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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 1, 2016 - 9:00 A.M. DAY 12

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire

**Morning Session &
Afternoon Session**

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

PRESENT FOR
SUBCOMMITTEE: SITE EVALUATION COMMITTEE:

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

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...
Pamela G. Monroe, SEC Administrator

COURT REPORTER: Cynthia Foster, LCR No. 014

1 **APPEARANCES:** (as noted by the court reporter)

2 **Reptg. Antrim Wind Energy (Applicant):**

3 Barry Needleman, Esq. (McLane...)
4 Rebecca S. Walkley, Esq. (McLane...)
5 Henry Weitzner (Antrim Wind Energy)
6 Jack Kenworthy (Antrim Wind Energy)

7 **Reptg. Counsel for the Public:**

8 Mary E. Maloney, Esq.
9 Asst. Atty. General
10 N.H. Attorney General's Office

11 **Reptg. the Town of Antrim:**

12 Justin C. Richardson, Esq. (Upton...)
13 John Robertson, Selectman

14 **Reptg. Harris Ctr. for Conservation Ed.:**

15 James Newsom, Esq.

16 **Reptg. Audubon Society:**

17 Jason Reimers, Esquire
18 Francie Von Mertens

19 **Reptg. Abutting Landowners Group:**

20 Barbara Berwick, pro se
21 Bruce Berwick, pro se

22 **Reptg. Allen/Levesque Group:**

23 Charles Levesque, pro se
24 Mary Allen, pro se

Reptg. Meteorologists Group:

Dr. Fred Ward

Reptg. Wind Action Group:

Lisa Linowes

Wes Enman, pro se

Reptg. Giffin-Pratt Intervenors:

Benjamin Pratt, pro se

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APPEARANCES: (C o n t i n u e d)

Reptg. Non-Abutting Landowners Group:
Annie Law, pro se
Robert Cleland, pro se

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P R O C E E D I N G S

1
2 PRESIDING OFFICER SCOTT: Good morning,
3 everybody. By my count, I think this is Day 12
4 for the Antrim hearings, and as we've noticed
5 and I know Administrator Monroe has sent some
6 emails to make sure everybody is on the same
7 page, today will start with Ms. Connelly, the
8 Counsel for the Public's witness. We'll see how
9 far we get today. Today we'll probably be
10 ending by ten of or quarter of 2 due to other
11 commitments, but we thought even with that
12 truncated day, it made sense so we could get as
13 much as we can done. My true hope is to totally
14 finish on the 7th, the next day we have
15 scheduled, so we would do any remaining with Ms.
16 Connelly on the 7th and then do Ms. Linowes and
17 then finish up. So with that I think we'll
18 start the day, and unless there's any questions
19 right now we'll bring the panelist to the panel.
20 And then we'll swear her in.

21 **KELLIE CONNELLY, DULY SWORN**

22 **DIRECT EXAMINATION**

23 **BY MS. MALONEY:**

24 Q Good morning, Ms. Connelly. Before you, you

1 have a document that's entitled the Prefiled
2 Testimony of Kellie Connelly for Mary Maloney,
3 Counsel for the Public, dated May 23rd, 2016.

4 Is that your Prefiled Testimony in this case?

5 A Yes, it is.

6 Q And also in front of you is a document dated
7 October 26th, 2017, and errata sheet. Are those
8 some corrections that you have to your report?

9 A Yes, they are.

10 Q And could you just identify what those
11 corrections are?

12 A Sure. On page 19, regarding Visual Study Area.
13 On page 45, 46, 47, 64, and 53 that pertain to
14 some typos on count for blade tips. And then
15 there is the errata that was submitted as part
16 of the request for information dealing with the
17 Black Pond scale levels that involve Table 4 C,
18 page 55, Table 5, Table 6, page 59 and 60 and
19 66.

20 Q And do you have any other changes or corrections
21 to make to your Prefiled Testimony?

22 A Yes. Page 9 of 16 of the Prefiled has a line 4,
23 there's a correction that is based upon the
24 Black Pond scale level errata data.

1 Q Okay. And what is that correction?

2 A It would be that there are 6 Sensitive Resources
3 rather than five, and on line 8 it's a change
4 from 5 to 6, and on line 10, after Goodhue Hill
5 there would be the words "and Black Pond."

6 Q Do you adopt your testimony today for this
7 proceeding as it is filed and with the changes
8 that you've just described?

9 A I do.

10 PRESIDING OFFICER SCOTT: Ms. Maloney, your
11 errata sheet says 2017. Would you like to
12 correct that also?

13 MS. MALONEY: Yes. Correct the errata of
14 the errata.

15 PRESIDING OFFICER SCOTT: Did I interrupt
16 you? I apologize. So you're done?

17 MS. MALONEY: Yes.

18 PRESIDING OFFICER SCOTT: Audubon Society,
19 do you have questions for the panelist?

20 **CROSS-EXAMINATION**

21 **BY MR. REIMERS:**

22 Q Ms. Connelly, have you worked for developers
23 before on wind projects?

24 A I have.

1 Q And in what capacity?

2 A During my time when I was an employee at EDR,
3 the prime client base for visual impact
4 assessment for developers, and they continue on
5 as a rating panel member within my own firm for
6 EDR. I would be doing rating for development.

7 Q So EDR does ratings and you are a participant
8 panelist?

9 A I am.

10 Q Would you describe yourself as a supporter of
11 wind or anti-wind or what?

12 A I'm a supporter of wind.

13 Q What time have you spent on Bald Mountain?

14 A I was there on two occasions hiking on the
15 trails.

16 Q Were you here for Mr. Raphael's testimony?

17 A I was.

18 Q And would you agree with Mr. Raphael that the
19 ledge on Bald Mountain from where you took your
20 photo simulation is somewhat difficult to get to
21 or off the beaten path?

22 A I disagree with that statement.

23 Q Why?

24 A In my view of coming up the trail to where

1 there's a cairn that marks the opening to the
2 ledges, I found that hike up Tamposi to the
3 cairn to the ledge quite apparent. It was
4 pleasant, and there's a natural draw to go out
5 on to those ledges once you reach that cairn and
6 take in the expansive view of Willard Pond and
7 the greater scenery. I did not find the ledges
8 to be precarious or dangerous. I actually
9 thought that they would be a great family trip,
10 where I lead for AMC and I take families on
11 hikes, that I could really see a multitude of
12 ages enjoying sitting on those ledges and sort
13 of taking in the view.

14 Q I'd like to hand out an exhibit before I ask my
15 next question.

16 PRESIDING OFFICER SCOTT: Lets go off the
17 record.

18 (Off-the-record discussion)

19 (ASNH Exhibit 14 marked for identification)

20 PRESIDING OFFICER SCOTT: Back on the
21 record.

22 Q Mrs. Connelly, do you recall an exhibit that I
23 introduced on behalf of the Audubon that was a
24 photo taken from Bald Mountain and that was the

1 cover to an Outdoor Guide published by the
2 Antrim Bennington Lion's Club?

3 A I do.

4 Q And do you recall when that Mr. Raphael
5 testified when I asked him whether this view was
6 from the same ledge from which the photo
7 simulation was taken and that he said no, it
8 wasn't?

9 A I do.

10 Q The photo in front of you, what is that? Not
11 the Lion's Club one, but the one that I just
12 handed out.

13 A I don't have a copy in front of me.

14 MR. REIMERS: I gave one to everyone else.

15 A This is a photograph that I took on my second
16 visit to Bald Mountain.

17 Q This isn't in your report, is it?

18 A No.

19 Q I'm going to give you the Lion's Club picture,
20 and I want you to compare them and to see if
21 whether you think these are from the same
22 location.

23 A I would say that these are the same viewpoint.

24 Q So the photograph that the Lion's Club is

1 advertising is from the same ledge from which
2 you took your photo simulation?

3 A Yes, it is.

4 Q And did you testify that you think that the
5 ledge, that ledge in question is accessible?

6 A Yes.

7 Q In your report, do you have your report in front
8 of you?

9 A I do.

10 Q On page 46, I don't know if you need to look at
11 it, but you state that the roads will be visible
12 from Bald Mountain and I'm talking about roads
13 related to the project. This would be page 46,
14 second paragraph, there's a sentence that begins
15 with in addition, the clearing activities
16 required for the roads and turbine installation
17 are visually apparent due to the ridgetop being
18 flattened.

19 A Correct.

20 Q With regard to those roads, were you describing
21 permanent or temporary construction impacts?

22 A That would be permanent.

23 Q It's your opinion that those roads would be
24 permanently during the life of this project

1 viewed from Bald Mountain?

2 A The impacts for the creation and maintenance of
3 those roads would remain permanent with the
4 project in place.

5 Q On page 35 of your report, under Roman 6, Visual
6 Impact Assessment and it's in your analysis of
7 viewsheds maps, in your second sentence you
8 state the first set of figures evaluates the
9 potential visibility of the turbine blade tip
10 which is the worst case scenario for visibility.
11 What do you mean by that? The worst case
12 scenario?

13 A So we're always looking for the level of the
14 exposure the project has from within the study
15 area, and the blade tip is the worst case, it's
16 the most exposed piece of the turbine that you
17 would see from multiple vantage points within
18 the study area.

19 Q Do you recall in your simulation from the boat
20 launch of Willard Pond that the blade tip of
21 number 9, turbine number 9, would be visible?

22 A May I look at my --

23 Q Sure.

24 A Can you repeat which site you asked for?

1 Q The boat launch from Willard Pond.

2 A I did not do --

3 Q Actually, I'm sorry. I'm referring to
4 Mr. Raphael's photo simulation from Willard
5 Pond. Do you recall that his photo simulation
6 showed the blade tip visible from turbine number
7 9 from the boat launch?

8 A Bear with me for one minute.

9 Q Sure. I believe it's Exhibit 13.

10 A Exhibit 12.

11 Q Is it from the boat launch?

12 A Yes, it is the Exhibit 12 visual simulation of
13 proposed conditions from Willard Pond boat
14 launch Antrim.

15 Q Is the blade tip visible, number 9?

16 A I don't have Mr. Raphael's turbines numbered,
17 but I assume there are two blade tips showing,
18 and from the positioning I would assume it's
19 number 9.

20 Q Okay. And in your opinion, when you said in
21 your report, worst case scenario, those blade
22 tips in your opinion would be prominently
23 visible?

24 A Yes. It is the spinning nature of the tips that

1 are bisected on a ridgeline that often cause
2 them to be more noticeable and can be deemed as
3 being odd to the viewer.

4 Q In your experience at Willard Pond, would you
5 expect recreational users to notice that?

6 A Absolutely.

7 Q Even if they are engaged in activities that are
8 pond-based?

9 A Absolutely.

10 Q Why do you say absolutely?

11 A Because the movement and sound and just the
12 scale of built element on a ridgeline is going
13 to draw human view and interest. You can't help
14 yourself but look at the turbines.

15 Q With regard to Willard Pond in his report,
16 Mr. Raphael described Willard Pond as scenic in
17 its own way, not a highly scenic wilderness
18 location and that there are no distinct scenic
19 focal points or wide panoramic views. Would you
20 agree with that?

21 A I do not agree with that.

22 Q Why not?

23 A I thought that Willard Pond as a whole had
24 scenic attribute in both its land form

1 topography, the glacial erratics, the quality of
2 the water opportunity that is present, the
3 secluded nature of the pond, that it is not,
4 it's got a moderate use. It's not on the high
5 frequency. It's not right off the edge of the
6 road. And just the sort of pristine quality of
7 that water's edge and topography and adjacency.

8 Q You were mentioning rating panels, and in his
9 testimony Mr. Raphael criticized your use of
10 rating panels. Are you aware of that?

