on that.

16 Q No one?

17 A (Von Mertens) I couldn't hear the question.

18 Q Do you receive much public input about your
19 sanctuary area, the Willard Pond or dePierrefeu,
20 the trails, the views, anything, do you receive
21 emails saying this is just a wonderful place or
22 I wish you did this or anything like that?

23 A (Von Mertens) No. I don't know. I would doubt
24 it. I don't know if there's a trail book that

1 people write comments. I don't know.

2 Q Okay.

3 A (Von Mertens) I do know I think it was mentioned
4 in one of our, I helped raise money for, to
5 conserve the last unprotected parcel on Willard
6 Pond, and we mentioned there were 200 donors and
7 wonderful, there were some comments that came in
8 with the checks, and I cited a few in my
9 testimony. People are, it was -- I'll just
10 leave it with that. It was very easy money to
11 raise.

12 Q Was there anything consistent that you heard
13 again and again regarding your, when you had
14 that?

15 A (Von Mertens) I think our testimonies did a
16 pretty good, we did a very good job --

17 Q I haven't read it so --

18 A (Von Mertens) -- explaining what Willard Pond
19 means to a lot of people.

20 Q Okay. I enjoy hearing the echoes of the loon
21 when I'm on Willard Pond, and I have never heard
22 echoing quite like that on any other pond, and I
23 was wondering if you could give me your opinion
24 about why that happens, if it's unique to that

1 pond or if it's just that I have not been on
2 enough ponds with loons in them?

3 A (Foss) I would say the extent to which loon
4 calls would echo would be a function of the
5 surrounding topography, and there are doubtless
6 further north other ponds with loons that have
7 surrounding hills where their calls would also
8 echo.

9 Q Okay. Would housing around the edges of the
10 pond, would that change that?

11 A (Foss) No.

12 Q Okay. Are you under any requirements to have
13 logging done in your dePierrefeu sanctuary area?

14 A (Foss) The land that is under -- Francie, you
15 may need to help me. Legacy easement, which is
16 the Tamposi parcel, the terms of that easement
17 require forest management.

18 Q Okay. The area on Goodhue that was chosen for
19 logging, did that have old trees, recent trees,
20 was it --

21 A (Foss) It was old pasture that was growing in
22 around the edges so it was not old growth by any
23 means.

24 Q Okay. And was that part of the reason for the

1 decision of using that area?

2 A (Foss) The decision for harvesting in this
3 area?

4 Q Yes.

5 A (Foss) Part of the decision was to restore the
6 old pasture area and create habitat for birds
7 and other wildlife that use early successional
8 habitat.

9 Q You just answered my next question. And is
10 there any reason that the Audubon Association
11 should not be allowed to make decisions
12 regarding the locations for future clearing of
13 lands?

14 A (Foss) In general, private landowners have the
15 right to harvest as they see fit on their land.

16 Q Okay.

17 A (Foss) Whether they're an organization or a
18 private individual or a company.

19 Q So as gardeners we're told to use moving objects
20 to scare birds away if we don't want them near
21 our berries. Can you explain if this phenomenon
22 would work the same with moving windmills?

23 A (Foss) Well, if it worked with 100 percent
24 effectiveness, we wouldn't need to worry about

1 bird mortality at wind turbines.

2 Q That's true. I know that I have seen and I
3 didn't know until I looked up a video of what
4 the common nighthawk was and as soon as I saw
5 that video, I knew that was the bird that I had
6 seen at Gregg Lake, and I will admit that it's
7 been years because now that my children are
8 grown, I don't go over to the Gregg Lake area in
9 the evening that much anymore like I did when
10 they were at home, but I used to see those birds
11 over at Gregg Lake in the evening. How far from
12 their home base do they usually fly?

13 A (Foss) I'm not a resident nighthawk biologist
14 either, but there has been a Memorandum of
15 Agreement between Fish & Game and the Applicant
16 and Audubon providing for annual surveys for
17 nesting activity along the turbine string and
18 curtailment if nesting activity is found.

19 Q As more and more turbines are put up in this and
20 other states, will there be any type of
21 cumulative effect especially if we continue to
22 use ridgetops? And I'm talking about cumulative
23 effect on the birds and bats.

24 A (Foss) Well, I guess there's a lot of cumulative

1 effect on mortality from many sources. In
2 general -- well, I won't go there. Yes. One
3 can expect cumulative impacts. I guess that's
4 the easiest place to go.

5 Q Why does it matter about invasive species after
6 all? Doesn't that happen sort of naturally
7 anyway?

8 A (Foss) Well, invasive species wouldn't be called
9 invasive species if they were native to our
10 landscape. There are a number of alien species,
11 i.e., species that weren't native to North
12 America that are now a natural part of our
13 landscape. Daisies which everyone thinks are a
14 common species are actually an alien species.
15 However, they are not invasive. Probably the
16 best example of an invasive species and the one
17 that causes the most damage in New Hampshire, I
18 suppose people could argue with me, but I think
19 it's Asian bittersweet that winds up and is
20 actually killing trees by smothering the foliage
21 is a example of an invasive species that is
22 spread by wildlife because they eat the berries
23 and fly around and deposit the seeds in other
24 locations. So that's an example of a species

1 that outcompetes our native vegetation.

2 Q Were there any other issues raised during these
3 hearings that you feel should be addressed?

4 A (Foss) Well, if they've been raised during the
5 hearings, I expect that they will be addressed.

6 Q I guess I meant do you feel like there was
7 issues raised that you didn't get to address?

8 A (Foss) I don't think so.

9 Q Okay. I have no further questions. Thank you.

10 PRESIDING OFFICER SCOTT: Thank you.

11 Anybody from the Harris Center?

12 MR. NEWSOM: We're here, and we have no
13 questions.

14 PRESIDING OFFICER SCOTT: Thank you. I
15 believe Counsel for the Public, you said you'd
16 be in that order, is that correct?

17 MS. MALONEY: Yes.

18 PRESIDING OFFICER SCOTT: And you're up so
19 we'll wait for the microphone to get to you.

20 **CROSS-EXAMINATION**

21 BY MS. MALONEY:

22 Q Good afternoon. I'll try to be brief. Ms.
23 Foss, you mentioned a couple of times that you
24 had concerns about alteration of terrain. That

1 seemed to be a significant concern of yours.

2 Could you elaborate on that?

3 A (Foss) Well, one issue is the, I can't remember
4 the word that was used, but the destruction of
5 the boulders, but there will also be a
6 substantial amount of cut and fill involved
7 which Ms. Linowes' Exhibit WA-32X does show
8 rather dramatically, and cut and fill makes it
9 more difficult for small mammals and reptiles
10 and amphibians to move across the landscape. So
11 I would have more concern about animal mobility
12 where there was a substantial cut and fill than
13 where there was a wide gravel road that was
14 basically at the same contour as the ground on
15 either side.

16 Q Okay. Thank you. I understand that electric
17 boats are allowed at Willard Pond, but this is
18 for anyone. How frequently have you noticed
19 electric boats being used at Willard Pond?

20 A (Von Mertens) In my testimony I cite Ed Henault
21 who's a Trout Unlimited fellow, and I've got
22 some quotes from him, and I was curious about
23 that exactly, and he also submitted a letter
24 today. He would have liked to have been here,

1 but he's fishing. I have an email from him that
2 I'm happy to send along. He said he's never,
3 which I find hard to believe, but he says he's
4 just not seeing, and he's there a lot, and he's
5 a kind of older fellow with a big belly, and I
6 just pictured him with an electric motor. I
7 knew he had one. And I said, Ed, what do you
8 do. I use a canoe. So that's from a fellow who
9 loves Willard Pond and goes there often. He's
10 never seen one.

11 Q Okay. When Mr. Raphael testified, he said he
12 noticed some cars parked at the boat ramp there.
13 Is it fair to say that they're not allowed
14 there?

15 A (Von Mertens) Yes. They're not.

16 Q Do you have anyone on site that sort of polices
17 those?

18 A (Von Mertens) There's a resident steward and her
19 husband, and they both work, but that's one of
20 their responsibilities. I certainly heard him
21 say that. The letter that Ed Henault sent in
22 today mentioned that there is a boat launch and
23 people offload their boats and then they go
24 park, and he said how far the parking lot was

1 from it. So I find that, I certainly have seen
2 a car parked there. Very few times. It's very
3 irregular.

4 Q So they're supposed to let their boats off and
5 then drive their cars back to the parking lot?

6 A (Von Mertens) I believe it says no parking.

7 Q And this may be a hard question. I hope not.
8 Based on your experience and using the sanctuary
9 and Willard Pond, do you have a description of
10 what a typical user would be? I mean, is there
11 any nighttime use of the park?

12 A (Von Mertens) It's supposed to be daytime only,
13 but the steward, the house is right there, not
14 visible, but it's next to the parking lot, and
15 in terms of inappropriate nighttime use, that's
16 one of their jobs. And I think if people go for
17 a cross country ski or a moonlight paddle
18 they're not going to -- it happens. It's not a
19 regular, I would, it's not a lot of traffic at
20 nighttime.

21 A (Bechtel) Typical user is hard without specific
22 data, but the times I've been there, there are a
23 lot of people who have parked their cars to get
24 into boats, and there are slightly less people

1 hiking the trails.

2 Q Okay. Compared to say, for example, state park.
3 Why would somebody come there as opposed to
4 coming to a state park? Do you have a sense of
5 that?

6 A (Von Mertens) I'd say there's a difference
7 between people who find Willard Pond online and
8 come there because, as our testimonies say, it's
9 described wonderfully. Pristine, quiet, all
10 that. And so I don't know if they come back. I
11 don't know, as I think one of the testimonies
12 said, we don't ask, we don't, we haven't done a
13 survey. I know amongst my family, there's three
14 generations of us that go there and kind of hand
15 it down family to family, and I think that's
16 very common for the locals. So it's a mix of --
17 it would be great to have a survey. I mean,
18 curious, the people that come for the first
19 time, how often do they come back? In my
20 testimony, I believe I said it's where people I
21 know go when they have out-of-town guests to
22 show them why we live in the Monadnock region,
23 and I think that's quite common.

24 Q Okay. I don't have any more questions.

1 PRESIDING OFFICER SCOTT: Did you have more
2 responses?

3 A (Bechtel) Let me just respond to why it's
4 different than a state park. There's no
5 infrastructure at Willard Pond like there would
6 be at a state park; for example, bathrooms or
7 facilities or changing rooms. It's a place
8 where when you get out of your car, you are in a
9 wilderness-like environment without too many
10 human structures other than the boat launch and
11 some of the signage.