11 A I am.

12 Q And I believe his particular criticism was that
13 the panel members themselves did not visit each
14 individual site or the sites at all. Is that
15 right?

16 A Correct.

17 Q But you visited them all, didn't you?

18 A I did.

19 Q And are you familiar with the fact that the SEC
20 recently approved the Merrimack Valley
21 transmission line project proposed by
22 Eversource?

23 A I was not aware it was approved. I knew it was
24 in process.

1 Q Who was Eversource's aesthetics expert in that
2 docket?

3 A I believe that was John Heckler at EDR.

4 Q Did EDR use a ratings panel in that case?

5 A Yes.

6 Q And did EDR's panelists visit the sites or did
7 they view photo simulations instead?

8 A I can't speak to the process that was used on
9 that project. I was not part of that team.

10 Q You worked for EDR, didn't you?

11 A For four years, yes.

12 Q And you've been a panelist for EDR for how long?

13 A 13.

14 Q And in your experience, do EDR's panelists do
15 site visits?

16 A Typically, no, unless they're part of the field
17 work team, but then they're not always visiting
18 every site.

19 Q In your experience as a panelist for EDR, have
20 you ever done site visits?

21 A Yes.

22 Q What percentage of the time would you say?

23 A I did, so in the four years that I was in the
24 firm, I would be part of the field team because

1 of my expertise.

2 Q Right. I meant as just a panelist not working
3 for the firm. For the past 13 years.

4 A I have not visited any sites as a panelist only.

5 Q So with regard to Mr. Raphael's criticism that
6 your three panelists didn't visit the site, what
7 do you say?

8 A I say that standard practice that I have been
9 exposed to all panelists do not need to visit
10 the site. It's important that I as the prime
11 expert visit the site and understand the
12 context, but those panelists are really a check
13 and balance to my own rating to try to remove
14 any potential for bias.

15 Q Another of Mr. Raphael's criticisms, he stated
16 that Terraink relied too heavily on photo sims
17 with limited fields of view. Do you agree with
18 that?

19 A No.

20 Q Just, for example, do you have Mr. Raphael's
21 report in front of you?

22 A I can. Give me one minute. Okay.

23 Q Please turn to page 128. In the Supplemental
24 Testimony in which Mr. Raphael was discussing

1 your work, he was talking about how your photo
2 simulations didn't include all that the eye
3 would see. So looking at page 128, this picture
4 of Willard Pond, in your opinion does this take
5 in all that the eye would see?

6 A This is the one that is labeled the primary view
7 as one looks?

8 Q Correct.

9 A No. That's not the whole view that one would
10 take in.

11 Q Would the whole view also include all mountain
12 to the left?

13 A Yes.

14 Q And the flanks of Goodhue Hill to the right?

15 A Correct.

16 Q Would you describe this, not through the
17 picture, but standing there as a panoramic view?

18 A No.

19 Q I'm sorry. If you were there in person. To a
20 user.

21 A Can you repeat your question, please?

22 Q Strike that.

23 In your opinion, what does the lower, what
24 effect does the lowering of turbines 1 through 8

1 have? The lowering of the, well, let me back
2 up. How much shorter are turbines 1 through
3 8 --

4 A I think it's --

5 Q -- than they were in the prior iteration of this
6 project.

7 A I believe it's around four feet.

8 Q Do you know whether the hub height is the same
9 as in 2012 or different?

10 A The hub height is different.

11 Q For which ones?

12 A The hubs in the current Antrim 2 project are
13 slightly higher.

14 Q For all of them?

15 A May I look at my info?

16 Q Sure.

17 A The information that I have for Antrim 1 was
18 that the hubs were 92 meters.

19 Q All of them?

20 A Yes. Because it was a turbine, a proposed
21 turbine of all the same size.

22 Q Okay.

23 A And on the Antrim 2 project, we have a hub
24 height of 92 and a half meters, except for

1 number 9 which is the shorter turbine.

2 Q Okay. So the hub heights for this particular
3 project for turbines 1 through 8 are actually
4 half a meter taller?

5 A That is my understanding.

6 Q Is it your understanding that the reduction in
7 height comes from the blade tips? The overall
8 reduction.

9 A The diameter of the blade unit, correct. Or the
10 tip height, correct.

11 Q Have you seen Michael Buscher's animated
12 simulations that Audubon introduced? He did a
13 simulation from Willard Pond, and then he did a
14 simulation from Gregg Lake.

15 A I've only seen the stills.

16 Q You haven't seen the animated ones?

17 A I have not.

18 Q Okay. I believe that Mr. Raphael testified that
19 hub height, visibility of the hub is the most
20 critical feature with regard to visibility.
21 Would you agree with that?

22 A I agree that that is what Mr. Raphael said.
23 It's not necessarily my belief.

24 Q What is your belief?

1 A I think that the entire unit matters visually.
2 It is not just the hub. We're looking for worst
3 case scenario, and as I mentioned, that is based
4 upon the blade tip.

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

6 PRESIDING OFFICER SCOTT: Ms. Linowes?

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

8 **CROSS-EXAMINATION**

9 **BY MS. LINOWES:**

10 Q I just have one question for you.

11 During the jurisdictional hearing, you were
12 not part of that process but this was back in
13 2015, Mr. Raphael was questioned by Attorney
14 Iacopino regarding his assessment of the visual
15 impact, and I would like to read to you from the
16 transcript. This would be from July 6th, 2015,
17 very quickly, one question and one answer. July
18 15th in the afternoon on page 86, for anyone who
19 wants to look that up.

20 And here's the question. This actually,
21 it's on page 85, the question is, I guess, from
22 Mr. Iacopino: I guess what I hear you saying is
23 that people who use Willard Pond will get used
24 to this movement. And then later, he says I

1 think you know there's some people who will
2 never get used to that movement.

3 Would you agree with that? That some will
4 get used to it and some will not?

5 A I don't think it's a matter of getting used to
6 it. It's more about acceptance.

7 Q And then he goes on to explain that people's
8 perceptions of wind energy might change their
9 perceptions of what they're viewing if they
10 agree with wind energy they might like the view,
11 if they disagree, they may dislike the view. Is
12 that in line with what you just said?

13 A I think that you can like and support wind
14 energy but not necessarily always like the view
15 that's created by it in a certain locale or
16 situation.

17 Q And then he goes on, the next question is, I
18 understand the psychological issues. That's
19 what Attorney Iacopino says, but I'm just trying
20 to talk from your perspective being someone who
21 does a visual assessment and what the impact on
22 the viewer and I guess like and then he says and
23 I guess you like to use paddling as an example.
24 What if you're bird watching? And Mr. Raphael

1 says, well, I mean, it depends where you're bird
2 watching, I guess. So if you're, if you don't
3 like the view you can move somewhere else.

4 Is that, so my question for you is when
5 you're doing a Visual Assessment of an area that
6 has been altered by, in this case, by turbines
7 being built, is the appropriate response to that
8 in doing a visual assessment, well, there are
9 many other places that you can go to to continue
10 doing what you like to do so that really that
11 should not be, that should be, it's not an
12 important fact. Basically, if it's been
13 changed, people have an option to go somewhere
14 else; therefore, the impact is not significant.
15 Is that how you would view it?

16 MR. NEEDLEMAN: I'm going to object.
17 That's a characterization of the testimony that
18 I don't agree with.

19 Q Let me just ask. The question that Mr. Iacopino
20 says, so the answer then is that you can move
21 and Mr. Raphael says you can move. So the fact
22 that someone can move away and go some place
23 else, how would, and perhaps be replaced with
24 other people who are not bothered by the impact.

1 Is that how you would assess an impact of a
2 project like this? People go away, new people
3 come? It's a net/net, no change.

4 A The way in which we assess visual impact is to
5 look at exposure and proximity to sensitive
6 resources and what the effects of that worst
7 case scenario are on the study area. You can
8 take into account other offerings for activity
9 within a study area, but our evaluation of
10 impact is based upon the view from the affected
11 resource in the worst case scenario based upon
12 exposure to the project.

13 Q So I'm trying to understand what you're saying.
14 So is it the activity that is happening around
15 the project then, preconstruction and
16 postconstruction, you're saying that that is not
17 really a factor, how people respond to the
18 project, either not project and with project is
19 not really the factor. It's really the impact
20 overall of the project on the site? Am I
21 understanding you correctly?

22 A Can you repeat your question one more time,
23 please?

24 Q I'll try to do that. Are you saying, am I

1 understanding what you're saying is that the
2 actual visual assessment is not so much how
3 people respond to it, whether they're continuing
4 to use the site after the project is built or
5 not, or the activities that they're doing at the
6 site after the project is built, whether those
7 activities continue, that's not as big a factor
8 as actual impact of the project on views in the
9 area or am I confusing that?

10 A Inherently, if you have an unreasonable adverse
11 aesthetic impact to a site, inherently, that
12 changes the quality of use for the potential
13 user group. Some of that user group may enjoy
14 the project in place. Some may not. But I
15 think it is fair to say that it is inherently
16 changed through the project being put into
17 place, and there is a level by which that
18 enjoyment is changed permanently because it
19 reaches a level of being unreasonable versus a
20 moderate impact.

21 Q Okay. Great. Thank you very much. Thank you,
22 Mr. Chairman.

23 PRESIDING OFFICER SCOTT: Mr. Ward?

24 MR. WARD: I just have a couple of quick

1 questions.

2

CROSS-EXAMINATION

3

BY MR. WARD:

4 Q When I was questioning Mr. Raphael, it was a
5 couple of months ago now, I asked him the
6 question which was sort of like the question
7 that you just got asked in which you said you
8 can't help yourself. It's making noise, you
9 almost have to look at it. When I asked him
10 about whether noise would likely contribute to
11 you're more likely to look it, he said not
12 really, and it depends, and every time I asked
13 him whether flashing lights or motion and things
14 like that happened, he just kept saying that it
15 depends.

16 Now, you made a pretty good statement,
17 which I frankly agree with, that is when
18 something is moving, it's pretty hard to ignore
19 it. If this thing were sitting there, not doing
20 anything, not flashing, not making noise, or
21 things like that, would that not be less
22 visually, have a less visual impact than the
23 current one which will be moving, flashing
24 lights, noise and all of that?

1 A Can you repeat your question, please?

2 Q Okay. I'm sorry. Compare the proposed Antrim
3 Wind facility which will have motion, flashing
4 lights and noise to a facility exactly the same
5 which didn't move, didn't have flashing light
6 and didn't make any noise. Which would be more
7 visual, which would have the higher visual
8 impact?

9 A All things being equal? Except for movement,
10 noise and flashing lights?

11 Q Yes.

12 A I would say that the one that has movement,
13 noise and flashing lights will have an added
14 level of impact because it has more components
15 that are drawing the attention of the viewer.

16 Q Okay. I have one different question and then
17 I'm finished. Most of what you had said and
18 what Mr. Raphael were testifying to were really
19 about the depth of the impact, how strong the
20 visual impact was. I would like to ask a
21 slightly different question, and I understand
22 it's slightly off from what you had done, and
23 it's this facility will be seen and heard from a
24 much wider area. We can argue about exactly how

1 wide an area it is, but a much wider area. That
2 hasn't necessarily anything to do with how
3 strong it is in the project area that you looked
4 at, but doesn't that add to what we'll call the
5 overall visual impact; i.e., the fact that you
6 can see it and hear it from a much wider area?
7 Does that not add to the overall visual impact?

8 A I'm going to ask you to phrase your question
9 again for me.

10 Q The fact that you can see and hear and see the
11 motion and lights and everything from a much
12 wider area, that is out to some miles. We still
13 are arguing how many miles but out to some miles
14 which is beyond the project area that you looked
15 at, doesn't that add to the totality of the
16 visual impact of this facility?

17 MR. RICHARDSON: Mr. Chairman, can I just
18 ask for a clarification. Is she being asked to
19 testify as to the ability to hear the project
20 because I don't think she has any testimony on
21 that. I'm fine if the question is asking her to
22 assume that fact, but I'm just wondering if the
23 question is actually intended to ask her opinion
24 on whether or not it can be heard and where it

1 can be heard.

2 Q I will accept Mr. Richardson saying this.
3 Assume it can be seen and heard and so forth
4 from a wider area than the project area that you
5 have, does that not add to the totality of the
6 visual impact of the facility?

7 A We were asked to do our study area to a ten-mile
8 radius of study because that is generally a
9 background distance. Beyond that ten miles, the
10 effects tend to diminish by sheer distance,
11 atmospheric haze, intervening structures and
12 vegetation. I am not comfortable speaking to
13 beyond ten miles because there's too many
14 variables depending on where you are that would
15 affect my opinion on that that I have not
16 studied. My study goes to the ten-mile study
17 area boundary, and that's where my opinions lie.

18 Q Maybe I asked the question wrong. Most of
19 everything in the visual impacts and all of the
20 pictures and everything all have to do, let's
21 say there's a heavy concentration on in-close
22 visual impact. There has been almost nothing
23 said, and I'm not criticizing anybody for this,
24 but there's been almost nothing said on people

1 who might be five miles out and such and
2 wouldn't that add to the overall visual impact
3 that there would be a whole wide range of people
4 and views and everything which would have
5 relatively small impacts but multiplied by many
6 times the number of people who would be affected
7 by it?

8 A So our study took in account those long distance
9 views, mid-range views, for ground, midground
10 views and then holistic inventory and range of
11 distance, property types, sensitive resource
12 types. That all is part of our result that says
13 there is a significant impact that creates an
14 unreasonable adverse aesthetic impact for this
15 study area. So we did do a broad range of
16 distances within our simulations within our
17 sensitive resource inventory.

18 Q Thank you very much. That's all I have.

19 PRESIDING OFFICER SCOTT: Ms. Allen?

20 MS. ALLEN: I have one question.

21 **CROSS-EXAMINATION**

22 **BY MS. ALLEN:**

23 Q My question is about the scale of this project
24 versus the scale of the hills that they would be

1 built on. In your opinion, is there an impact
2 from 488-foot turbines that are placed on 500,
3 650 foot hills and what is that impact visually?

4 A Each of the rating panel members spoke to scale
5 in their descriptions in the various viewpoints
6 that were evaluated. The general finding is
7 that when you're in a foreground/midground view
8 something like Willard Pond, the turbines are
9 perceived to be out of scale within the context
10 of the area. The land form. They would be big.

11 When you are further out from, let's say,
12 Pitcher Mountain or Crotched Mountain, those
13 scale differences change because you're working
14 into a broader landscape. So scale is an
15 interesting component because it is relative to
16 distance. So I think that the turbines are
17 seemingly larger when you're up close to them,
18 especially given the terrain within those sites
19 like Willard Pond, Bald Mountain, Goodhue Hill,
20 so on and so forth, and their scale tends to be
21 less of an issue as you move out into the
22 broader study area when you're getting 6 or 8
23 miles out.

24 Q Thank you very much.

1 PRESIDING OFFICER SCOTT: I don't see
2 Mr. Jones or the Stoddard Conservation
3 Commission. And I don't see Mr. Block so we'll
4 move on to Ms. Berwick.

5 **CROSS-EXAMINATION**

6 **BY MS. BERWICK:**

7 Q Ms. Connelly, when you were hired by the Counsel
8 for the Public, did you receive any instructions
9 on that you needed to find an adverse effect?

10 A I did not receive such instruction.

11 Q Can you tell me exactly what you, what you were
12 hired, you know, what was the instructions?

13 A The instructions were that I was to evaluate the
14 Antrim I project and the information provided by
15 Jean Vissering and Raphael and determine my own
16 findings of unreasonable adverse aesthetic
17 impact through my methodology and process, and I
18 was not, I had not formed an opinion until the
19 actual rating panel tally and review was
20 conducted so there was no opinion developed
21 until the end of the process.

22 Q Thank you. You state in your Prefiled Testimony
23 Terraink's employment of the three-person
24 writein panel is intentional to provide a

1 defensible process of determining scenic
2 quality, sensitivity, contrast and the resulting
3 visual impact that goes beyond a single
4 individual judgment and determination. It is
5 impossible for Terraink to fully interrupt the
6 LandWorks ratings in each of the tables since
7 the empirical data associated with the resulting
8 high, moderate and low rating by an undetermined
9 number or undetermined one or more raters is not
10 included in the report or appendices.
11 Therefore, the rating system is assumed to be a
12 letter system without the numerical backup
13 despite rating numbers being offered in the
14 LandWorks table footnotes.

15 What exactly do you mean by empirical data
16 of LandWorks rating not being included?

17 A In the Terraink binder, there's a tab that says
18 rating panel forms. It's Appendices G. That
19 allows us to see what each rating panel member
20 indicated for their own ratings of each
21 viewpoint, their commentary about those
22 viewpoints and all that resulting in empirical
23 data which means number data that then is
24 tallied, averaged, and fits into a strata of

1 low, medium, high impact based upon whatever the
2 table is associated with each rating form. What
3 that does is it allows anyone reviewing this
4 report to see where the rating system came from
5 and how it was applied.

6 In Mr. Raphael's report, using a letter
7 system which is attached to an empirical system
8 but there's no number basis, there's nothing to
9 look at that tells me how many raters reviewed
10 it, how was it averaged; therefore, I can't
11 speak to how he developed his results because I
12 don't have empirical backup for it.

13 Q Okay. Can you briefly explain how Mr. Raphael's
14 rating system, and maybe you can't, differed
15 from your rating system?

16 A Mr. Raphael's rating system is different, it's
17 just inherently different than what Terraink is
18 using and we rely on worst case scenario
19 simulations from sensitive resources within the
20 study area that are reviewed and given an
21 empirical level of impact through the rating
22 sheets. Mr. Raphael's system is more of a chart
23 system, and using some, I'm going to pull up his
24 report just so I can speak to it.

1 Mr. Raphael's report utilizes a lot of
2 different charts and tables to come up with his
3 level of impact. Some of the elements that he
4 uses, they're contradictory to each other within
5 that assessment. Some of them are tools that I
6 have not been privy to using. I don't know the
7 genesis for his process and his rating system.
8 I would have a hard time using this system,
9 especially because I don't have any of the
10 empirical data behind it. So I think inherently
11 we have very different approaches to determining
12 how sites sort of sit out from the master list
13 to the ones that have critical concern.

14 Q You also note in your testimony the majority of
15 the LandWorks simulations even in the leaf-off
16 winter views contain an atmospheric haze and
17 cloudiness that can affect the viewer's
18 perception of potentially visual contrast and
19 aesthetic impact. This has also been noted by
20 others, and indeed during the site visit to
21 Manahan Park, I noticed that in comparing your
22 simulations to Mr. Raphael's, they were actually
23 turbines that I only saw in Mr. Raphael's
24 simulation after clearly seeing them in yours

1 and then looking very closely at Mr. Raphael's.
2 Why is this relevant?

3 A Can you clarify if you're asking about the
4 atmospheric haze?

5 Q Yes. About the pictures not being as clear,
6 showing the turbines as clearly.

7 A So again, this goes back to the foundation for
8 our methodology which is worst case scenario.
9 The worse case scenario requires that you have
10 as close to a clear blue sky day as is available
11 because that's how you're going to get the best
12 visual contrast in the simulation. The
13 atmospheric haze tones back the turbines, and so
14 it was a critical item within our study to wait
15 for a window of three days where we knew we
16 would have clear skies or at least the best
17 clear skies that were available to us.

18 Q You use a panel of people. How do you assure
19 that they are not biased by your opinion?

20 A That's a great question. So with the panel,
21 interestingly, one of the panel members is also
22 a long time panel member for EDR. So she's well
23 versed in looking at the project, and she lives
24 in New York State so she does the ratings at her

1 home and then provides the data to me. So there
2 is not, she's not in a room, we're not all three
3 of us sitting in a room.

4 The time in which the second rating panel
5 member did her work I was out of town so there
6 was no cross-pollination or dialogue occurring
7 from her as she also completed the ratings, and
8 then I, of course, did my ratings on my own.

9 Q So was there communication between you during
10 the ratings?

11 A So the panel members receive an email from me
12 that physically states here's the package,
13 here's the supplemental information for your use
14 as reference which would include the sensitive
15 site map, all of the visual simulations, all the
16 directions as relating to the rating forms, what
17 the terminology means, how the rating is
18 conducted, and then that is sent back to me when
19 they're completed.

20 Q You state Terraink's Visual Impact Assessment
21 determined that the wind, that with the wind --
22 sorry. You state that Terraink's Visual Impact
23 Assessment determined that with the wind project
24 in place the overall project's resource contrast

1 within the entire study area was 124.65 or
2 high/moderate and the threshold of acceptable
3 visual impact as exceeded in six sensitive
4 resources occurring at Willard Pond, Meadow
5 Marsh Preserve, White Birch Point Historic
6 District, Gregg Lake, Bald Mountain, Goodhue
7 Hill and Black Pond. The only means to reduce
8 or mitigate visual impact in the six regional
9 sensitive resources is to relocate the project.
10 It is also true that if the sensitivity scores
11 had been higher for Franklin Pierce Lake and
12 Pitcher Mountain, they would have also been best
13 mitigated through project relocation.

14 Are you saying that the additional 100
15 acres that are being offered to go into some
16 altered form of conservation plus the additional
17 money offered in this significantly different
18 project are not able to mitigate for the
19 unacceptable visual impacts the project will
20 create?

21 A Can you repeat just your question?

22 Q Are you saying that the additional 100 acres
23 that are being offered to go into some altered
24 form of conservation plus the additional money

1 offered in this significantly different project
2 are not able to mitigate for the unacceptable
3 visual impacts the project will create?

4 A As I stated, I do not support the use of
5 conservation land and money as a means to
6 mitigate aesthetic impact. You can't, that
7 aesthetic impact is so unique to itself that it
8 seems unreasonable to me to say that getting
9 land somewhere else or getting money is going to
10 mitigate. You can't mitigate aesthetics with
11 money and conservation land. It's a wonderful
12 thing to increase conservation land. I'm all
13 for that, but I don't see it being used as a
14 mitigation for unreasonable adverse aesthetic
15 impact.

16 Q You reviewed the 2012 visual studies, did you
17 not?

18 A For Antrim I.

19 Q Yes.

20 A Yes.

21 Q Antrim Wind Energy has stated that this project
22 has significantly changed since the project in
23 2012. In reviewing all the material and visual
24 simulations from 2012, do you see a significant

1 difference?

2 A I do not.

3 Q Do you see a sign to be an adequate compensating
4 mitigation for the White Birch Point residents?

5 A I do not.

6 Q According to Mr. Raphael's assessment protocols,
7 if I understand this right, there is no way that
8 fewer than, I believe, 16 turbines could have a
9 maximum impact. Do you agree with that?

10 A I don't understand the question.

11 Q Mr. Raphael had an assessment where if you look
12 at the number of turbines that could be viewed
13 in one place was part of his assessment, and
14 low, I think, I know that to get to maximum you
15 had to see 16. So what I was asking, do you
16 think that one turbine placed in the wrong place
17 could have a maximum impact?