12 A (Foss) And don't many of our state parks also
13 charge admission?

14 A (Von Mertens) Some.

15 COMMISSIONER ROSE: Some.

16 PRESIDING OFFICER SCOTT: Thank you. We'll
17 move on, I think. Anybody from the Giffin/Pratt
18 Intervenors?

19 MR. RICHARDSON: I agreed to switch places
20 because I have to run in about three minutes.

21 PRESIDING OFFICER SCOTT: Are you going to
22 bump Mr. Enman again?

23 MR. RICHARDSON: I'm afraid it's his lot in
24 life.

1 PRESIDING OFFICER SCOTT: Go ahead.

2 **CROSS-EXAMINATION**

3 BY MR. RICHARDSON:

4 Q Thank you. Justin Richardson for the Town of
5 Antrim. Are any of you familiar with what's
6 called the State's 303(d) list which is a list
7 of impaired water bodies?

8 A (Foss) I know that it exists. I do not know
9 what's on it.

10 Q So would it surprise you to learn that in New
11 Hampshire, and there's a table 36 in the surface
12 water quality report that shows that in 2012
13 there were 16,890 miles of rivers and streams in
14 New Hampshire that didn't meet the water quality
15 standards for mercury? They were impaired?
16 Does that surprise you?

17 A (Foss) Without knowing the total mileage of
18 rivers and streams in the state, I don't, I
19 don't have any context for that number.

20 Q In fact, it's all of them, I believe, that are
21 impaired according to DES's report, and so the
22 same question would be for acres of fresh water
23 bodies like Willard Pond. There are 162,000
24 acres that are listed as impaired in New

1 Hampshire from mercury. Did you know that all
2 of New Hampshire's fresh water lakes and ponds
3 were impaired?

4 A (Foss) Well, since mercury is an airborne
5 contaminant, it wouldn't surprise me to know
6 that there was mercury in most of New Hampshire,
7 if not all of New Hampshire's waters.

8 Q Okay.

9 A (Foss) I don't know what the definition of
10 impaired is in this context.

11 Q Sure. So there's different categories and there
12 are different uses under the Clean Water Act,
13 and the use I'm specifically looking at is for
14 wildlife impairment and then also there's an
15 impairment for fish consumption. And if you
16 look at the report, and I'm only asking if
17 you're aware of this report. It's a long
18 document. I don't think we want to sort through
19 the whole thing. But it reports that mercury is
20 harmful to wildlife such as otters and mink that
21 rely on fish. Are you familiar with that
22 concept?

23 A (Foss) Yes.

24 Q In fact, it also reports that mercury is harmful

1 for its impact on loons, bald eagles and
2 kingfishers.

3 A (Foss) They're high in the food chain, yes.

4 Q And those three species are present at Willard
5 Pond, right?

6 A (Foss) Can you repeat the species again?

7 Q So loons, the common loon, bald eagles and
8 kingfishers are all, they use the Willard Pond
9 area, is that right?

10 A (Foss) To varying degrees.

11 Q And I believe that as described the impacts of
12 mercury was well documented on those species.

13 A (Foss) There's species and individuals. And
14 yes, the impacts are well documented. However,
15 different individuals, depending on where
16 they're fishing, are going to get different
17 levels of mercury in their systems.

18 Q Let's talk about that because the Department of
19 Environmental Services has also done some
20 research on that area, and I looked at before
21 the hearing today the Air Resources Division
22 fact sheet and it's EHP 25, and it lists eight
23 water bodies in New Hampshire that are subject
24 to higher levels or documented as higher levels

1 of mercury contamination than the rest of the
2 state. Have you ever looked at the issue of
3 mercury contamination around Willard Pond?

4 A (Foss) I have not. Our Loon Preservation
5 Committee has done a lot of work with impacts of
6 mercury and lead on loons, but I'm not involved
7 with that research.

8 Q Would it surprise you that four of the eight
9 water bodies and I'm thinking of May Pond in
10 Washington, Ashuelot Pond in Washington, Jackman
11 Reservoir in Hillsborough and Mascoma Lake in
12 Enfield, that's four of the eight water bodies
13 that DES has identified as having higher mercury
14 levels, and they say that women who are
15 child-bearing age or small children should eat
16 no fish from any of those water bodies.

17 A (Foss) I know that high levels of mercury are
18 damaging to fetuses, yes.

19 Q You heard in response to a question from
20 Mr. Jones, and I believe he asked you if you
21 agreed that the Audubon Society's position in
22 this case is that you're not against wind, it's
23 just that you think that this isn't the best
24 site for it.

1 A (Foss) Correct.

2 Q So I guess what I'm wondering is is it your
3 recommendation also that the Site Evaluation
4 Committee should ignore things like mercury
5 contamination that are happening around the
6 project area and impact wildlife and try and
7 find a better site for a wind project?

8 A (Foss) I'm having a hard time understanding the
9 connection between mercury levels in the project
10 area and the Application.

11 Q Well, so you understand that mercury is coming
12 from coal and fossil fuel fired plant emissions
13 from out of state.

14 A (Foss) And potentially some instate but yes.

15 Q Okay. But at least according to the DES
16 reports, it's primarily out of state.

17 A Okay.

18 Q So should this Committee then just reject
19 evidence like that or concerns like that simply
20 because there might be a better site out there
21 in New Hampshire? Is it that this site isn't
22 good enough? Is that really what it comes down
23 to?

24 A (Foss) I'm still having trouble understanding

1 the relationship between mercury levels and the
2 siting of this project.

3 Q Well, what I'm trying to figure out is, is it
4 your position, Audubon's position, that some
5 other site in the State of New Hampshire exists
6 that's better than this one in order to limit
7 the amount of mercury that's being deposited
8 into New Hampshire's water bodies and impairing
9 them?

10 A (Foss) You want to take a stab? I'm at a loss.

11 A (Bechtel) We are, I'm not going to speculate on
12 a better site for this wind project based on
13 mercury levels.

14 Q Okay. Well, and that's really is --

15 MS. LINOWES: Mr. Chairman, I'm going to
16 object to this line of questioning because the
17 question presupposes that this project is going
18 to have a significant impact on mercury levels
19 in New Hampshire. I don't think that that has
20 been litigated yet.

21 MR. RICHARDSON: I don't mean my question
22 to go that far. What I'm really trying to get
23 at is these witnesses -- and so I'll ask this
24 question if I may. I'll rephrase it.

1 Q These witnesses are not aware of any better site
2 in the State of New Hampshire where it would be
3 appropriate to site a wind project?

4 MS. LINOWES: I will object to that
5 question because that is not what is before the
6 Committee. If the Applicant wanted to put
7 alternatives before the Committee, that would be
8 fine, but the only project site in question is
9 the one that we're talking about.

10 MR. RICHARDSON: I think it goes to the
11 weight that their testimony should be given and
12 whether there are better sites or whether
13 perhaps they're not aware of any.

14 MS. LINOWES: I don't think it's the burden
15 of the witnesses to come up with a better
16 alternative. They're simply citing their
17 concerns regarding this project site.

18 PRESIDING OFFICER SCOTT: If the panel is
19 able to answer, fine. If not, we'll move on.

20 A (Foss) I think that would require considerable
21 analysis which we have not done.

22 Q So then based on your testimony of what you know
23 today, we haven't been able to identify a site
24 that would be appropriate under Audubon's

1 criteria?

2 A (Foss) We have not attempted to do so.

3 Q Okay. Thank you.

4 PRESIDING OFFICER SCOTT: Mr. Enman, we did
5 not forget you.

6 **CROSS-EXAMINATION**

7 BY MR. ENMAN:

8 Q Good afternoon. I actually do have questions
9 today. Most of these are yes or nos, and they
10 can go to whomever feels most appropriate to
11 answer.

12 Is the proposed site under a conservation
13 easement held by New Hampshire Audubon?

14 A (Foss) No.

15 Q Is the wind site on private property?

16 A (Bechtel) Would you please repeat?

17 Q Is the wind site on private property?

18 A (Bechtel) I believe it is.

19 Q Does the New Hampshire Audubon control
20 development rights on private property that are
21 not under easements?

22 A (Bechtel) No.

23 Q Help me out just for a second here. It was
24 stated right at the beginning that testimony was

1 corrected that the number of undeveloped
2 shorelines, is this correct, wasn't 18, it was
3 16?

4 A (Bechtel) That was our correction, yes.

5 Q And it's shorelines?

6 A (Bechtel) Shorelines, yes. Well, pond
7 shorelines. Okay.

8 A (Foss) Wait.

9 Q Okay.

10 A (Foss) Where's the sheet? It's natural lakes
11 with their water levels raised by a dam so not
12 including artificial impoundments, and I think
13 it's over 100 acres which was a specification of
14 Mr. Dupuy in the previous docket.

15 MR. REIMERS: Carol, it's Exhibit 1 which
16 is Michael Bartlett's testimony, and it's
17 Attachment MJB 8.

18 A (Foss) Do you know which letter it's under?

19 MR. REIMERS: I think it's the first
20 document in the binder.

21 A (Bechtel) All right. While they're looking, we
22 identified a subset of the ponds and water
23 bodies in the DES list of ponds that are similar
24 to Willard Pond. It's the designation RD,

1 raised by dams, and that number of ponds which
2 is in the hundreds --

3 A (Foss) And natural.

4 A (Bechtel) And natural, those two categories, we
5 identified 18 that had undeveloped shoreline,
6 and we corrected it to 16.

7 Q Okay. Without, Francie, without having to
8 actually get the description, would this project
9 develop the Willard Pond shoreline?

10 A (Bechtel) As we've already testified in some of
11 our testimony that we've submitted, no.

12 Q Okay. And Francie, before you get crazy there,
13 when you walked the ridge, and we were talking
14 about logging, you witnessed logging, did you
15 see any logging, any evidence of erosion from
16 the logging operations?

17 A (Von Mertens) No.

18 Q None. Did you come in from the north side or
19 the south side?

20 A (Von Mertens) It actually took us two days.
21 There was a lot of bush.

22 Q Did you come down the north side of the project
23 area basically from tower 2 toward the power
24 line?

1 A (Von Mertens) No. We followed what's basically
2 the yellow road here on the map.

3 Q Okay.

4 A (Von Mertens) Ridgeline.

5 Q Then that's fine. Do logging, do you know and
6 because of the Goodhue cut, et cetera, do
7 logging operations require post maintenance?
8 After it's done, do you have to go back and/or
9 does anyone when they do a cut, do they have to
10 come back and maintain that area?

11 A (Foss) I don't know what the state regulations
12 are. I know that in many cases skid roads are
13 reseeded after they're finished using them.

14 Q And drainage ditches?

15 A (Foss) Drainage ditches generally grow in pretty
16 fast on their own, in my experience.

17 Q Do logging, in your opinion with Goodhue because
18 I'm not a logger and I really don't know, do you
19 know if logging operations required any kind of
20 DES compliance?

21 A (Foss) For water and wetland crossings they may.
22 They require notification. I'm not familiar
23 with all the recalls and regulations.