18 A Depends on the situation.

19 Q Do you have any other issues with Mr. Raphael's
20 assessment protocols?

21 A In my report we go through a series of critiques
22 of Mr. Raphael's report beginning on page 62 in
23 the Terraink VIA. One of the major issues that
24 we described within the report has to do with

1 the visual simulation quality, and that the
2 photographs were not clear, and, therefore, I
3 would not deem them worst case scenario. One of
4 the issues that we noticed within the report, I
5 noticed within the report, was that there were
6 often simulations that did not have supporting
7 text or text without simulation so it was hard
8 to reconcile the information because I didn't
9 feel like I had all the data to support either
10 the findings or lack of findings.

11 There are some errors within the report,
12 some misidentification of peaks. There are
13 statements that there are no views to turbines
14 at Goodhue Hill where, in fact, we know there
15 are. So I can go through this whole list of
16 errors if that's -- but I would say in general,
17 there were methodology and information
18 discrepancy that we took notes of.

19 Q In your Prefiled Testimony, you included Ms.
20 Vissering's visual impact assessment. In it she
21 writes places like dePierrefeu Wildlife
22 Sanctuary are set aside with contributions by
23 numerous individuals and often public funds
24 involving years of effort. They provide a

1 unique opportunity to experience the beauty of
2 nature. Did you find anywhere in Mr. Raphael's
3 assessment that he considered the years of
4 effort involved in dePierrefeu-Willard Pond
5 Sanctuary in his assessment?

6 A I don't off the top of my head recall such a
7 statement. It may exist, but I have not taken
8 note of it.

9 Q Mr. Raphael made it a point to not actually
10 count wind turbines as being visible unless
11 there was a view of the hub. He differentiates
12 between turbines and blades. For visual effect,
13 would not seeing a huge blade come up out of the
14 tree tops make a significant visual effect?

15 A As I mentioned previously in this testimony, the
16 bisected blade is often the most disliked view
17 by rating panel members because it is an odd
18 sort of aberration on a ridgeline. It looks
19 strange.

20 Q Did you visit Manahan Park during warm weather?

21 A I did.

22 Q If so, did you notice a significant number of
23 boats on the water?

24 A I'm going to rephrase. I was there what I

1 considered warm weather, but it was spring,
2 early spring. So the boats weren't there yet.

3 Q Mr. Raphael made note of how the project is not
4 visible from Manahan Beach, only from the water.
5 In your experience, would you not expect many to
6 use the water in different types of both while
7 visiting Manahan and have view of the turbines
8 when on the water?

9 A I would say that Franklin Pierce Lake/Manahan
10 Park offers a wide range of recreational
11 opportunity, and I would expect there to be a
12 wide range of boat types and recreational users
13 even of different motorcraft.

14 Q You heard Mr. Raphael's reasons for not
15 including White Birch Point in his Visual
16 Assessments. Would you like to comment on that
17 and why you did include White Birch Point?

18 A I think it was a mistake not to include or
19 acknowledge White Birch Point in Mr. Raphael's
20 VIA. This is a site that when we went on the
21 SEC site tour I took note of the pavilion at the
22 base of the road that leads to the collections
23 of houses and I made a note to check out what is
24 that because clearly there's some sort of

1 significance. When you see an architectural
2 marker of that nature, it usually means there's
3 some sort of colony or grouping.

4 In further researching White Birch Point
5 Historic District, when I returned to the office
6 I noticed it was under discussion about whether
7 it was deemed a historic district or not within
8 the State of New Hampshire. Given the time and
9 money it can take to get something on the list,
10 I don't think that we should ignore the
11 potential that it could be found and confirmed
12 as an historic property, and we have to take
13 into account that the introduction of a
14 contemporary utility structure in the viewshed
15 of such a historic locale could be detrimental
16 to their final ability to be deemed historic.

17 Q Okay. Thank you. That's all I have.

18 PRESIDING OFFICER SCOTT: Harris Center?

19 MR. NEWSOM: No questions.

20 PRESIDING OFFICER SCOTT: Anybody from the
21 Giffin/Pratt Intervenors?

22 MR. PRATT: No questions.

23 PRESIDING OFFICER SCOTT: Mr. Enman?

24 BY MR. ENMAN:

1 Q Thank you, Mr. Chairman. I do have a couple.
2 You bear with me because just, you were chosen
3 by Counsel for the Public to represent, correct?

4 A Correct.

5 Q How are you -- are you an individual firm? As I
6 say, you own your own company?

7 A I do.

8 Q Okay. So how are you, do you know the selection
9 process that while you were particularly chosen?

10 A I think that my academic and professional resume
11 and my history working on visual impact
12 assessment for the last 13 years with a very
13 reputable company, well-respected in their work,
14 put me in a position to be a viable candidate
15 for participating in this project.

16 Q You obviously chose, Mr. Raphael obviously chose
17 a number of sites to do his impact statement. A
18 lot of those sites obviously you didn't have to
19 go back and redo, so how did you literally come
20 to the sites that you were drawn to?

21 A Absolutely. So using the, so there's a, it's a
22 layered project because this is a project that's
23 not new, and I'm coming in as a reviewing expert
24 versus the initial expert so we had a lot of

1 history to work with. Lot of time and
2 investment into this project. So first and
3 foremost I looked at the Antrim I work that had
4 been completed and considered that a tool as a
5 starting point. I looked at the SEC
6 determination which had listed sites that were
7 of concern to them. I looked at Mr. Raphael's
8 report and Jean Vissering's report and looking
9 at sort of that collection of data made a
10 determination of where would there be the
11 greatest amount of exposure, meaning where do we
12 see the project with the greatest visibility the
13 worst case scenario and what sensitive sites
14 were in proximity to that level of exposure, and
15 in addition, looking at the range of the study
16 area we don't want to lump all of our sensitive
17 sites right at the nearest points. That in
18 itself is an unfair sort of weighting because
19 people tend to react strongest to views that are
20 close. So we want to have a range of views that
21 are out near the ten mile inward, five mile
22 inward, one mile.

23 So you're looking for a cross-section of
24 exposure and sensitive site type with varying

1 levels of visibility.

2 Q You had mentioned that you had worked for
3 developers of wind projects in the past. Did
4 any of those get approved?

5 A Some did.

6 Q You also stated that you had no opinion of the
7 project until the rating panel weighed in.
8 Where in the process of your report did the
9 rating panel weigh in? Is it right before you
10 submitted your testimony? I mean, I'm trying to
11 figure out, you were here at the technical
12 sessions?

13 A Correct.

14 Q In the summer. And you had stated at that point
15 you had concerns. Had you been hired at that
16 point for Counsel for the Public?

17 A Yes.

18 Q I'm just trying to get my timeline sorted out.
19 And then you were talking about rating systems
20 and you stated that Mr. Raphael used a chart
21 system and with numerical, empirical and I can't
22 remember exactly, and you used a different
23 system where you have people involved, and you
24 said you had no personal experience with

1 Mr. Raphael's system, correct?

2 A Correct.

3 Q Okay. So, obviously, the people that you have
4 in the rating system, your raters, they
5 obviously have a system that they work through,
6 correct?

7 A They work through the rating system that
8 Terraink --

9 Q Developed?

10 A -- develops, yes.

11 Q So basically you have two different systems that
12 Mr. Raphael is obviously comfortable with his
13 and you're obviously comfortable with yours?

14 A Correct.

15 Q And you stated that you didn't, you just hand
16 them the information so there's no bias that
17 theoretically can be implied from whatever.

18 A I send an email package and the email list what
19 the instructions are and what all the parts of
20 the documentation that they're receiving and
21 then they move forth. It's a process that you
22 can move through self-managing. I don't need to
23 dictate to them what to do.

24 Q And my only, actually, it's not quite my last

1 question. Everybody has personal opinions and I
2 get where you're trying to get an unbiased
3 opinion, but those individuals obviously have, I
4 know they're not supposed to but they probably
5 have some sort of feeling one way or another
6 that could possibly influence them. I know it's
7 not supposed to, but the chance is that they
8 have some personal biases? Yes, no, maybe? I
9 know they're not supposed to, but --

10 A So my, the way I would respond to that is that
11 each panel member is chosen for their academic
12 pedigree, their understanding of how to
13 participate in a panel situation. I think it's
14 worthy to note that one of the panelists has
15 done a multitude of these ratings for EDL for
16 development projects. So if the concern is that
17 she has bias against wind, I don't think that's
18 a valid position.

19 The secondary panel member is highly
20 educated. She's an educator. Well-respected
21 participant in her professional group. So I
22 think all of us as professionals react to what
23 we see in the simulation and rate it accordingly
24 without bringing a predetermined notification to

1 it.

2 Q Having said that, Mr. Raphael was hired,
3 obviously, by Antrim Wind and came out with a
4 different assessment. You were brought in by
5 Counsel for the Public, obviously, with a
6 different assessment. All professionals I'm
7 assuming with credentials but you have different
8 opinions.

9 A Yes.

10 Q And only, last question, lovely picture.

11 A Thank you.

12 Q Are any of the wind turbines visible from this
13 particular vantage?

14 A No.

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

16 PRESIDING OFFICER SCOTT: Does the Town
17 have questions?

18 MR. RICHARDSON: Yes, thank you, and just
19 for the record, I missed the exhibit number for
20 this photograph that was just discussed by
21 Mr. Enman.

22 MR. IACOPINO: ASNH 14.

23 **CROSS-EXAMINATION**

24 **BY MR. RICHARDSON:**

1 Q Ms. Connelly, you have your report in front of
2 you. I'll read you a section on page 3. I
3 don't think you'll need to turn to it but that's
4 where I'm reading from. It's at the bottom of
5 that page.

6 Q So what I want to ask you about is the criteria
7 that was used to determine that a project's
8 impact is unreasonable. So on page 59, you say
9 it is the finding of Terraink that the five
10 sensitive resources would have a high potential
11 visual impact, and therefore, an unreasonable
12 aesthetic impact, would be incurred by the
13 construction of the project and then you list
14 the sites you said these sites include Willard
15 Pond, Meadow Marsh Preserve, White Birch Point
16 Historic District, Bald Mountain and Goodhue
17 Hill. So it looks to me like you're using the
18 term "unreasonable aesthetic impact" and "high
19 potential" synonymously, is that right?

20 A I don't, I think they're two different things,
21 and they occur within the scenario, but I would
22 not say that they're the same word.

23 Q Okay. But, well, let's look at page 61 of your
24 report, and there's a table, and on that table I

1 think there's one, two, three, four, five, six
2 areas where you found that was a high visual
3 impact, is that right?

4 A Correct.

5 Q On page 59 it said five. Is there a
6 discrepancy? I know there was an errata sheet.
7 Is it five or is it six?

8 A So it's part of the errata sheet and this is
9 also part of the Black Pond correction that was
10 dealt with during the technical hearing. So the
11 reading should be that on page 59 there are six
12 sensitive resources.

13 Q Okay.

14 A And that it would include Black Pond after
15 Goodhue Hill.

16 Q Right. Okay. So I mean, this is what it comes
17 to. The ones that you have found an
18 unreasonable impact are the ones in your report
19 that are labeled high, right?

20 A Correct.

21 Q So there's no departure from that.

22 A Correct.

23 Q Okay. Now, on page 18 of your report, you state
24 that each rating panel member received a rating

1 package that included the 14 simulations used, a
2 rating form developed by Terraink, reference
3 sheets of viewpoint and sensitive site maps. So
4 what I wanted to ask you about was the, I guess
5 on 56, when we look at that, how the rating
6 panel operated, so that's on page 56, it looks
7 like it's broken down, that visual impact being
8 high, has four different elements to it and it
9 looks like if I read it correctly there's scenic
10 quality, sensitivity level, resource contrast,
11 and proposed ROS which is the recreational
12 opportunity spectrum. So that's what the rating
13 panels determined or rated, is that right?

14 A So no. I'll correct your interpretation. The
15 ROS does not have a numerical qualifier to it.
16 The ROS is included in this chart, and it may be
17 slightly confusing because it doesn't have a
18 numerical activator within the averaging, the
19 synthesis of the impact. It is a tool and it's
20 used to show whether or not any of these slip
21 out of their categories of ROS which they did
22 not. Even with the project in place, they were
23 all within the same level that they had been
24 first associated with.

1 Q So we're talking about ROS, recreational
2 opportunity spectrum, and when I look at Table 6
3 that's on page 56 of your report, who was it
4 that made those determinations of moderate, low,
5 not applicable? Was that the rating panel or
6 was that something that you did?

7 A Initially, I set the ROS based upon my field
8 visit, and then I asked the rating panel to
9 provide any opinion if the ROS changes with the
10 project in place, but it's a verbal component
11 versus a numerical component.

12 Q Okay, and, understood, and I'm not suggesting
13 that, I'm not really going after the numbers, so
14 to speak, but so that's what your rating panel
15 did is they looked at those four categories;
16 proposed ROS, resource contrast, sensitivity
17 level and scenic quality?

18 A Correct.

19 Q Okay. And on that, that's where the conclusion
20 was drawn about visual impact and it was either
21 high, moderate or low.

22 A For each viewpoint.

23 Q For each viewpoint. Okay. So then the ones
24 that were then categorized as high, those were

1 assigned a conclusion of unreasonable impact.

2 A I think it's right on page 56 if you can see on
3 Table 6. You can see there's one, two, three,
4 four, five, six that are rated high. Those are
5 the ones that you concluded are unreasonable
6 impacts.

7 A My conclusion on page 59 is that the six
8 sensitive resources would have high potential
9 for visual impact and due to those six having a
10 high visual impact there is an unreasonable
11 aesthetic impact with the construction of the
12 project.

13 Q Right. And that all flows from the table and
14 the components that are shown or the categories
15 that are shown on Table 6 on page 56, right?

16 A Correct.

17 Q Okay. Thank you. Now, the report, because I
18 was curious about that, how you go from the
19 conclusion of high visual impact to unreasonable
20 so I looked for the word unreasonable to see how
21 you had discussed it in your report, and you
22 don't have to go there, but I'll, on page 8, I
23 found the first instance. I found it, I think,
24 7 times. You quote the statute. You say

1 162-H:16,IV, which just is the language of the
2 site and facility and having an unreasonable
3 adverse effect on aesthetics. On page 13, that
4 same language just quoting our statute comes up
5 again. On page 59, there is the statement again
6 where you refer to LandWorks' conclusions and
7 you say given these statements it was LandWorks'
8 opinion that the project as proposed will not
9 have an unreasonable adverse effect on
10 aesthetics. Below that, on page 59, you say,
11 however, it is the finding of Terraink that five
12 sensitive resources, which we just corrected to
13 six, would have a high potential for visual
14 impact, and, therefore, an unreasonable
15 aesthetic impact.

16 On page 60, the next time it was referenced
17 it was again reference to LandWorks. You say
18 the LandWorks conclusion that there would be no
19 unreasonable adverse effect on aesthetics so
20 that's again a reference to what they're saying,
21 and where I'm going with this, and the last one,
22 I guess, is on page 63, which is in paragraph 8,
23 and it's again referring to LandWorks. So
24 there's no real description in your report of

1 how you go from a high visual impact to an
2 unreasonable one. Did you describe that process
3 anywhere in your report?

4 A I think that it is through the number of sites
5 that reach a high level that there would be
6 permanent change to those sites with the project
7 in place to the enjoyment of individuals that
8 may visit or live on that's inherently part of
9 having those sensitive sites trigger a high
10 visual impact, and that clustering of high
11 impact is the means by which it triggers the
12 unreasonable aesthetic, adverse aesthetic
13 impact.

14 Q Okay, but there's no discussion in your report
15 about the fact that it's all six together that
16 makes what might be one unreasonable or one
17 might be reasonable alone, but you put all six
18 together and suddenly it's becomes unreasonable?
19 I didn't see that analysis, and, in fact, I
20 believe your position was is that all of the
21 ones with the high visual impact were
22 unreasonable.

23 A As a collective which is part of in the
24 conclusion where we get and we look at the

1 overall resource contrast rating for the study
2 area which is averaged out to be the 14.65 which
3 is on the border of high/moderate and,
4 high/moderate and strong. So the taking of
5 those six sites in the overall review of the
6 project as a hole triggers high. So inherently,
7 it's saying that there's an effect that occurs
8 that is an unreasonable impact to the study
9 area.

10 Q Okay. Well, you know, I've read your report and
11 I couldn't quite follow where that discussion
12 was or how that jump was made, but let me move
13 on because I want to look at the next thing
14 because I saw there was a lot of references to
15 Rule 301.05. Do you have the Committee's rules
16 with you today?

17 A I do.

18 Q Great. What's interesting is I couldn't find
19 any reference or discussion of Rule 301.14 in
20 your report, and that's the rule that provides
21 for the SEC to make its determination. Could
22 you put that rule in front of you?

23 A Yes.

24 Q Okay. So as I read the rule and it says

1 criteria relative to findings of unreasonable
2 adverse effects and it starts off with section A
3 which is the section governing aesthetics. In
4 determining whether the proposed energy facility
5 will have an unreasonable adverse effect on
6 aesthetics, the Committee shall consider: One
7 is the existing character of the area of
8 potential visual impact. Now, that existing
9 character, I assume, is the equivalent of scenic
10 quality in your report? I think that's on Table
11 6 on page 56.

12 A No. I don't think that's what that's referring
13 to. I think it's referring to the existing
14 character of the study area.

15 Q Okay. That's what scenic quality is in your
16 report?

17 A No.

18 Q Okay. So scenic quality is what in your view?

19 A Scenic quality is determined, number one,
20 through the definition Site 102.45, Scenic
21 Resources.

22 Q Um-hum.

23 A That's where we start. What is the New
24 Hampshire decision on what a scenic resource is.

1 So we start there. And then we move on to look
2 at resources that tell us what sites are
3 determined scenic within the study area.

4 Q Okay. So scenic quality then, when you use that
5 term, you're using a term that is defined in the
6 SEC rules then?

7 A For this project, I'm beginning with Site 102.45
8 with scenic resources so tells me what's
9 important, and then I move on to looking at
10 basically the background research on visually
11 sensitive sites within a study area which will
12 through that process the level of scenic quality
13 that is perceived by a state, national, regional
14 or local population comes through through the
15 research.

16 Q So if this Committee is to read your report and
17 evaluate the first item being the existing
18 character of the area of proposed visual impact,
19 are they supposed to look at your scenic quality
20 ranking? Is that what that is? Is that where
21 they would find that?

22 A I think it's, no. I don't think that's how it's
23 being applied.

24 Q Okay. Let me ask you this then. Let's go to

1 the second one in Rule 301.14, and we, the
2 Committee is asked by its own rules to evaluate
3 the significance of the affected scenic
4 resources and their distance from the proposed
5 facility. And so you would agree with me, I
6 assume, that that rule appears to be asking the
7 Committee to evaluate how significant the
8 resource itself is as independent from its
9 scenic character. The section says look at the
10 existing character of the area. That's like its
11 scenic quality or its scenic value. Right? And
12 then 2 appears to ask the Committee to look at
13 something different and that's how significant a
14 resource is this.

15 A Yes.

16 Q Do you follow me? Okay. So I guess you'd agree
17 with me that those six resources that you
18 identified as having high impact, Willard Pond,
19 Meadow Marsh Preserve, White Birch Point, Bald
20 Mountain, Goodhue Hill, Black Pond, none of
21 those have what I would call a significance that
22 rises to the level of something like Mount
23 Washington, right?

24 A That's your opinion.

1 Q Right, but so I'm asking you for your opinion.
2 Are you suggesting that those resources have a
3 significance as on par with Mount Washington?

4 A I'm not sure that's a comparable scenario.

5 Q All right. Well, will you agree with me that
6 Mount Washington, that would be a fairly
7 significant resource, right?

8 A Yes.

9 Q And that's what the Committee's rules say
10 they're supposed to look at is how significant a
11 resource is this. So by that comparison, Mount
12 Washington would be more significant?

13 A We're looking at a study area in Antrim that
14 their significance is based upon their use and
15 what that resource offers this community in
16 place. So I'm not ranking, I'm not ranking
17 these sites against other sites in the state.
18 That's not what I've been asked to do.

19 Q And that's why I'm asking you this question
20 right now because the Committee's rules don't
21 contemplate in advance what the study area will
22 be so they ask the Committee to evaluate
23 significance. So what I'm trying to get from
24 you is just to whether or not you agree with me

1 that Mount Washington would be an extremely
2 significant resource from a visual or aesthetics
3 impact perspective, right?

4 A I think it depends. Mount Washington is a
5 highly built environment which in itself brings
6 up some complexity to the notion. So I would
7 not make a blanket statement.

8 Q Okay. You know, so Franconia Notch, the same
9 answer, you can't tell me whether or not these
10 resources are just as significant as Franconia
11 Notch?

12 MS. MALONEY: I think I'm going to object
13 on relevance.

14 MR. RICHARDSON: I'm asking her about the
15 interpretation of the rule.

16 MS. MALONEY: Right, and she's not an
17 attorney, and you're asking -- that's exactly
18 right. You're asking her to interpret the rule
19 that the Committee is supposed to be adopting.

20 MR. RICHARDSON: I mean, if she can't
21 answer the question, that's fine. I think the
22 rules --

23 MS. MALONEY: I don't think it's a fair
24 question. I think it's not relevant.

1 PRESIDING OFFICER SCOTT: Did Ms. Connelly
2 say she used the rules to do her assessment?

3 MS. MALONEY: But 301.14, if you're asking
4 for a legal interpretation of how the Committee
5 is supposed to interpret the rule? Is that the
6 question?

7 MR. RICHARDSON: I'm asking her her
8 interpretation of the word "significance" and
9 whether or not the resources that she's
10 identified are significant within the meaning of
11 the rule that this Committee is required to
12 apply in the final analysis. I can't think of a
13 more relevant question than that.

14 PRESIDING OFFICER SCOTT: I'll allow it.

15 Q So how would you compare these resources in
16 terms of significance to the Franconia Notch?
17 They're less significant, right?

18 A Removing that from context, and if you were to
19 make a chart, they would be lower than Franconia
20 as a comparison.

21 Q Significantly lower?

22 A Depends what else is on the chart.

23 Q But if you were to evaluate what the
24 significance of Willard Pond is, I assume it

1 just doesn't rise to anything close to Franconia
2 Notch, given its visibility, we've got the
3 state's quarter has the Old Man in the Mountain
4 on it? I mean, that's a fairly significant
5 resource if you were to look at it under this
6 rule.

7 A What I would offer is that, interestingly to
8 your point, when looking at the New Hampshire
9 Gazetteer which lists sites, things to do, hikes
10 to do, water to be on, it's broken out into the
11 White Mountains which is a unique resource and,
12 hence, it is treated separately. And on the
13 hiking opportunities there's about 50 or so.
14 Bald Mountain is on that list, Crotched Mountain
15 is on that list. What that tells me is that
16 even though they might not be part of the White
17 Mountain family, they are significant enough to
18 make the short list in a Gazetteer that has
19 access to the entire state as places that people
20 should go and see.