24 Q So the Goodhue cut when their logging road went

1 in crossed a stream. Did that have to get, I
2 mean it crossed the outflow of Willard?

3 A (Von Mertens) Yes. Have you to notify DES with
4 a permit that indicates, it's fairly basic, I
5 believe, but you have to indicate if there's a
6 crossing and what your management of that
7 crossing is going to be and that you're going to
8 remove the impacts post-project if you put in a
9 crossing, a temporary crossing.

10 A (Bechtel) It depends greatly on the size and
11 character of the water body that you're
12 crossing. Generally smaller streams like the
13 ones you're talking about here we would have to
14 do exactly as what Francie just described.

15 Q Changing venues a little bit. In your opinion,
16 would the wind site threaten any large mammal
17 wildlife populations? Threaten.

18 A (Foss) No.

19 Q So could that be a reason that no large mammal
20 reports were required or even --

21 A (Foss) Possibly.

22 Q I want to thank Ms. Linowes for sharing this
23 map, and it's, I'm assuming on this map that all
24 of the cross-hatched areas are under

1 conservation easements. I assume I would be
2 correct there?

3 A (Von Mertens) Or they're owned in fee. They're
4 conservation lands, and they would be a mix.

5 Q Conserved properties.

6 A (Von Mertens) Conserved properties.

7 Q And the entire wind site at this point is not
8 under any of those conservation easements?

9 A (Foss) Correct.

10 MR. IACOPINO: You're referring to WA-33x?

11 Q Yes, I am, and it can be either page although I
12 was using the second one.

13 MS. LINOWES: Excuse me, Mr. Chairman. I
14 just wanted to let you know that that map, those
15 hatched lines mean conservation or public land.

16 Q As stated by Mr. Ott, one of the landowners
17 today in his testimony, he suggested that he and
18 some of the other landowners did not want to
19 conserve any of their property, but because of
20 the wind farm they were convinced for whatever
21 reason that they would be willing to do that.
22 Based on this map, wouldn't it be beneficial to,
23 in the grand scheme of the Quabbin to Cardigan
24 to have that ridgeline conserved? Would it be

1 beneficial to have the ridgeline conserved?

2 A (Foss) If all things were equal, and the land
3 were in its pristine state, certainly. Because
4 of the nature of the topography, large-scale
5 development is not likely on much of that
6 property at least with the technology and
7 financial considerations that we're likely to
8 see in our lifetimes. In my estimation, the
9 investment in infrastructure to get to that
10 ridge would not make financial sense for
11 residential development which is currently
12 allowed in that zone. So I would expect any
13 residential development to occur around the
14 edges near existing roads.

15 A (Von Mertens) I'd also like to point out, I
16 think the questions that Geoff Jones asked and
17 Carol answered about the purpose why Fish & Game
18 recreated these maps and this analysis is to
19 identify places where you should not develop,
20 and it should be part of wise land use planning.

21 Q Along those lines, fragmentation. I guess it's
22 open to interpretation as to what
23 fragmentation -- I haven't really heard a great
24 description. But could a residence cause

1 fragmentation?

2 A (Foss) Yes.

3 Q Okay. A road?

4 A (Foss) Yes.

5 Q Okay. Salmon Brook Road, Loveren Mill, Liberty
6 Farm are all roads with residences in that area,
7 granted existing, but they are all there. And
8 maybe perhaps Route 9 bisecting, not necessarily
9 going with the ridgeline but bisecting the
10 ridgeline could be classified as fragmentation?

11 A (Foss) Yes. Those areas are not identified as
12 within the contiguous forest block. They would
13 form the perimeter of a contiguous forest block.

14 Q But in the Quabbin to Cardigan range, Route 9
15 certainly bisects that area?

16 A (Foss) Yes. Yes.

17 Q That's all. Your explanation of nonsupport of
18 this project alluded to the landscape being less
19 than desirable to be disturbed, and you talked
20 about southern mountains that are being
21 disturbed for coal production. We also have to
22 take into consideration that you were talking
23 about the overall effect of greenhouse gas, et
24 cetera, so this project didn't necessarily

1 conform based on certain testimony this morning,
2 but it was talked about natural gas being able
3 to be turned on and off to meet the demands, but
4 the natural gas that we're really generating
5 right now is coming from fracked gas, whether it
6 be from Oklahoma, Pennsylvania. So the
7 earthquakes that theoretically are being caused
8 in, theoretically, being caused in Oklahoma or
9 water pollution in Pennsylvania where this stuff
10 is coming from, does that get figured into your
11 estimation that this project doesn't --

12 A (Foss) There is no free lunch.

13 Q Exactly.

14 A (Foss) And we recognize that.

15 Q Okay.

16 A (Foss) And yes, we weighed as an organization
17 through discussions in two committees and the
18 Board the costs and benefits, and in the
19 organization's estimation, the cost outweighed
20 the benefits in this case.

21 Q Willard Pond visibility issues, granted, as you
22 just said, there is no free lunch. The wind
23 facility will be visible from the boat launch
24 around the south shore over to -- I'm not

1 exactly sure because I haven't really been far
2 on the other side of the dam, but from the
3 southern end of the pond the wind site will
4 definitely be visible. Once you are on the
5 water enjoying Willard Pond, perspective changes
6 and the wind site will not be available? You
7 won't be able to see it because of the
8 perspective change. You're going to be closer
9 to the it, and the tree line will come into --
10 so do you know how much of the Willard will
11 be --

12 A (Foss) What proportion of the water surface?

13 Q Yes.

14 A (Foss) We, I can't answer that. It would
15 require a viewshed analysis which we don't have
16 the capacity to do.

17 A (Von Mertens) We don't seem to have Doug's
18 testimony here, but there is an attachment, a
19 visual simulation that shows the scale of the
20 turbines from the water and what percentage of
21 the water that is, but it's worth taking a look
22 at.

23 Q I will do that. I think I'm all set. Thank
24 you.

1 PRESIDING OFFICER SCOTT: Anything from the
2 Applicant?

3 MR. NEEDLEMAN: Yes. We can start now if
4 you'd like. Did you want to take a break? I've
5 got just a couple of questions for Mr. Buscher
6 and Ms. Scott will ask the rest of the panel
7 questions. I think we've got about 40 or 45
8 minutes.

9 (Recess taken)

10 PRESIDING OFFICER SCOTT: Back on the
11 record.

12 **CROSS-EXAMINATION**

13 BY MR. NEEDLEMAN:

14 Q Mr. Buscher, good afternoon. I just have a
15 couple of questions for you. Audubon Society
16 Exhibit number 7 is the animation that was
17 submitted in this docket, and it's my
18 understanding that the purpose of your testimony
19 and participation in this panel is to speak to
20 that animation, is that correct?

21 A (Buscher) That's correct.

22 Q And am I correct that that animation shows no
23 movement at all except for the movement of the
24 wind turbines?

1 A (Buscher) That's correct. It's an animation and
2 a still photo.

3 Q So it doesn't show movement of any trees, water,
4 clouds, people recreating on the lake; is that
5 right?

6 A (Buscher) That is correct.

7 Q And when the turbine moves, obviously the wind
8 must be blowing. Do you agree with that?

9 A (Buscher) I do.

10 Q And in turn, it would be logical in the natural
11 environment, clouds might be moving by, the
12 trees might be moving, there might be movement
13 of water on the lake as a result of the wind
14 blowing; is that correct?

15 A (Buscher) To a different degree depending on the
16 conditions, right.

17 Q None of that is shown in the animation, correct?

18 A That's correct.

19 Q And it is possible to create animations where
20 you can show that other movement, is that right?

21 A (Buscher) That is correct.

22 Q And, in fact, you've done those kind of
23 animations, is that correct?

24 A We have.

1 Q Do you recall at the technical session I asked
2 you if doing a simulation with this other
3 movement would be a better, more accurate
4 portrayal of realistic conditions, and you told
5 me it would?

6 A I believe I responded that it can add a certain
7 dynamic into the animations, yes.

8 Q No further questions. Thank you.

9 **CROSS-EXAMINATION**

10 BY MS. SCOTT:

11 Q I have no questions for you, Mr. Buscher.

12 So I had my questions divided up by the
13 panel members so Mr. Bechtel, I'll start with
14 you. Audubon decided to clearcut Goodhue Hill
15 in the winter of 2011, 2012?

16 PRESIDING OFFICER SCOTT: Ms. Scott, is
17 your microphone on?

18 Q Yes. I'm struggling to regain my voice after a
19 cold. Is that better?

20 The clearcut of Goodhue Hill occurred in
21 the winter of 2011/2012, is that right?

22 A (Bechtel) That's my understanding, yes.

23 Q The purpose was to create early successional
24 habitat?

1 A (Bechtel) Yes, that's correct.

2 Q And also perhaps to make some revenue, generate
3 revenue?

4 A (Bechtel) That's correct.

5 Q By that time, the winter of 2011/2012, the AWE
6 project, Audubon was aware of it.

7 A (Bechtel) I'm going to need some help on some of
8 the timing here.

9 A (Foss) I believe that the decision to do the cut
10 occurred in 2011 prior to the Application, and
11 the intent originally was to complete the cut in
12 2011, but there were equipment issues and other
13 issues which prevented the completion of the cut
14 in 2011 which is why it was completed in 2012.

15 Q The question was the timing of Audubon's
16 awareness of the wind project. It occurred
17 prior to the cut at Goodhue Hill. Audubon was
18 aware of the wind project prior to completing
19 the Goodhue Hill cut?

20 A (Foss) Oh, completing it, for sure. Yes.

21 Q The property, in particular the property
22 encompassing Goodhue Hill, I understand you own
23 multiple properties?

24 A (Bechtel) That's correct.

1 (Court reporter interruption)

2 Q The Goodhue Hill tract of land is what I'm
3 asking about when I say the property in these
4 next few questions. It is managed for
5 implementation of a forest management plan?

6 A That's correct. It was completed in, I believe,
7 2006.

8 Q And it was updated in 2011 in conjunction with
9 several logging operations on a couple of
10 different tracts of land?

11 A (Bechtel) Several of the updates were conducted
12 or the updates were part of funding from various
13 agencies that helped us complete the projects.

14 Q That 2011 amendment indicates with respect to
15 the Goodhue Hill cut that the owner will
16 periodically brush hog that cut to maintain the
17 early successional habitat?

18 A (Bechtel) That's correct.

19 Q That hasn't happened.

20 A (Bechtel) That's correct.

21 Q There are actually trees beginning to grow back
22 at the summit of Goodhue Hill where it had been
23 cut.

24 A (Bechtel) Yes. Revegetation is well under way.

1 Q I have a few exhibits. I think Rebecca will
2 help me out. I'll pass them all out together.

3 PRESIDING OFFICER SCOTT: We're still
4 having a hard time hearing you.

5 Q I'm really sorry. So the first exhibit is
6 Exhibit 40, and I just want to confirm whether
7 anyone on the panel can indicate whether they
8 are familiar with this view as being in fact
9 from the summit of Goodhue Hill.

10 A (Bechtel) Just a second, please.

11 Q Yes.

12 A (Bechtel) These look familiar to me as being on
13 the top of Goodhue Hill along the trail.

14 PRESIDING OFFICER SCOTT: Why don't we wait
15 for the Committee to get some, too, please.

16 A (Bechtel) Sorry.

17 PRESIDING OFFICER SCOTT: We don't want to
18 miss the view.

19 A (Bechtel) Can you tell me again which one we're
20 looking at first?

21 Q Exhibit 40.

22 A (Bechtel) Okay. Thanks.

23 PRESIDING OFFICER SCOTT: Off the record
24 until we're done here.

1 (Discussion off the record)

2 PRESIDING OFFICER SCOTT: Back on the
3 record.

4 Q So my question, and I think you answered it,
5 Mr. Bechtel, was you recognize that as being,
6 and I'm speaking about Exhibit 40, being taken
7 from the Summit of Goodhue Hill?

8 A (Bechtel) It looks like it, yes.

9 Q And you already answered that you acknowledged
10 trees are, in fact, beginning to grow back at
11 that site?

12 A (Bechtel) That's correct.

13 Q There is no current plan for periodic mowing at
14 that site as well -- we already talked about
15 that -- in the forest management plan.

16 A (Bechtel) I don't know whether it's in the
17 Forest Management Plan, but our intention is to
18 keep this section in this condition for the
19 long-term.

20 Q The condition in which it's depicted there?

21 A (Bechtel) Early successional habit which is like
22 what this pictures shows right now, yes.

23 Q Exhibit 40.

24 A (Bechtel) That's correct. Now, let me clarify.

1 Early successional habitat can mean a variety of
2 ages of various kinds of vegetation and
3 structural diversity which means trees of
4 varying heights. This picture does look like
5 early successional habitat. It would also be
6 early successional habitat directly after it's
7 mowed or brush hogged. So there's a variety of
8 conditions that are favorable for the wildlife
9 for which we manage this part of the property.

10 Q So it's been roughly five years, maybe a little
11 longer, since this area was originally logged.

12 A (Bechtel) That's correct.

13 Q Where is the plan for when it will be mowed
14 again?

15 A (Bechtel) Our land manager is not a part of this
16 panel. I don't know if there's a written plan,
17 but it's part of his job to maintain certain
18 properties in certain conditions for the
19 wildlife species that we're managing for on our
20 properties across the state.

21 Q And to do that would require bringing machinery
22 to the top of Goodhue Hill?

23 A That's correct.

24 Q Not done manually?

1 A (Bechtel) It can be done manually. It can be
2 done in a variety of ways.

3 Q Exhibit 41 is, I guess, let me ask you. Is that
4 photograph familiar to anyone on the panel as
5 being the logging roads that were built up to
6 Goodhue Hill?

7 A (Bechtel) These look very similar to the logging
8 roads I'm familiar with going up to the top of
9 Goodhue Hill, and I have no reason to doubt that
10 they are.

11 Q And --

12 A (Von Mertens) I'll make an addition to that that
13 one of them, the one on the first page is using
14 a historic logging road, although with modern
15 equipment. The landowner before Audubon did a
16 cut, and as best as possible we used that
17 existing logging road, but then the steeper one
18 is a new access logging access road.

19 MR. IACOPINO: Is or isn't?

20 A (Bechtel) Is.

21 A (Von Mertens) The second one is a new one, and
22 the first one is a wider version of the historic
23 logging road.

24 Q In comparison to Goodhue Hill trail, those roads

1 that are depicted there, the logging road, are
2 significantly wider than the trail.

3 A (Bechtel) That's correct.

4 Q Yet the trail crosses those logging roads.

5 A (Bechtel) Yes, that's correct.

6 Q And are visible from the trail.

7 A (Bechtel) Yes.

8 A (Von Mertens) I think the trail crosses the
9 first one, and the steeper one is not a trail.
10 If I'm recognizing it correctly.

11 Q The trail crosses the logging road so the
12 logging roads are visible from the trail.

13 A (Bechtel) Yes. In some cases we were, in order
14 to access the timber that we were planning to
15 cut, we had to cross some of our foot traffic
16 trails. That's correct.

17 A (Von Mertens) There's an exhibit in, if I can
18 see that green sheet there. We have a
19 photograph. MJB 2 in our version. In how we
20 originally submitted.

21 MR. REIMERS: I think that would be Audubon
22 Exhibit 1.

23 A (Von Mertens) I took these photos so I can --
24 it's probably, it is very similar. The two top

1 ones, the one on the left, as the caption says
2 is that's from the LandWorks Visual Assessment
3 photo, page 13 in the LandWorks one, and it's
4 showing that had to be fairly timed pretty close
5 to the cut. The photo that I took was on a
6 field trip in May, May 21st, and we're on the
7 trail that's crossing the logging path, and you
8 can see some revegetation. Revegetation is slow
9 where the soil has been compacted, and so
10 definitely on the logging roads it's going to
11 take a little while, but you can see we're on
12 the trail, and then the other photos are higher
13 up.

14 Q Yes, and I'll represent to you that both of the
15 photos that are before you are from that
16 location at the top right corner of the exhibit
17 you just referenced. They're just aiming in
18 different directions, up and down that logging
19 road.

20 A (Bechtel) Okay.

21 Q So while we're on the subject of trails, one of
22 the other purposes of clearcutting Goodhue was
23 to provide a view for hikers at Goodhue Hill.

24 A (Bechtel) That's one of the many purposes for

1 which we do land management, yes.

2 Q At the time of the cut there was no trail up
3 Goodhue Hill.

4 A (Bechtel) No, we have had a trail up Goodhue
5 Hill since we've owned the property, I believe.

6 Q On Exhibit 42, that's a map that I believe was
7 discussed in Mr. Raphael's testimony
8 significantly but wasn't admitted at that time,
9 and that's the trail map that he picked up in
10 2014 when he visited the property, and there's
11 no Goodhue Hill trail reflected on that map.

12 A (Foss) That is true, but we have, we have a map
13 which I thought we submitted at some point from
14 the '90s which shows the Goodhue Hill trail. I
15 think we produced it perhaps as a part of a data
16 request somewhere along the line? It exists.
17 We can produce it if you'd like to make a
18 request now, but it is an old trail. Why it is
19 not on this map, I have no clue, but it has been
20 a long existing trail.

21 Q I'm done asking about those exhibits.

22 At the July technical sessions, I asked
23 about Audubon's 2012 wind policy, and I was
24 specifically asking about the last page of the

1 Bartlett/Bechtel-adopted testimony. His
2 Prefiled Testimony. The last several pages, MJB
3 9, that last attachment is the Audubon Policy on
4 Wind Energy Projects Approved in January of
5 2012. The last page of that policy includes a
6 checklist of sort of questions to consider in
7 evaluating wind permit applications, and I asked
8 for the minutes of the Board in evaluating this
9 project using this checklist. It wasn't
10 provided to me on either a privilege or a
11 relevance objection. I'm unclear which because
12 I don't know what documents were in Audubon's
13 files relative to this data request.

14 So I have to ask the Board again, are there
15 minutes of Audubon using its policy checklist to
16 evaluate this project?

17 A (Foss) When the previous docket was considered,
18 we went through the checklist in great detail
19 and identified the items of greatest concern.
20 When this docket arose, the Committees and the
21 Board reviewed the issues that were identified
22 in the first docket and determined that those
23 issues remained of concern. So while I wouldn't
24 say that each issue was gone through in the same

1 detail that occurred in the 2012 docket, the
2 items of concern to the organization were
3 reviewed with respect to this docket.

4 Q You were asked earlier about whether Audubon
5 received input regarding the Willard Pond
6 Sanctuary property, and along those lines, when
7 Audubon was deciding what its position on this
8 project would be, did it make any survey or
9 inquiry of the users of the Willard Pond
10 Sanctuary property before deciding what its
11 position would be in this docket? In other
12 words, did it ask the users of that property how
13 they thought they would be impacted?

14 A (Foss) This application, if I remember
15 correctly, was submitted in January. A decision
16 had to be made, I forget what the deadline for
17 intervention was, but it was March-ish perhaps.
18 Since the bulk of the use occurs during the
19 warmer months, there was no opportunity to
20 interview users before the decision to intervene
21 was made.

22 A (Bechtel) I'd also like to add that decisions
23 like this are generally not something that we go
24 to the general public with to help make a

1 decision. This is the job of our staff and our
2 Board and our policy and our committees. So I
3 can't think of another project where Audubon has
4 sought input from the public in order to make
5 strategic decision on our property management or
6 our positions on certain issue like this.

7 Q So would you be surprised to learn that
8 Mr. Enman and Mr. Pratt asked 25 people visiting
9 the site how they felt about wind turbines at
10 Willard Pond, being able to see them from
11 Willard Pond, and all but two of those 25
12 reported either neutral or positive opinions?

13 A (Bechtel) I'm not surprised by anything someone
14 like that says, but to me it's not necessarily a
15 fully vetted assessment of opinion of users.

16 Q Considering the public testimony and testimony
17 from other sort of conservation-related
18 organizations including NEFF, Nature Conservancy
19 and the Harris Center, I want to ask you about
20 the resources that sort of you, conservation
21 organizations as a whole, have discussed in this
22 case. So that's what I'm focusing on next.

23 So in this matter, your intervention has
24 been based on highlighting generally the Quabbin

1 to Cardigan partnership. The other members of
2 that partnership do include NEFF and the Nature
3 Conservancy, Fish & Game, and U.S. Fish &
4 Wildlife who have not opposed or are favorable
5 to this project, and also the Harris Center
6 which has decided not to take a position in
7 this, and Audubon is the only organization
8 opposing it.

9 A (Bechtel) That's correct.

10 Q At your Prefiled Testimony and now, Ms. Foss,
11 I'm considering your Prefiled Testimony, you
12 referenced the Nature Conservancy's designation
13 as a Tier 1 Matrix Forest Block. You've
14 reviewed the Applicant's Exhibit 16 which also
15 discusses the matrix forest?

16 A (Bechtel) I'm familiar with the Nature
17 Conservancy's matrix blocks.

18 Q And that letter concludes that landscape
19 connectivity concerns aren't significant
20 regarding regional habitat connectivity, and I
21 think I also heard Ms. Foss say earlier that she
22 doesn't have landscape level concerns about this
23 project.

24 A (Foss) I was providing a landscape context for

1 the project which includes all of these
2 conservation designations. I was not commenting
3 on landscape connectivity per se.

4 Q So specific to landscape connectivity then, do
5 you disagree with the Nature Conservancy's
6 letter that finds there's no significant concern
7 about regional habitat connectivity?