21 Q Um-hum.

22 A So they may not be at the top of that list, but
23 they're certainly not at the bottom.

24 Q Right, and I mean, it's, I'm sure everyone in

1 this room knows by now it's probably a wonderful
2 place to hike, and, in fact, I've hiked it so I
3 would agree with that, but there's something
4 more to that in the sense that when you're
5 evaluating not only nice places to hike and we
6 have to evaluate as this rule suggests its
7 significant or the level of its significance,
8 there are certainly, none of these resources
9 that you've identified would rise to the top of
10 statewide list the way Franconia Notch would or
11 the Kancamagus Highway or Mount Monadnock with
12 about 100,000 hikers a year. I mean, those are
13 all really premiere locations in New Hampshire
14 that have the highest level of significance,
15 right?

16 A They are important to New Hampshire, yes.

17 Q Okay. Let's look at the next item in Rule
18 301.14, and I was going to go through other
19 issues, and, actually, before we leave that
20 rule, I mean, not just hiking but I'm thinking
21 about lakes. Things like Lake Winnepesaukee and
22 Lake Sunapee. Those are premiere locations and
23 premiere aesthetic resources in terms of their
24 significance, right?

1 A They are a high value, yes.

2 Q So then let's, and another example, I guess,
3 would be beaches. I think Hampton Beach on a
4 weekend day in July, I was told by a town
5 administrator it's the most populated town in
6 the whole state because you can have 100,000
7 people on that beach so that would be another
8 example of a tremendously significant resource,
9 right?

10 A Yes.

11 Q So 301.14, I think it's (a)(3), asks the
12 Committee to evaluate the extent, nature and
13 duration of public uses of affected scenic
14 resources. So that question about the extent,
15 that that implies almost the volume, right? I
16 mean, the Mount Monadnock is a great example to
17 me because of the number of hikers that go there
18 every single year, and there's nothing on this
19 list of these six resources that compares to
20 that extent of use, is there?

21 A Extent could also mean the opportunities for
22 varied recreational use that are available. I
23 would interpret it as extent meaning what is
24 offered.

1 Q But isn't that, I look at the rule here, and I
2 see it says the extent, nature and duration of
3 public uses so what you're describing in terms
4 of the range of opportunities, that's the nature
5 of the use, right? But the extent, to me,
6 suggests the volume.

7 A What kind of volume are you speaking of?

8 Q Well, I mean, it's up to the Committee to weigh
9 that in this case, isn't it? I mean, we don't
10 have anything like a Hampton Beach or a Mount
11 Monadnock that has very, very high levels of
12 volume.

13 A However, these sites offered within the study
14 area, they're the sites for the folks who are
15 peak baggers or who don't want to be crowded on
16 a beach or want to paddle in seclusion. There
17 is value to the fact that they are not inundated
18 with recreationalists or build structure.

19 Q Sure. So but what the Committee has to do is it
20 has to apply its rules, right? So these rules
21 independent of that ask the Committee to
22 evaluate and to weigh what's the extent of use
23 by the public.

24 A Yes.

1 Q So when I look at Table 6 on page 56 of your
2 report, I see scenic quality, I see sensitivity
3 level, resource contrast and proposed ROS, but I
4 don't see anything that ranks these sites in
5 terms of the extent of use.

6 A No.

7 Q Okay. Now, let me look at, let's look at
8 301.14(a)(6) which reads that the Committee is
9 to consider the extent to which the proposed
10 facility would be a dominant and prominent
11 feature within a natural or cultural landscape
12 of high scenic quality or as viewed from scenic
13 resources of high value or sensitivity. So I
14 guess my question to you about this is is this
15 is asking the Committee to evaluate the extent
16 to which this project is a dominant or prominent
17 feature, right?

18 A Yes.

19 Q And that conclusion can be influenced by the
20 opinions of the users of the resource, right?

21 A Excuse me. I'm sorry. Can you repeat your
22 question for me?

23 Q Sure. So the determination of dominance, that
24 can be influenced by the opinions of the users

1 of the resource, right?

2 A I'm not sure I'm understanding what you're
3 asking.

4 Q Let me ask you a question about what's in your
5 report on page 23. I don't have the reference
6 to where it is on the page so I'll try to find
7 it for you. I believe it's under recreational
8 users, and it says these users can be sensitive
9 to visual change, depending upon the type of
10 recreational use within which they are
11 participating. So I understood that and I
12 understood generally the testimony that we've
13 heard here today to say that the impact or the
14 effect is dependent upon the opinion of the user
15 or the predisposition of the persons
16 experiencing a resource.

17 A Where are you applying the impact?

18 Q Well, I guess what I'm trying to evaluate is
19 whether it's significant or unreasonable and in
20 the eye of a viewer isn't the viewer's nature or
21 the purpose for which they're using a resource
22 important? I thought that's what you were
23 saying. You had to look at whether or not
24 Willard Pond was being used by power boaters or

1 whether it was canoers and kayakers or
2 fishermen. Those are all things that you would
3 want to take into account when determining the
4 effect of the project and its impact on the user
5 of the resource.

6 A Yes.

7 Q Were you here when Mr. Enman testified?

8 A I don't believe so.

9 Q Have you read his testimony?

10 A No.

11 Q Are you aware that he did a survey of who the
12 users of Willard Pond were and what their views
13 were on the project?

14 A No.

15 Q Let me get a copy for you. I've got it right
16 here. So there is Mr. Enman's. I don't believe
17 it's dated, but it's the August 18th, 2016,
18 Supplemental Testimony. He calls it Rebuttal
19 Testimony. Have you seen that document before?

20 A I have not.

21 Q Okay. Well, on page 1 if you could follow
22 along, he's asked a question and he answers a
23 question. He says because there was no data
24 available, Mr. Ben Pratt and I conducted two

1 informal surveys on different days to find out
2 visitors' actual opinions.

3 A I'm sorry. Where are you reading that?

4 Q Okay. Yes. So in the middle of the page. It
5 says, there's a question. Are you aware of any
6 information that might refute Mr. Bartlett's
7 testimony. And this is about, I think this is
8 relating to the views of users of Willard Pond.
9 In the middle of that page he says yes. Because
10 there was no data available, Mr. Ben Pratt and I
11 conducted two informal surveys on different days
12 to find out about visitors' actual opinions.
13 And then it continues on. Apparently he
14 conducted interviews and there were 26 people he
15 surveyed, and only three of them stated that
16 they would object to the visual aspect of the
17 turbines. So I take it you were not aware of
18 that information previously.

19 A No.

20 MS. BERWICK: Can I object? Because there
21 was no visual simulation shown to these people
22 so that they really were not given any
23 comparison with what they were looking at, and
24 he's not allowing Ms. Connelly to know that.

1 PRESIDING OFFICER SCOTT: Mr. Richardson?

2 MR. RICHARDSON: Well, maybe what I could
3 do is because she's already answered the
4 question, I can try to follow up and clarify on
5 that point.

6 PRESIDING OFFICER SCOTT: Okay.

7 MR. RICHARDSON: I don't know what
8 Mr. Enman showed in detail or not. He's already
9 testified so it's in the record. I can't say
10 what the answer is or isn't.

11 BY MR. RICHARDSON:

12 Q But so let me ask you to look at the section
13 where it says can you summarize the results
14 which is at the bottom of that page, and I think
15 that last sentence in the answer he says the
16 supporters after explaining the visual impact
17 ranged from okay to definitely yes. So it
18 appears that there was some form of explanation
19 given about the visual impact and 23 out of 26
20 people supported it. Is that significant in
21 your view?

22 A I think what is significant is that this has
23 absolutely no basis. I don't know what they
24 were shown. I don't have a tally of the

1 questions. I don't have proof of the people.
2 Where they're from. Who they were. So with all
3 due respect, I would like to hope that this is
4 documented but without any documentation other
5 than not having ever seen it, I can't talk to
6 it.

7 Q Okay. So let me ask you hypothetically because
8 Mr. Enman has already testified, and he's spoken
9 to those things, and you weren't there so I
10 don't, I don't expect you'll know the answer, so
11 I want you to assume for the sake of argument
12 that he conducted his questions --

13 MS. MALONEY: I'm going to object I think
14 where he's going is a hypothetical about
15 conducting surveys, and she's not an expert, she
16 can be asked hypotheticals about visual impact,
17 but she can't be asked hypotheticals about a
18 survey of which, frankly, not everyone here
19 knows how it was conducted. It wasn't a formal
20 survey, as you indicated. It was an informal
21 survey.

22 PRESIDING OFFICER SCOTT: Mr. Richardson?

23 MR. RICHARDSON: I think that I didn't
24 finish asking the question, but the question

1 that I wanted to ask was assuming that this
2 survey was done fairly and objectively and in a
3 professional manner, would that be something
4 that would be significant?

5 MS. BERWICK: I would object because it was
6 not done fairly and professionally. There's
7 nothing scientific about that survey.

8 MS. MALONEY: I think that if what Attorney
9 Richardson is asking is if this was a user
10 survey that was conducted by a professional firm
11 and there was nothing and it was all done
12 according to scientific protocols, is that what
13 your question is? Would it be something that
14 would weigh in on her opinion?

15 MR. RICHARDSON: This is all argument.
16 I've already said what the question is.

17 MS. MALONEY: I'm going to object to the
18 hypothetical. She's not an expert, and I've not
19 proffered by an expert in statistics or surveys
20 or scientific study in that manner. So I'm
21 going to object to the hypothetical.

22 MR. RICHARDSON: It's not about the
23 methodology. I'm asking her to assume that if
24 this were a survey and it were done in

1 accordance with proper procedures, would these
2 conclusions be significant. It's her
3 conclusions that I want to get at, not the
4 statistical analysis.

5 MS. MALONEY: Again, I maintain my
6 objection. I'm not proffering her as an expert
7 in surveys, and this is not part of her
8 expertise. So that kind of hypothetical is not
9 appropriate in front of this expert.

10 PRESIDING OFFICER SCOTT: We've already
11 started down this path. I'd like to hear what
12 she says, and she's heard all your objections so
13 I'm sure she can perhaps couch her answers.

14 Q So my question, Ms. Connelly, is assuming for
15 the sake of argument that this conclusion was
16 the result of an objective assessment of user
17 opinions with the proper information, would this
18 type of information be significant to you from
19 an aesthetics standpoint?

20 A What is significant to me is the process by
21 which we look at worst case scenario and
22 exposure of sensitive sites to the project.
23 During the evaluation of those proposed
24 conditions with the project in place, we would

1 certainly consider this data, but it doesn't
2 change with what we're entailed to do which is
3 to provide you worst case visual impact
4 information on what occurs within the study area
5 with this project in place.

6 Q I'm sorry. I just had trouble following your
7 answer. So I guess if a scientific survey were
8 to be done and it were to find that out of 26
9 visitors, only three said they would object to
10 turbines, is that something that would be
11 significant, that would inform you about the
12 nature of any impacts?

13 MS. MALONEY: She answered that question.

14 MR. RICHARDSON: I was just trying to get a
15 yes or no answer.

16 MS. MALONEY: She answered that question.
17 I mean, I don't think you like the answer, but
18 she answered the question.

19 PRESIDING OFFICER SCOTT: I'm not sure I
20 heard the answer to that question. So if you
21 could risk repeating, Ms. Connelly, I'd like to
22 hear it.

23 Q So assuming, again, that the, let's assume that
24 the 26 visitors were surveyed scientifically and

1 appropriately, if only three said that they
2 would object to the turbines, would that be
3 something that would be significant that you'd
4 want to take into account?

5 A It's something that we would take into account,
6 but it does not rise above the worst case visual
7 impact assessment that we've been charged to do.