8 A (Foss) I would have to concur.

9 Q At page 4 of your Prefiled Testimony and also
10 substantially throughout today, you've discussed
11 the Wildlife Action Plan. In your testimony, I
12 think Ms. Von Mertens spoke about this as well,
13 you essentially suggest that that's the way for
14 Fish & Game to participate in SEC proceedings.

15 A (Bechtel) Who are you addressing this question
16 to?

17 Q Any of you, but most specifically, Ms. Von
18 Mertens and Ms. Foss spoke about this earlier
19 which is that the Wildlife Action Plan is the
20 means for Fish & Game to participate in these
21 SEC proceedings.

22 A (Foss) I would not agree with that statement.

23 A (Von Mertens) I didn't say that.

24 Q Okay. Would you agree that Fish & Game can

1 write letters to the SEC?

2 A (Foss) Yes.

3 Q And to the Applicant?

4 A (Foss) Yes.

5 Q An that they did in this case?

6 A (Foss) Yes.

7 Q And that Fish & Game has not in any of those
8 correspondences discussed that it has concern
9 about the Wildlife Action Plan or the habitat
10 discussed therein with respect to this project.

11 A (Foss) Correct.

12 A (Von Mertens) I think the point I was trying to
13 make is that the Fish & Game, well, the Fish &
14 Game created the Wildlife Action Plan as a guide
15 to wise land use planning for other entities,
16 towns, to decide where a logical place, also the
17 Site Evaluation Committee, where is a logical
18 place for different kinds of development, high
19 impact development, and that I think Geoff Jones
20 asked isn't that the first thing you should look
21 at when you're planning a major development.

22 Q And Fish & Game has had an active role in this
23 docket in relating its concerns to the SEC and
24 to the Applicant, and in none of those

1 correspondences has it mentioned once the
2 Wildlife Action Plan.

3 A (Von Mertens) Correct. I believe.

4 A (Foss) I'm not, I'm not aware of the Department
5 invoking the Wildlife Action Plan directly in
6 that way ever. It's certainly -- well, I'll
7 leave it there.

8 Q So the Applicant has studied this site using
9 studies, sort of using advice and input from
10 U.S. Fish & Wildlife and New Hampshire Fish &
11 Game.

12 A (Foss) Correct.

13 Q Audubon has not.

14 A (Foss) Has not what?

15 Q Has not conducted studies on site.

16 A (Foss) Correct.

17 Q The New Hampshire Natural Heritage Bureau has
18 already weighed in on this project.

19 A (Foss) Correct.

20 Q And found, and I'm quoting from their letter
21 which is Appendix 11 A, "Based on the
22 observations made during the site visit and the
23 application materials provided, the Natural
24 Heritage Bureau has determined it's unlikely a

1 proposed wind facility will impact rare plant
2 species or exemplary natural communities." Do
3 you disagree with that statement?

4 A (Foss) I agree with that.

5 Q At page 3, and I'm speaking to Ms. Foss
6 specifically, of your Prefiled Testimony you
7 reference Meade Cadot, and I apologize if that's
8 not the correct pronunciation, of the Harris
9 Center as pioneering the "SuperSanctuary" and
10 I'm putting that word in quotes, as it's
11 referenced variously throughout testimony. Have
12 you reviewed the conservation easement letters
13 of intent at -- they're in the Application.
14 Where are they. They're Appendix 10 at page 12
15 and they're sort of the first five conservation
16 easements.

17 A Yes, I have.

18 Q And Meade Cadot's signature appears on those
19 easements or the letters of intent, I'm sorry.

20 A (Foss) Yes.

21 Q So the one of the founding, sort of, visionaries
22 of the Harris Center conservation efforts
23 supports these conservation easements.

24 A (Foss) That signature indicates that.

1 Q Ms. Von Mertens, my last series of questions are
2 directed to you. At page 4 of your Prefiled
3 Testimony, you discuss that Committee members of
4 the Harris Center's Bald Basin Committee
5 approached landowners of the property that's now
6 the project site, and you suggest that they had
7 agreed to conserve their property, we're talking
8 about the Whittemores, that they had agreed to
9 conserve their property, and then you suggest
10 that Antrim somehow interfered with that
11 agreement. Is that how you intended those
12 statements to be made?

13 A (Von Mertens) No. I stated that
14 Mrs. Whittemore, her property, an easement had
15 been drawn up with the Harris Center for 328
16 acres, and the Harris Center, you know, you meet
17 with the landowner and you agree on what the
18 reserved rights are, and the Whittemores had
19 agreed and the Harris Center started pursuing
20 funding support for the easement, and
21 Mrs. Whittemore's a resident, I think, of
22 Arizona. She's here for the summer. And the
23 easement was all drawn up, and everyone was very
24 excited, and then communication from

1 Mrs. Whittemore ceased. That's what I said.
2 And then I said in time, it became known that
3 Mrs. Whittemore -- there's two properties. Mrs.
4 Whittemore and her son's 328-acre property are
5 part of it, and Paul Whittemore's abutting
6 property were part of the Antrim Wind. That's
7 all I said. I didn't interfere. I think my
8 wording was that communication from
9 Mrs. Whittemore ceased.

10 Q Have you reviewed the letter from the Harris
11 Center that's actually part of Jack Kenworthy's
12 Supplemental Testimony which is Applicant's
13 Exhibit 24 and its attachment JK 17 to that
14 testimony?

15 A (Von Mertens) Is that a Supplemental from Jack
16 Kenworthy?

17 Q Yes.

18 A (Von Mertens) What number?

19 Q It's Applicant's Exhibit 24, and it's Attachment
20 17 to that Supplemental Testimony.

21 A (Von Mertens) It was a recent letter from
22 Stephen Froling from the Harris Center.

23 Q Yes, dated August 10th.

24 A (Von Mertens) Yes, I'm very familiar with it.

1 Q So the characterization in that letter of the
2 communications with the Whittemore trust are
3 accurate?

4 A Can you read it to me? I don't have it in front
5 of me.

6 Q Yes. The recitation of activities in Ms. Von
7 Mertens, I'm at the top of page 2 of that
8 letter, the recitation of activities in Ms. Von
9 Mertens' testimony relates to the period before
10 2011 including an effort, ultimately
11 unsuccessful, to obtain an easement on property
12 of the Whittemore trust. She omits to report
13 that by the end of 2010 Helen Whittemore had
14 refused to sign closing papers. Our
15 negotiations with other potential grantors in
16 the Bald Basin area never got that far.

17 A (Von Mertens) I did notice the word "refused,"
18 and I'll stick with my memory of the situation,
19 was conversation, when's Mrs. Whittemore going
20 to get back, and then, oh, we haven't, she's,
21 it's what I said. The communication from her
22 side stopped. "Refused," I thought that was --
23 anyway. That was, I just imparted my
24 understanding of the situation. And the result

1 was the same, that the easement did not come to
2 a, was not achieved.

3 Q The rest of that letter, you know, other parts
4 of that letter, let me pick out exactly what I'm
5 talking about here. The Harris Center asked,
6 one, and it's numbered paragraph 4, states Ms.
7 Von Mertens raises the question whether absent
8 AWE's activity the Harris Center and others
9 would have conserved the Bald Basin area. And
10 after the paragraph that I just read you, it
11 continues, at the same time the facts on the
12 ground had changed dramatically, the following
13 paragraph. Although Ms. Von Mertens expresses
14 confidence that the Harris Center would have
15 succeeded in these efforts, these efforts being
16 conservation of the area, the Harris Center, the
17 Board perceived substantial risk in that
18 conclusion. And so the letter, and I'm
19 paraphrasing because you said you had read it so
20 please correct me if my question makes
21 misrepresentation about the letter, but the
22 letter seems to suggest that the Harris Center
23 took the approach that they were more confident
24 the land would be conserved with AWE's

1 participation as opposed to their own efforts.

2 A (Von Mertens) I wanted to make the point that
3 it's a very robust area in terms of conservation
4 success, the Harris Center with partners, and I
5 pointed out that there was \$3.5 million of
6 Forest Legacy money to buy conservation
7 easements, and I didn't, by absent the wind
8 project, I didn't mean if the SEC turned it
9 down. I meant if Antrim Wind had never shown
10 up, I think we could have made progress. We
11 could have purchased easements the way the
12 landowners sold easements to Antrim Wind. I
13 just -- it's a wonderful area for conservation.
14 And now it's -- so I'll stop with that. That
15 was my point. I didn't mean if the project is
16 turned down, suddenly the Harris Center would be
17 knocking on their door and they'd be agreeable.
18 I didn't mean that.

19 Q On page 2 of your Prefiled Testimony, you
20 discuss the educational uses of the sanctuary
21 property, and I know that you spoke about this,
22 but I think at the technical sessions I think
23 there were more members of the panel speaking
24 about this. So anyone on the panel who has an

1 answer is fine with me. The educational uses of
2 the property. I'm going to list them and just
3 tell me if I've omitted anything. They are
4 tracking and wildlife sign identification,
5 sustainable forestry practices, wildflower
6 identification, birding and general natural
7 history. Am I missing anything? I guess
8 recreation.

9 A (Von Mertens) The general point, I'm sure
10 there's some other topics, that field trips
11 offered by Audubon or the Harris Center or other
12 conservation groups that do field trips, it's a
13 wonderful area to find all of those examples;
14 wildlife tracks, wildflowers, sketching
15 wildflowers, educational.

16 Q None of these uses and activities would be
17 impacted by the project being constructed on
18 adjacent private lands.

19 A (Von Mertens) Anyone else want to try that one?

20 A (Bechtel) I think the overall experience that we
21 are inviting people to come visit the property
22 with us would be impacted.

23 Q The people that you didn't ask what their
24 opinion of the project would be prior to making

1 Audubon's decision in this docket?

2 A (Bechtel) I'm not going to speculate on which
3 people.

4 Q There would be one additional educational
5 activity you could add to the property which
6 would be discussion of renewable energy, right?

7 A (Bechtel) Yes. That would be a great
8 educational opportunity for us to discuss
9 inappropriate siting of wind turbines.

10 Q You could also discuss renewable energy
11 generally.

12 A (Bechtel) That's true.

13 Q I have no further questions.

14 PRESIDING OFFICER SCOTT: Is that all from
15 the Applicant?

16 MR. NEEDLEMAN: Yes. Thank you.

17 PRESIDING OFFICER SCOTT: Okay. You think
18 you have redirect Mr. Reimers?

19 MR. REIMERS: I do. I'll be very quick,
20 and we'll show Mr. Buscher's animated
21 simulations.

22 PRESIDING OFFICER SCOTT: I apologize. I
23 need the Committee to go first. I apologize.
24 It's after five. I get a little bit --

1 MR. REIMERS: Likewise.

2 PRESIDING OFFICER SCOTT: Dr. Boisvert?

3 DR. BOISVERT: You'll have to give me a
4 moment. I'm trying to only go to the apple
5 once.

6 BY DR. BOISVERT:

7 Q You as an organization have stated that you have
8 looked at the project and considering the amount
9 of energy generated from the wind farm, the
10 impacts that you observed from them, that you
11 don't see that once you have looked at that
12 comparison that there's enough to persuade you
13 that the wind farm would be preferable to not
14 having a wind farm there, is that correct?
15 You've made a judgment trying to balance various
16 criteria for and against.

17 A (Foss) That's correct.

18 Q And you've indicated that from your perspective,
19 that the amount of energy created was rather
20 small in comparison to the impacts; was that
21 correct?

22 A (Foss) Correct.

23 Q Do you have a sense of how much energy would be
24 an appropriate threshold for nine turbines?

1 Given that the technology improves over time,
2 we've seen a increase in the output of the
3 turbines from Lempster to Groton to this
4 proposal. Each one has greater power output.
5 Do you have any sense of how much power would
6 need to come out in order for you to shift your
7 position, all other things being equal?

8 A (Foss) That position was developed by two
9 committees and the Board, and I would not
10 presume to how your question would be answered
11 collectively by that group.

12 Q Mention was made of the boulders at the
13 ridgeline. Could you elaborate on what fauna
14 use, you said it's a good habitat, what would
15 those animals be? Could you elaborate on the
16 habitat and the fauna that would use it?

17 A (Foss) Porcupines den in -- the larger the
18 boulders, the bigger the spaces between the
19 boulders when they get all tumbled up.
20 Porcupines, potentially bobcat. As I mentioned
21 before, turkey vultures nest in crevasses such
22 as that. That would be the primary three
23 species, I think.

24 Q You make reference to other ponds in New

1 Hampshire that are somehow comparable. I have
2 been on the site visits, but they have been
3 rather quick affairs where our ability to go
4 from one place to another means that our time is
5 relatively limited to any one observation point.
6 So while I have had an opportunity to view this
7 pond or water bodies there, Gregg Lake included,
8 I won't represent that I have an exceptionally
9 good feel for it, but I know some other ponds
10 that might be comparable. Are any of you
11 familiar with Cherry Pond or Pondicherry up in
12 Jefferson, New Hampshire?

13 A (Foss) Yes, we are.

14 Q How would you compare that pond with Willard
15 Pond in terms of aesthetics and use by the
16 public for the two different areas?

17 A (Foss) Certainly access to Willard Pond for
18 someone of limited mobility is much easier than
19 to Cherry Pond. I mean, clearly, Cherry Pond is
20 in a much more dramatic landscape being adjacent
21 to the White Mountains. So given that it's in a
22 different region of the state, I think that
23 regional context is important.

24 Q I don't think anyone would seriously compare

1 Tuttle with the Presidential Range. I'll give
2 you that. But do you see Cherry Pond as being
3 somehow comparable in terms of undeveloped
4 shoreline and so forth?

5 A (Foss) I didn't catch the middle of that.

6 Q I, too, am fighting a cold. Would you say that
7 Cherry Pond is comparable in terms of
8 undeveloped shoreline, relatively undeveloped
9 shoreline?

10 A (Foss) Largely. However, there are railroad
11 tracks that run along two edges of it so even
12 though, well, at least one of them is still
13 active. So there is some industrial activity if
14 you can call a railroad that.

15 Q I think you can.

16 A (Foss) There.

17 Q Okay. I think I'm done. In fact, I won't ask
18 any more questions.

19 PRESIDING OFFICER SCOTT: Ms. Weathersby?

20 BY MS. WEATHERSBY:

21 Q Thank you. We've heard a lot of testimony about
22 a lot of different areas, and I'm just trying to
23 get my arms around what the main objection for
24 Audubon is to this project, and it seems to me

1 it's based on visual impact of the turbines on
2 the conservation areas, most particularly,
3 Willard Pond. Am I correct?

4 A (Foss) I'd say it's on the visitor experience.

5 A (Bechtel) I think we should go back to New
6 Hampshire Audubon's mission which is to protect
7 New Hampshire's natural environment for wildlife
8 and people, and I think our opposition is based
9 on the wildlife and people, and I think
10 everything we've talked about touches on both of
11 those things. We have ecological concerns of
12 the direct impact and the wilderness-like
13 experience for people who don't get to,
14 especially in the southern part of the state,
15 experience something like this very often. So
16 the "for people" part is bringing people to a
17 unique setting like this that would be in your
18 opinion impacted dramatically by a ridgeline
19 distracting development.

20 Q Okay. So the visual effects on people and then
21 the environmental effects on the wildlife. And
22 I understand those are primarily the alteration
23 of terrain concerning the roadways and the
24 boulders and the effect on the wildlife? And

1 then the erosion control post-decommissioning
2 and the invasive species post-decommissioning?
3 Are those the primary concerns concerning
4 wildlife?

5 A (Foss) And fragmentation.

6 Q There's been some plans submitted concerning the
7 Bird and Bat Conservation Strategy, your
8 recommendations concerning the common nighthawk
9 and the postconstruction surveys for the
10 invasive species. I understand that you're
11 supportive of those three plans.

12 A (Foss) Correct.

13 Q And would you say that those adequately address
14 the subject areas that they're intended to
15 address?

16 A (Foss) Yes.

17 Q Okay. And my last question is just, I've never
18 been to Pillsbury State Park, and there's been
19 some suggestion that a pond or ponds there are
20 similar to Willard Pond. Could you just educate
21 me as to how you think the ponds, if you've been
22 there, equate in their scenic beauty and their
23 wildlife and birds communities?

24 A (Foss) I haven't been to Pillsbury State Park

1 since I was about ten years old so I really
2 don't want to make any attempt.

3 Q That's fine.

4 A (Bechtel) And part of my testimony, there is
5 some discussion about the technical character of
6 the pond making it fairly unique in the state
7 and the word is oligotrophic, one of the fancy
8 jargon words there, but what that means in part
9 is when you're on the surface of the water you
10 can see down very, very deep. The water clarity
11 is exceptional, and not many ponds, especially
12 in the southern part of the state, have that
13 character, and that's been recognized by
14 multiple agencies as a reference lake meaning
15 other lakes are just judged by the quality at
16 Willard Pond, in part because of this water
17 clarity issue. That doesn't mean, oligotrophic
18 means, in part, also nutrient poor acidic, and,
19 again, that's a unique part of the pond itself,
20 and also in part because of the unaffected and
21 pristine nature of its watershed.

22 Q Thank you.

23 A (Bechtel) I'm not sure about Pillsbury State
24 Park itself, but not many ponds in the southern

1 part of the state have that character.

2 A (Von Mertens) I think we shouldn't forget the
3 tiger trout either, and Charlie Levesque is very
4 concerned that this is going into the record
5 that there's tiger trout there, and he would
6 like to have it removed because he goes fishing
7 there for tiger trout, and it's, as we learned,
8 only one of two water bodies in the state that
9 have tiger trout.

10 PRESIDING OFFICER SCOTT: You're up,
11 Commissioner Rose, with that introduction.

12 BY COMMISSIONER ROSE:

13 Q Well, I don't know where to begin here. So yes,
14 it is always a challenge to figure out whether
15 you should reveal these hidden gems, and
16 Pillsbury State Park is one of those as well.

17 I just have one question for you. In your
18 Prefiled Testimony, you referenced some concerns
19 with the six conservation easements and that
20 they were lacking certain provisions that have
21 become fairly standard within easements, and I
22 was wondering if you could elaborate a little
23 bit more in terms of what the conservation
24 easements might be lacking and/or if there might

1 be any specific BMPs that should be referenced,
2 Best Management Practices, that should be
3 included that are not currently within those
4 easements.

5 A (Foss) Well, referencing Good Forestry in the
6 Granite State would be a good start. I think
7 that, I'm trying to remember the details of my
8 testimony without much success here, but there
9 are standard, well, not standard, there are
10 templates for conservation easements that are
11 being followed by a number of the land trusts in
12 the state, and it would, I guess what I would
13 recommend at this point without going through
14 detail by detail is that the Committee just take
15 a look at some of those templates and make the
16 comparisons with the easements in question. The
17 road over the top is of particular concern to
18 us, but I think that providing that forestry be
19 conducted under the guidance of a certified
20 forester and that the State's BMPs and
21 guidelines in Good Forestry in the Granite State
22 be addressed would be a good place to start.

23 Q Thank you. Just one last question. I'm sorry.
24 I may have missed it earlier, but does Audubon

1 play a role, even an advisory role, with regards
2 to the Fish & Game Wildlife Action Plan?

3 A (Foss) One member of our staff was on the WAPIT
4 team. So yes.

5 Q Thank you. That's all I have.

6 PRESIDING OFFICER SCOTT: Director Forbes?

7 BY DIRECTOR FORBES:

8 Q Just a quick question about your development of
9 your policy for reviewing wind energy projects.
10 I was curious, have you ever opined or provided
11 testimony or made recommendations on other wind
12 energy projects in New Hampshire?

13 A (Foss) I believe we submitted a letter to the
14 SEC on Granite Reliable. We also were involved
15 in preconstruction breeding bird surveys for
16 Granite Reliable. I do not think, I'm quite
17 confident that we did not get involved in the
18 Lempster docket, and I'm pretty sure that we did
19 not get involved -- I won't swear to Groton
20 because there are two peregrine aeries within
21 five miles of the Groton facility, and we may
22 well have commented on that in a letter.

23 Q This policy postdates those projects coming to
24 the SEC. Did you follow a similar effort of

1 trying to review and make a determination
2 whether to be involved in these projects? Going
3 through the Board and such to determine if it
4 was in your interest to testify or provide
5 recommendations?

6 A (Foss) Prior to the development of that policy,
7 I believe the Board's instruction to staff was
8 to review it, make any wildlife-related comments
9 that staff deemed relevant, but that the
10 organization was remaining neutral on wind
11 projects.

12 Q Thank you.

13 A (Foss) Despite being asked to support them in
14 some cases.

15 Q Thank you.

16 BY PRESIDING OFFICER SCOTT:

17 Q Thank you. This is probably for Ms. Foss, but
18 whoever thinks they should answer. I've heard
19 you mention a couple of times concerns with the,
20 I assume it's the Ott easement where ultimately
21 there could be a road going across the top of
22 the ridge; am I correct?

23 A (Von Mertens) That's the Bean easement.

24 Q Okay.

1 A (Von Mertens) That allows the road across the
2 top.

3 Q So how was that different from where we are
4 today? I mean, that could happen independent of
5 the project, could it not?