8 Q Okay. So these turbines, they're about two
9 miles from the boat launch? The closest one?

10 A My study focused on the boat view, not the boat
11 launch.

12 Q So do you know how far it is from the boat
13 launch to the turbines? Does two miles sound
14 about correct?

15 A Within reason.

16 Q Okay. These turbines, I mean, they don't have
17 smoke coming out of them. They're not like, you
18 know, this isn't an oil plant or a coal plant,
19 not a natural gas plant so there's not a plume
20 associated with this, and I guess the reason I
21 bring that up is that is it inconsistent with
22 using an area to see a project like this? I
23 mean, to me what would really strike me is if I
24 want to see a natural area and I saw a wind

1 turbine, I would assume that there's no
2 pollution. It's consistent with this being a
3 part of a natural environment. Isn't that a
4 reasonable way to look at this?

5 A That's your opinion. I would not say that that
6 is a universal opinion.

7 Q Okay. In fact, some users like fishermen, for
8 example, or people going for hikes who are
9 concerned about ecology, they might be concerned
10 about things like mercury levels and climate
11 change, and this might make a project like this
12 consistent with the environment they're
13 experiencing.

14 A Or they may be aware of the 7,000 tons of stone
15 that is removed from this ridgeline to build
16 this project and open it up to potential for
17 erosion, the change of ecology. The point being
18 that there's always an alternative perspective.
19 There isn't a universal.

20 Q But so is what we're trying to get at the effect
21 on the user?

22 A In what way? Can you rephrase that into a
23 question for me?

24 Q It's hard for me to rephrase it. Maybe what

1 I'll do is we'll just move on to the next
2 subject.

3 So let me ask you this so let's look at
4 301.14(a)(7), and this is, I think, one of the
5 last things the Committee is asked to consider
6 and that's the effectiveness of the measures
7 proposed by the Applicant to avoid, minimize or
8 mitigate unreasonable adverse effects on
9 aesthetics, and the extent to which such
10 measures represent the best practical measures.
11 I saw you had a mitigation section in your
12 report. I want to ask you about that. But
13 before we go there, do you see that there's
14 three different components to this? One is what
15 we call avoidance. The second is minimization
16 and the third is mitigation. Are you familiar
17 with those concepts?

18 A In many different applications, yes.

19 Q And they have different meanings, right?

20 Obviously to avoid an impact, that means to not
21 have the impact at all, right?

22 A Correct.

23 Q And to minimize an impact, that means to reduce
24 its effect.

1 A Correct.

2 Q And then to mitigate it means to acknowledge
3 that the effect exists and then offset it,
4 right?

5 A Correct.

6 Q Okay. And the rule refers to what are called
7 best practical measures at the end, and that's a
8 defined term. Did you ever look at that
9 provision in the rule?

10 A Do you mean the definition?

11 Q Yes. Correct.

12 A No. I did not look up that definition.

13 Q Before we walk through your report, let's look
14 at that. Could you go to site 102.12?

15 A I do not have that page. I would need it.

16 Q Okay. So I have here, I'm not sure I copied the
17 rule in my outline. Is it possible someone can
18 get a copy of the rule for the witness? Or I
19 could read it into the record although that's
20 kind of challenging.

21 A (Witness handed rule by Mr. Iacopino) Thank
22 you.

23 Q Let's turn to Site 102.12, and I'll thank the
24 volunteer who's given the witness a copy of the

1 rule, and it says best practical measures means
2 available, effective and economically feasible
3 on-site or offsite methods or technology used
4 during the siting design, construction and
5 operation of an energy facility that effectively
6 avoid, minimize or mitigate relevant impacts.

7 So there's that same concept again. There
8 was three concepts. So what I want to do now is
9 look at the discussion of mitigation that is in
10 your testimony, page 11. Do you have your
11 testimony in front of you?

12 A Yes.

13 Q And you say that you use mitigation options
14 based upon the, I'm looking at line 17 in the
15 question is do you have an opinion about the
16 mitigation measures that might reduce the
17 unreasonable aesthetic impacts of the project.
18 Now, when you say reduce, are we talking about
19 minimization or are we talking about mitigation?

20 Actually, if you like I think I can ask a
21 better question. So it says that mitigation
22 options were based upon the BLM methodology and
23 were included in the proposed conditions rating
24 form and the rating panel members were asked to

1 consider and indicate any that were appropriate
2 for the project. Now, is it your testimony or
3 belief that the Committee should only consider
4 mitigation measures that a rating panel
5 considers appropriate? I guess I didn't
6 understand what that meant.

7 A So there's a visual, the mitigation options are
8 related directly to things that can be done with
9 the project in place. It does not reference in
10 the Best Management Practices of construction.

11 Q Okay. But I guess what -- here's my first
12 question. In other words, what relevance does
13 the rating panel's opinion have on mitigation
14 measures to this Committee? Isn't it up to the
15 Committee to decide what an appropriate
16 mitigation is and not up to the rating panel to
17 tell them on a form whether or not it's
18 appropriate?

19 A In looking at contrast, what the effects are of
20 the project in place, it's a means to offer
21 suggestion if there are opportunities that could
22 reduce the impact, and I think that is a helpful
23 tool to have that the Committee can use for
24 their reference, but no, we are not telling the

1 Committee what the mitigation is.

2 Q Okay. So on page 12 of your testimony then,
3 there's a list of different mitigation options,
4 I guess we'll call them for the present. Is
5 that what the rating panel came up with or is
6 that your discussion or who generated this list?

7 A So that list is generated on the rating form by
8 Terraink, and it is a collection of mitigation
9 tools that come from the BLM, from the New York
10 State DEC Methodology, Army Corps, DOT, they're
11 just standard mitigation options that can be
12 considered for a project. I certainly did not
13 create them myself.

14 Q Okay. So the first one at the top of page 12 is
15 reduce density of turbines, and, in fact, you
16 use the word reducing a number of turbines would
17 minimize some of the visual impacts so in that
18 case we're talking about a minimization
19 strategy, not a mitigation one, right?

20 A Well, it's mitigation that involves minimization
21 of number, reducing density.

22 Q Right, but we're not offsetting an impact at
23 that point. We're just focusing on reducing it.
24 So there's three things the Committee has to

1 consider. One is the effectiveness of
2 minimization, avoidance is the other and then
3 mitigation is the third. So reducing density,
4 that's a way of minimizing impacts, but it's not
5 a way of mitigating them.

6 A We say the visual impact would be slightly
7 mitigated.

8 Q Okay. But it's not using it in the sense the
9 rule is is what I'm trying to get at.

10 MS. MALONEY: Objection. He's being
11 argumentative now.

12 Q So reducing the height, that's another form of
13 minimization, right?

14 A Or mitigation.

15 Q So you're using reducing the height in
16 minimization and mitigating synonymously.

17 A We offer opportunities for potential mitigation
18 based on standard practice in multiple sources
19 and tools so they were not vetted in the way
20 that you're trying to now apply them.

21 Q Right, right, but so this is in the mitigation
22 section so I'm trying to figure out how you
23 applied the rule that asked the Committee to
24 decide whether the mitigation is appropriate or

1 not. So these first two items are both
2 appropriate for minimization, but they don't
3 have anything to do with mitigation, right?

4 MS. MALONEY: I'm going to object. It's
5 just starting to get argumentative.

6 MR. RICHARDSON: Okay.

7 MR. NEEDLEMAN: When it's appropriate,
8 could we have a brief break.

9 PRESIDING OFFICER SCOTT: Yes. How much
10 more do you have, Mr. Richardson? That was, I
11 was mentally thinking a break between you two,
12 but if Mr. Richardson is going to go on for a
13 while which is his prerogative, we may go now.

14 MR. RICHARDSON: We can take a break now.

15 PRESIDING OFFICER SCOTT: Why don't we take
16 a break.

17 (Recess taken 11:11 - 11:21 a.m.)

18 PRESIDING OFFICER SCOTT: Back on the
19 record. We're back to you, Mr. Richardson.

20 Q Thank you. So let's resume on page 12, and
21 during the break I think I came up with a faster
22 way of doing this. So these are the mitigation
23 measures, and I'll just read off the list to
24 you. You had reduced density, reduced height,

1 reduced clearing, reduced light pollution, add
2 screening, which you say is I believe effective
3 for the substation but not for the towers
4 themselves, and a camouflage, modify color,
5 alternate location, then we go onto page 14 and
6 we have alternate technology, alternate design,
7 and alternate material, and it strikes me that
8 those are all methods of minimizing or avoiding
9 impacts as opposed to offsetting impacts. Would
10 you agree with that general characterization?

11 A How are you using the term offset?

12 Q Well, in terms of the, when we discussed what it
13 means to mitigate something. So those are
14 really forms of minimizing and avoidance as
15 opposed to mitigation.

16 A I don't think I would agree with that statement.

17 Q How would you disagree?

18 A You're saying that they are not forms of
19 mitigation.

20 Q Right, because the rule directs the Committee to
21 consider three things: Minimization, avoidance,
22 and mitigation. And that list that I just
23 walked through is primarily, in fact, it's
24 almost exclusively minimization and avoidance.

1 There's nothing there that is, that you would
2 consider to be an effective form of mitigation
3 for the project.

4 A I don't agree with that statement.

5 Q Okay. What is the effective form of mitigation
6 for the project then?

7 A I think what we are offering is a list of
8 standard industry practices known as mitigation
9 through multiple sources, and we offer them for
10 the Committee's review and consideration as they
11 determine if there's any avoid, minimize or
12 mitigation aspects to the project, but we offer
13 them as just the standard industry practice
14 under the category of mitigation. We did not
15 break it out into three terms but rather a
16 holistic idea that these things are industry
17 practice for mitigation opportunities that can
18 be considered.

19 Q But I guess what I'm getting at is which of
20 those in your opinion is an effective mitigation
21 strategy for the project?

22 A Well, they're all part of the mitigation
23 strategy.

24 Q But I'm trying to, I'm sorry. I'm not trying to

1 make this tricky or confusing. It's your
2 opinion that there is no effective mitigation
3 for the testimony. I think that's what your
4 testimony says.

5 A For this project.

6 Q Correct. Right?

7 A Correct.

8 Q And which of these measures are actually
9 mitigation as opposed to avoidance and
10 minimization?

11 MS. MALONEY: I think she's answered that.
12 I think she said they're all mitigation.

13 A They're all tools that I would categorize as
14 mitigation.

15 Q So another form of mitigation, it would seem to
16 me, is if the project's impacts were temporary.
17 It's your understanding they will be temporary,
18 right?

19 A I don't believe that the impacts of this project
20 are temporary.

21 Q Okay, but the towers themselves are going to be
22 removed and the blades which I believe a few
23 moments ago you said would be the most
24 significant impact because they're moving, all

1 of that is going to disappear at some point
2 whether it's 20 years or a maximum of about 50
3 years, right?

4 A Correct.

5 Q You didn't include the entire Application in the
6 information you gave to the ratings panel,
7 right?

8 A The Application for the project submitted.

9 Q That's right.

10 A No, I did not.

11 Q So the ratings panel might not have known that
12 the project itself was a temporary impact in
13 terms of things like the existence of towers,
14 the blades, that that would all go away after 20
15 years. They probably didn't know that, right?

16 A I did not provide information that there was,
17 the turbines, towers and blades would be removed
18 after a certain period of time.

19 Q But that's, you agree, whether or not, I'm not
20 going to ask you to agree that the project's
21 impact is going to disappear completely, but
22 when the project itself is removed and
23 decommissioned, its impacts are going to be
24 significantly reduced, right?

1 A They will be reduced, yes.

2 Q And then after decommissioning is completed,
3 there will be some reforestation as part of that
4 or seeding and then the project will eventually
5 revegetate itself. So from an aesthetics point,
6 say 20 years after the project's decommissioned,
7 we would expect to see those impacts reduced
8 even further?