6 A (Von Mertens) Conservation easements, this is
7 post-project. To have a reserved right to
8 create a road across Tuttle Hill which is quite
9 visible, that's an unusual conservation easement
10 that would allow a road and utilities and that
11 would be a cell tower. It's unusual to have a
12 cell tower as a permitted use or a reserved use
13 in a conservation easement.

14 Q I guess my question really is but from where we
15 are today, those activities could happen today,
16 correct? There's nothing stopping them.

17 A (Von Mertens) Correct.

18 Q I was also curious, there was a discussion about
19 boulders and different wildlife using those as
20 habitat. Can you help me, what size boulders
21 are we talking about?

22 A (Von Mertens) I like to say that when the
23 glacier retreated, it said here we are in Antrim
24 and Hancock, sort of the border, and we're just

1 going to get rid of most of them. And if you've
2 walked around Willard Pond, the Tudor, the Tudor
3 Trail, you really have to squeeze in between
4 very large boulders. Up to the lights and
5 higher. Some of them. And then others are
6 boulder trains, just a whole bunch of smaller
7 ones that are kind of tumbled, and then a few
8 standalone. That's a little unusual, but the
9 area has quite a few good examples of all.

10 Q So my question, and I was curious your reaction.
11 I mean, my understanding is the project if it
12 goes forward was planning on effectively
13 eliminating those in some fashion, grinding them
14 up or however they decided to do that.
15 Obviously, if it's the size of this room,
16 nobody's going to move that otherwise, but would
17 it be acceptable just to push those out of the
18 way, bulldoze those out of the way, and is that
19 a good thing or a bad thing? Does that help the
20 habitat issue you're concerned about?

21 A (Foss) It would certainly be preferable to TNT.

22 Q So you wouldn't necessarily maintain, correct me
23 if I'm wrong, the same amount of potential
24 places for wildlife, but you could still

1 preserve maybe a majority of it by doing that?

2 A (Von Mertens) My memory of the glacial boulders
3 is that they were on sloped areas. I don't
4 remember any on Tuttle Ridge, the flat part.
5 The topographical map that I handed out when I
6 was questioning about cut and fill, there's
7 some, there's four to five elevation changes
8 that are significant. Tuttle Ridge is the
9 exception. And that was where the main boulder
10 areas were. There also was the biggest, most
11 glorious one, a standalone, on top of Willard
12 where turbine 10 would have been, and it was
13 very good news when turbine 10 was removed in
14 terms of that very large glacial boulder.

15 Q Ms. Foss, in your Supplemental Testimony you
16 talked about common nightingale?

17 A (Foss) Nighthawk.

18 Q Nighthawk. Excuse me. Thank you for that.
19 And you mentioned a mitigation strategy, if the
20 project were to go forward if I understood that
21 right, you'd want a certificate condition to
22 address that, am I correct?

23 A (Foss) Yes. However, I would say that the
24 Memorandum of Agreement that has been signed by

1 Fish & Game and the Applicant and Audubon would
2 eliminate the need for a condition, as I
3 understand how these things work.

4 Q Okay. Or perhaps if we were to issue a
5 certificate, we'd incorporate that by reference?
6 We'd cite that perhaps as being required to be
7 complied with?

8 A (Foss) I don't understand the legalities of all
9 this stuff, but let me just say that having it
10 as a MOA, if conditions changed, some new
11 monitoring technique appears in the next 20
12 years, it would be much easier for the parties
13 to adjust the Memo of Agreement than to have to
14 come back to the SEC, and so if you referenced
15 that MOA and any successive MOAs or something
16 like that, I think this could work, but I think
17 for all parties the flexibility of the MOA is a
18 good thing.

19 Q Thank you for that. Mr. Iacopino?

20 BY MR. IACOPINO:

21 Q Thank you. I'm going to get back to boulders
22 for a minute. I understand that you all took a
23 walk along the ridgeline, and I assume you tried
24 to heel as close as you can to where you believe

1 the road would be? Is that correct?

2 A (Von Mertens) There was flagging.

3 Q You mentioned before that flagging appeared to
4 be preliminary to you?

5 A (Von Mertens) There also were stakes with WTG 1,
6 2, 3, 4, 10, which is, I can't remember what it,
7 turbine, wind turbine generator staked where we
8 assumed the 10 turbines were.

9 Q And on that walk, how many of these boulder
10 formations did you observe that appeared to be
11 in the area where there would be construction?

12 A (Von Mertens) There were two major ones that I
13 remember.

14 Q Is there any way you could sort of describe them
15 for us? In other words, where they are really.

16 A (Von Mertens) Okay. This was 2012. If you go
17 along Tuttle Hill --

18 Q I take it they didn't move.

19 A (Von Mertens) No, but my memory does. The main,
20 if you go along Tuttle Hill, heading south it's
21 pretty level, and then there's a steep dropoff.
22 That was one area. And then there's two
23 ascents. That's a descent, and then you go up
24 and then you go down and then you go up again,

1 and I can't remember which of the ups, I think
2 it was the second up that was very impressive.
3 And then I guess a third one, I don't know if
4 this is really useful because the third one I
5 remember as being near turbine 8 where we
6 started to bushwhack home and nobody was there
7 to meet us. But anyway, that's -- I'm
8 uncomfortable with this.

9 Q You mean you're uncomfortable in identifying
10 where it was?

11 A (Von Mertens) Yes. I remember three
12 significant and then the fourth one right on top
13 of Willard Mountain as a standalone.

14 Q Let me ask you this.

15 MS. LINOWES: Excuse me. I'm sorry. Mr.
16 Iacopino, there are some spectacular
17 photographs --

18 Q I'm aware. I know you're not a road
19 construction engineer, but did it appear to you
20 on your walk that it's possible to build a road
21 without causing any harm to those boulder
22 formations?

23 A (Von Mertens) No. Not the way you stated it.
24 They were on steep areas and you have to figure

1 out how you're going to build a road at a
2 certain limited grade on steep areas. I don't
3 think you have a lot of options how to get from
4 here to there, and I think you could minimize, I
5 think you could make some choices that might
6 minimize. I think some of their mapping was
7 more done indoors rather than outdoors. I think
8 I asked that question, and I think there's some
9 possibility here.

10 Q Well, you've actually walked the entire
11 ridgeline, and the Committee hasn't so I just
12 wanted to get your view of that, at least,
13 understanding it's not a technical one.

14 A (Von Mertens) Yes, and there were others here:
15 Geoff Jones, Mr. Block.

16 Q They'll have their opportunities to testify.

17 A (Von Mertens) Good.

18 Q Ms. Foss, you were asked by Ms. Linowes about
19 the edge effect and she tried to get a number
20 from you whether the edge effect increased the
21 impacted area. I think she started with 500
22 feet and went to 300 feet and then a hundred
23 feet. Is it possible to actually provide a
24 measurement as to what the width of the road is

1 and how far off the edge you're going to
2 actually affect the habitat?

3 A (Foss) I'd like to give the standard scientific
4 answer which is "it depends."

5 Q That's what I thought.

6 A (Foss) I mean, that said, it would be possible
7 to provide some published studies that had
8 looked at edge effects in different situations,
9 but that would not necessarily translate
10 directly to this situation, but I can
11 certainly --

12 Q That would put the Committee at taking a guess
13 then; is that correct?

14 A (Foss) Yeah, probably.

15 Q The Applicant's consultants, Mr. Valteau and
16 Mr. Gravel, went through the methodology that
17 they used to determine what studies to do, and
18 if I recall, and I'm paraphrasing, but I
19 understand they contacted the Natural Heritage
20 Bureau and they made contact with Fish & Game.
21 Is that an acceptable methodology in your field?

22 A (Foss) It certainly -- they also contacted U.S.
23 Fish & Wildlife Service.

24 Q I'm sorry. Also U.S. Fish & Wildlife.

1 A (Foss) That is the typical approach.

2 Q So they did what you would expect any developer
3 to do in constructing a project in this type of
4 environment then.

5 A (Foss) Yes.

6 Q Several of you answered that Audubon went
7 through this sort of analysis, and the part that
8 I was intrigued by is your analysis of whether
9 or not the air quality effects of the project
10 were worth the impacts because we, as you know,
11 the Applicant has presented letters from a
12 couple of other environmental organizations that
13 have at least on their own made the
14 determination that they thought it was, and I
15 guess my question to you is how should this
16 Committee sort through that? We have The Nature
17 Conservancy referencing the clean air effects of
18 the project, New England Forests Foundation, I
19 think is the name, and the Sierra Club. The
20 three of them, and presumably, well, I don't
21 know if the Harris Center did anything about it
22 or not, but presumably those three have come to
23 a different conclusion than the Audubon Society.
24 So what I'm going to do is open the floor for

1 you to tell us how you believe the Committee
2 ought to weigh and assess those three or four
3 opinions. Other than just saying, "We're
4 right."

5 A (Bechtel) Never mind. We have to understand,
6 that all, while we are all environmental
7 organizations, we all approach questions like
8 this independently and respect the analysis of
9 the other organizations. In this particular
10 case, we came to a different conclusion based on
11 our discussions with our Board and staff than
12 our partners did.

13 I would say that the issue of air quality
14 was not the value that swayed our decision. It
15 was the other things that we've talked about and
16 have testified for. I'm not sure that helps,
17 but that's a starting point for understanding
18 how we differ from the other conservation
19 organization's conclusions.

20 Q Anything to add from anybody else on the panel?

21 A (Von Mertens) I'd like to point out that as Mark
22 Sancow said today, they were addressing their
23 purview which is environmental, and the Site
24 Evaluation Committee in that 2012 docket agreed

1 with TNC that there is a not an unreasonable
2 wildlife impact in this particular project and
3 so TNC is agreeing with the wisdom of the SEC in
4 the original docket.

5 Q Anything else? Okay. I don't have any other
6 questions, Mr. Chairman.

7 PRESIDING OFFICER SCOTT: Mr. Reimers?

8 **REDIRECT EXAMINATION**

9 By MR. REIMERS:

10 Q I'll be quick. Mr. Bechtel, you used to work at
11 TNC, The Nature Conservancy, correct?

12 A That's correct.

13 Q Do you know whether TNC asked its members to
14 vote on what position TNC would take in this
15 case?

16 A I don't know whether they --

17 MS. SCOTT: Objection. I'm sorry. With
18 Attorney Needleman out, and I apologize but I
19 don't know the procedure before the Board so
20 just correct me. This is outside the scope of
21 either the Prefiled Testimony or the scope of
22 cross.

23 MR. REIMERS: Attorney Scott had asked the
24 witness about whether they had talked to their

1 members, and I think maybe she had even asked
2 them if they got a vote of their members. So
3 this is exactly what they were asking about.

4 MS. SCOTT: I never asked about Audubon's
5 members at all.

6 PRESIDING OFFICER SCOTT: I think some of
7 the panel here might have, too, so I'll allow
8 it.

9 Q Do you know whether TNC polled their members?

10 A (Bechtel) I don't know if they did. When I was
11 with The Nature Conservancy, that was not a
12 practice that I ever witnessed in 17 years.

13 Q Throughout this hearing, the 908 acres of land
14 that would be under conservation easement has
15 been discussed a lot. Please put the 908 acres
16 into context. How many acres is Audubon's
17 sanctuary?

18 A (Bechtel) Our Willard Pond sanctuary is, it's
19 over 1600 acres, close to 1700 acres.

20 Q How many acres is the larger SuperSanctuary?

21 A (Bechtel) If you're referring to the amount of
22 conserved land in the area referred to as
23 SuperSanctuary, it's close to 33,000 acres of
24 conserved land.

1 Q And Audubon is active statewide, isn't it?

2 A (Bechtel) Audubon is active statewide.

3 Q Is the Antrim region and the SuperSanctuary
4 region an area of the state with a high level of
5 active conservation occurring?

6 A (Bechtel) Absolutely. Yes.

7 Q One of the conservation groups active in the
8 area is the Harris Center?

9 A (Bechtel) That's correct.

10 Q How many acres did the Harris Center conserve in
11 the past 12 months?

12 A (Von Mertens) The Harris Center's Annual Meeting
13 is, I think, two weekends away, and they'll be
14 announcing that they conserved 805 acres in the
15 past 12 months.

16 Q Okay. And the Monadnock Conservancy is a land
17 trust in the region; isn't that right?

18 A (Bechtel) That's correct.

19 Q How many acres of land did the Monadnock
20 Conservancy conserve in the past 12 months?

21 A (Von Mertens) And they had their Annual Meeting
22 coinciding with Audubon's a weekend ago, and in
23 the past 12 months they've conserved over 1100
24 acres.

1 Q During David Raphael's testimony, Dr. Foss, this
2 is for you. We looked at the chart that you
3 prepared that is attached to Michael Bartlett's
4 testimony based on the public water bodies, and
5 I was asked how you had made that chart. Could
6 you just tell us what procedures you undertook?

7 MR. NEEDLEMAN: Mr. Chair, I'm going to
8 object. I don't think this is redirect that's
9 relating to cross-examination that this
10 Committee, that this group received today. It
11 sounds like this is new direct testimony.

12 PRESIDING OFFICER SCOTT: Response?

13 MR. REIMERS: It was to clear up something
14 that had come up prior in the hearing, and this
15 is the one and only time that this person will
16 be on the stand to discuss that.

17 MR. NEEDLEMAN: I do think that's beyond
18 the scope.

19 PRESIDING OFFICER SCOTT: Can you give us a
20 little bit more? What are you trying to clear
21 up?

22 MR. REIMERS: We can pass that.

23 PRESIDING OFFICER SCOTT: Okay.

24 Q Mr. Raphael also testified that if the project

1 is approved, people who don't want to look at
2 the turbines can go to similar ponds and lakes
3 in the area, and he mentioned Robb Reservoir.
4 Robb Reservoir, do you know whether that is
5 listed on the state list of public water bodies?

6 MR. NEEDLEMAN: Same objection. I don't
7 think anyone cross-examined this panel about
8 Robb Reservoir or this issue. It's just going
9 back to Mr. Raphael's testimony.

10 MR. REIMERS: I can ask a different
11 question.

12 PRESIDING OFFICER SCOTT: Okay.

13 Q You've been asked tonight about Cherry Pond and
14 other ponds. Is Robb Reservoir similar to
15 Willard Pond in its recreational and aesthetic
16 qualities?

17 A (Foss) Robb Reservoir is an artificial
18 impoundment which puts it in a different class
19 of water body from Willard Pond.

20 Q Mr. Buscher, is this your first time testifying
21 before the Site Evaluation Committee?

22 A (Buscher) Yes, it is.

23 Q Are you currently working on any other projects
24 that are before the Site Evaluation Committee?

1 A (Buscher) We are retained by the Attorney
2 General's office for the Northern Pass project.

3 Q Okay. Have you read the Supplemental Prefiled
4 Testimony of David Raphael?

5 MR. NEEDLEMAN: I'm going to make the same
6 objection here. I don't know where this could
7 be going in relation to how he was
8 cross-examined today.

9 MR. REIMERS: It's not in relation to how
10 he was cross-examined, but since the
11 Supplemental Prefiled Testimony, this witness
12 has had no opportunity to react to that.

13 MR. NEEDLEMAN: He should have no
14 opportunity to react to it. He's put his
15 testimony in, and he's been cross-examined.

16 MR. REIMERS: I guess I fundamentally, I
17 don't understand why he wouldn't have an
18 opportunity to react to testimony that directly,
19 Supplemental Testimony that directly critiques
20 Mr. Buscher's methods.

21 MR. NEEDLEMAN: The answer is because if
22 somebody cross-examined him on it, he would have
23 been able to answer the question, but that's not
24 the procedure that this Committee uses. This is

1 new redirect. This is new direct testimony now.

2 MS. MALONEY: I think I agree with Attorney
3 Reimers. We would be in the same position where
4 we, we've gotten Supplemental Testimony that
5 critiques Ms. Connelly's report. She's not had
6 any chance to respond to that. So based upon
7 what Attorney Needleman is saying, if she
8 doesn't get asked those questions, she doesn't
9 get a chance to respond?

10 PRESIDING OFFICER SCOTT: In the context of
11 I think it may help the Committee to hear his
12 opinion, I'd like to go ahead with this.

13 MR. REIMERS: Thank you.

14 Q On page 52 of Mr. Raphael's Supplemental
15 Testimony, he states that your video animations,
16 quote, "do not represent the most
17 state-of-the-art application of animation
18 technology and these animations present a
19 distorted and almost surreal version of
20 reality," end quote. Can you respond to that?

21 A (Buscher) I would disagree with that. Live
22 motion animations is a different type of
23 animation. They're several different factors to
24 take into consideration. These still frame

1 simulations were done at very high resolution
2 which typically we are, we are only starting to
3 get to the point where we can replicate that
4 type of resolution in live motion video, more or
5 less 4K video. The computing and processing
6 capabilities to perform that type of animation
7 is -- we're at the brink now, it's happening.
8 We don't have it in our office.

9 The other thing I would note is that either
10 live motion video or still frame animation are
11 going to represent the project at a single point
12 in time. So, for instance, the day that I had
13 visited both of these lakes was a clear day, but
14 my opinion is that it was probably a little bit
15 more windy than it would typically be on a clear
16 day or that it commonly is on a clear day. So
17 there would have been a fairly significant wave
18 action compared to a calm day. So they're two
19 different types of animations. I don't think
20 that it would be correct to say one is more or
21 less appropriate than the other.

22 MR. REIMERS: Okay. We'd like to just
23 finish by showing the simulations.

24 PRESIDING OFFICER SCOTT: There will be a

1 question out of this?

2 MR. REIMERS: Yes.

3 MR. IACOPINO: I actually have a question,
4 if you don't mind, Mr. Chairman. What's the
5 best way for us to, for the Committee to see
6 these when we're not here in look at them?
7 Because I have a terrible time trying to see
8 them on my computer.

9 PAMELA MONROE: Everybody should have a CD
10 that I sent out. If you don't, I have other
11 ones.

12 MR. IACOPINO: Right, but --

13 A (Buscher) To answer the question, the best way
14 to view these would be on a 4K level monitor.

15 MR. IACOPINO: Okay.

16 A (Buscher) And the rule of thumb is that to view
17 them in the proper perspective would be to
18 distance yourself about twice the height that
19 they're being displayed.

20 MR. IACOPINO: Twice the height of my
21 screen?

22 A (Buscher) Right.

23 MR. IACOPINO: Okay. Thank you.

24 A (Buscher) So for an example, pretty much

1 everybody is too far away from this screen to
2 get it in the proper perspective.

3 Q Mr. Buscher, is it optimal to actually view it
4 on your computer than on a large screen?

5 A (Buscher) Yes. Projector's probably one of the
6 hardest ways to get a high resolution and high
7 contrast image.

8 MR. BERWICK: Probably would be better with
9 the lights off.

10 Q Just to clear up, how many simulations did you
11 perform?

12 A (Buscher) Two simulations.

13 Q One from Willard Pond for Audubon?

14 A (Buscher) That's correct.

15 Q And one from Gregg Lake for another Intervenor
16 group?

17 A (Buscher) That's correct.

18 PRESIDING OFFICER SCOTT: You promised me a
19 question.

20 MR. REIMERS: I think I did phrase that in
21 the form of a question. And I'm done.

22 PRESIDING OFFICER SCOTT: Can we turn the
23 lights on, please? We've seen both of them.
24 Thank you.

1 We'll reconvene on the 18th at 9 o'clock in
2 this location. We had already issued an order
3 for the 20th also, and we will be issuing an
4 order for the 19th so that's the Wednesday
5 between. We'll start at 9 o'clock. We'll try
6 to get through as late as we can but no later
7 than 2:30, 3 o'clock. So that will be an early
8 day, but we'll try to get some more in on the
9 19th. Is that going to cause any problems for
10 the 19th? Okay.

11 MS. ALLEN: Mr. Chairman, the
12 Allen/Levesque group would really prefer to come
13 in on the 18th. We've got some scheduling
14 conflicts. If it's not possible in the
15 afternoon of the 20th. Maybe that's too fine --

16 PRESIDING OFFICER SCOTT: I suspect we can
17 accommodate. I'm not going to ask Mr. Enman to
18 move yet again though.

19 MS. ALLEN: I agree.

20 PRESIDING OFFICER SCOTT: Okay.

21 MR. NEEDLEMAN: We have no objection to the
22 Levesque group on the 18th.

23 PRESIDING OFFICER SCOTT: We're meeting on
24 the 18th, the 20th and the 19th. So what I'm

1 doing is we're going to issue an order adding
2 the 19th to try to get through this. Also if
3 you could all be prepared on the 18th, I'd like
4 to discuss or hear any comments on, we're
5 entertaining maybe having written closings. We
6 can discuss that on the 18th. I know Attorney
7 Richardson is not here right now, but that will
8 be a question I'll be asking if there's any
9 objections or any concerns that we do that.

10 MR. NEEDLEMAN: I'm sorry. Could you say
11 that again? What did you mean?

12 PRESIDING OFFICER SCOTT: So I'm interested
13 in requiring written briefs for closings. So
14 I'm going to want a reaction to that on the
15 18th.

16 MR. NEEDLEMAN: Okay.

17 MS. BERWICK: Can you explain what you mean
18 by that?

19 PRESIDING OFFICER SCOTT: It would be if
20 you want to summarize in writing your position
21 before the Committee goes into deliberations.
22 It would be optional. It wouldn't be required.
23 Okay. Thank you very much. I appreciate the
24 late night from everybody.

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(Hearing adjourned at 6:04 p.m.)