9 A Potentially, but you can't speak to what could
10 happen.

11 Q But that's a fairly significant form of
12 mitigation for the project's impacts, isn't it?

13 A In what are you speaking of?

14 Q Well, what I mean is that the project's impacts
15 are reduced, right? So in the sense that I
16 think you've used it, reducing impacts is a form
17 of mitigation, it's something that's always
18 considered or available.

19 A So you're basically saying the project not being
20 there is mitigation.

21 Q Well, the fact that the project is temporary
22 means these impacts aren't going to be
23 permanent, right?

24 A Some impacts are not permanent.

1 Q And there will be a significant reduction in the
2 future.

3 A There will be some reduction, yes.

4 Q And so when you evaluated the impact and the
5 rating panel evaluated the impact they did it
6 based on the impacts of the project as if it was
7 permanent, but the project isn't permanent,
8 right?

9 A They rated the project based upon what would
10 happen as the worst case scenario of the project
11 in place on the sensitive sites, what would
12 happen to those sites with the project built.
13 We can't determine what happens, we can make
14 guesses as to what can happen over the 40 years
15 that it's in place, but our project, our visual
16 impact assessment is about what is going to
17 happen with the project in place at that time.

18 Q So you didn't look at the aesthetics from the
19 perspective of after the project was
20 decommissioned in your analysis?

21 A I was not asked to look at that, no.

22 Q But doesn't that, if we were to look at it from
23 that perspective over the long-term, didn't that
24 increase the value of the conservation of 908

1 acres? I mean, if we were to look at this 50
2 years down the road or 20 years down the road,
3 we would have conservation of land resources
4 acquired by Antrim Wind given to an organization
5 like the Harris Center, in fact given to the
6 Harris Center, and that would be a fairly
7 effective form of mitigation once the project
8 was removed and decommissioned, right?

9 A Again, I don't, I personally do not agree with
10 counting on gifted land or money as a means to
11 offset aesthetic impact.

12 Q But the aesthetic impact is almost gone after
13 the project's decommissioned? You're not
14 seriously suggesting that this project is going
15 to have a significant or unreasonable effect on
16 aesthetics after it's been decommissioned.

17 A There's still an effect that's left after its
18 decommissioned.

19 Q Is it an unreasonable one, in your opinion?

20 A I have not studied the post-removal of the
21 project.

22 Q So you don't know the answer to that question
23 then?

24 A I would want to have more time to think about

1 that answer.

2 Q And you and I are in the same boat together.
3 All we have is the time right now so right now
4 you don't know the answer to that question.

5 A Can you repeat the question?

6 Q Sure. So you don't know whether the project
7 would have an unreasonable adverse effect on
8 aesthetics after it has been decommissioned.

9 A What I know is that the project does have an
10 unreasonable adverse aesthetic impact on six
11 sensitive resources within this site during its
12 construction, and what happens with the
13 decommissioning of that project and how the
14 project would revegetate or come back to a
15 natural state I cannot make assumption to. So
16 in my view, it stays still being an unreasonable
17 adverse aesthetic impact until it's shown either
18 through the reclamation activity that that has
19 been mitigated.

20 Q So you're saying if it weren't successfully
21 mitigated, then it might still continue to be
22 unreasonable?

23 A Correct.

24 Q But if we were to assume that the Committee is

1 going to establish an adequate decommissioning
2 plan with adequate provisions and the
3 decommissioning is successfully completed and
4 revegetated, is it still your opinion that the
5 project at that moment in time, completion of
6 decommissioning, would have an unreasonable
7 adverse effect on the six resources you've
8 identified?

9 A If all the mitigation, all the rehab was done
10 perfectly, and that area was able to reestablish
11 given the amount of construction, destruction,
12 land moving, rock removal, blasting that has to
13 occur, there would be a, one would hope,
14 otherwise why are we -- the hope is that there
15 is solid and good restoration of a ridgeline,
16 but it's coming 40 years later and we don't know
17 what happened to the resources during that time.
18 So if the mitigation is successful, one would
19 hope that it would have a lesser effect, yes.

20 Q Okay. So then let's go from that point then and
21 then also add in the fact that we're conserving
22 908 acres plus whatever NEFF, New England
23 Forestry Foundation, is able to accomplish with
24 it's \$100,000 plus any matching funds so from

1 that perspective, the mitigation of land
2 resources from the perspective of a successfully
3 decommissioned project is significant.

4 A Can you put that into a question, please?

5 Q I was asking if you agreed with that. So my
6 question is given your answer just a moment ago
7 that the decommissioning plan is successfully
8 implemented, then the additional 908 acres that
9 this project has produced then becomes
10 significant. I mean, that's the lot of land.
11 It's the entire ridgeline essentially.

12 A Are there not opportunities for the owners of
13 those properties to build cell towers and houses
14 on that ridge?

15 Q The same as there are today. I believe there is
16 a reserved right for a cell phone tower within
17 the 908 acres, although someone jump up if I'm
18 wrong, so there is that. So with that caveat,
19 isn't the 908 acres still significant? I mean,
20 a cell phone tower is not going to take up all
21 908 acres.

22 MS. BERWICK: Could I interject since he
23 said somebody jump up. It's actually two cell
24 towers that could be built their area.

1 MS. MALONEY: Just for the record, 900
2 acres isn't on the ridgetop as far as I
3 understand. I thought that was just the hundred
4 acres.

5 PRESIDING OFFICER SCOTT: Noted.

6 Q So the basic question, though, is we have a
7 project, let's assume it's successfully
8 decommissioned, and once that occurs, the
9 addition of 908 acres with the caveats that have
10 been described, that's still a significant
11 conservation benefit, isn't it?

12 A However, you're still allowing opportunity for
13 development that is visible on the ridge.
14 Therefore, we're replacing one visual intrusion
15 with potentially another.

16 Q But if this project isn't built, that intrusion
17 could exist tomorrow. I mean, Mr. Ott or some
18 other property owner could seek an application
19 to build a cell phone tower tomorrow if there's
20 no project.

21 A However, there is proper zoning and Due Process
22 and also the availability to be able to move and
23 get into that ridgeline. So there's means and
24 methods that would make sure that should that

1 occur, it would have to go through a process. I
2 don't think it's a guarantee that he can just do
3 that.

4 Q Okay. So then what you just said a few moments
5 ago about Mr. Ott having the right to build a
6 cell phone tower, it would be subject to those
7 same restrictions as it would be 40 years from
8 now. So, in other words, that's really a
9 nonissue. A cell phone tower could exist there
10 now or it could exist there not now based on
11 what the zoning ordinance allows and the rules
12 and regulations governing cell phone towers
13 allow but still the 908 acres is going to affect
14 the remainder of the parcel, right, or all the
15 parcels?

16 A What I would say just to go back is that
17 presently, through the construction of this
18 project, you've created a road to the top that
19 doesn't exist. You're creating large pads that
20 don't exist. You're moving 7,000 tons of rock
21 from it. So those changes make development
22 easier on the ridge than what it may be at this
23 time, and I think that's a difference with what
24 you're proposing.

1 Q But that's not an analysis that I think you've
2 done. I mean, I understood you to say earlier
3 today the most significant impacts were from the
4 blades moving and the towers, and the roads
5 aren't going to by themselves after they've been
6 restored and they're going to be restored on all
7 the properties, except for Mr. Ott's, I believe,
8 that's not going to have an unreasonable adverse
9 impact on aesthetics by itself.

10 A Can you repeat the question, please?

11 MS. LINOWES: Mr. Chairman, I want to
12 object to this because any project that is
13 developed anywhere one could argue that anywhere
14 from 20 to 40 years into the future that area
15 will be repurposed or set back to its original
16 state. I'm having a lot of difficulty
17 understanding what the 40 year future look of
18 this site will be relative to its immediate
19 impact which is the question before the
20 Committee.

21 MR. RICHARDSON: I'll withdraw the question
22 and move on. I think we've covered this area.

23 Q Could you turn to page 14 of your testimony,
24 please? And I want to ask you at line 10 where

1 you see the question, do you have an opinion as
2 to the grant of additional offsite conservation
3 land as a mitigation measure to address adverse
4 unreasonable impacts to aesthetics. And then
5 you give the answer which I won't read to you
6 entirely, but at line 16, you talk about the
7 fact that the conservation measures utilize the
8 promise of an unknown entity to justify leaving
9 the offensive project in place.

10 So the phrase, "the promise of an unknown
11 entity," don't we know who the entity is?

12 PRESIDING OFFICER SCOTT: While she's
13 thinking, can you direct us where her testimony
14 is again? I apologize.

15 MR. RICHARDSON: Sure. I'm on page 14.
16 The question is at line 10 but the language
17 about the promise of the unknown entity to
18 justify leaving the offensive project in place
19 is at line 16. On page 14 of her testimony.

20 PRESIDING OFFICER SCOTT: Thank you.

21 A This answer was more broadly based versus being
22 specific to the entity. It's more a conceptual
23 response.

24 Q So but there is a specific entity that we know,

1 right, who's going to be the holder of the
2 conservation easement?

3 A It is the -- I'm sorry. You just said the name.
4 The Harris Center.

5 Q The Harris Center. Okay. Are they a successful
6 organization at protecting and holding
7 conservation lands?

8 A From outwardly looking at their information,
9 yes. It appears to be.

10 Q I've not reviewed the details of their
11 easements, but don't conservation easements have
12 an executory interest held by another entity
13 whether it was someone like Audubon or a state
14 conservation entity?

15 A I can't speak to that. That's not my expertise.

16 Q Okay, but the conservation easements themselves
17 on private land is a successful strategy for
18 protecting land, right? You're not saying the
19 conservation easement won't work.

20 A Work for what?

21 Q Well, when I saw this phrase where you say the
22 promise of an unknown entity, I assumed what you
23 were trying to say was that the conservation
24 efforts might not be successful because we

1 didn't know who it was going to be, and we do
2 know, right? It's the Harris Center.

3 A Right. So this is a conceptual answer versus
4 one specifically to the Harris Center which I
5 believe --

6 Q Okay. The next question on page 14 that crosses
7 over to 15 concerns the \$40,000 mitigation fund
8 for Gregg Lake. I'll read you the question
9 that's on line 17. It says do you have an
10 opinion as to the grant of \$40,000 to the Town
11 of Antrim as a mitigation measure to address the
12 adverse unreasonable impacts to aesthetics, and
13 you say in your answer, I'm looking in lines 22
14 to 23, that fiscal gain that is not grounded by
15 long-term checks and balances of regulated town
16 growth isn't appropriate. Is that what you're
17 saying?

18 A I prefer to read my answer.

19 Q Okay. Go ahead.

20 A The one time payment of \$40,000 to the Town of
21 Antrim is not an appropriate method of
22 mitigation. It sets a precarious precedent for
23 how the town justifies potential development
24 impacts within the community because this

1 approach is based upon a momentary fiscal gain
2 that is not grounded by the long-term checks and
3 balances of regulated town growth and
4 development.

5 Q Okay. So what do you mean when you say it's not
6 grounded in long-term checks and balances? Are
7 you concerned that the town is going to use the
8 money for something else?

9 A I'm concerned that the use of money to mitigate
10 aesthetics is not appropriate. You can't
11 mitigate the aesthetic impact by taking a check
12 for it is my concern. It sets a precedent that
13 isn't rooted in how we grow town development
14 based upon zoning and laws and process.

15 Q I want to show you a couple of exhibits.

16 While those exhibits are being marked, let
17 me start with a question to you. You're
18 familiar with the general concept that a town
19 can set up a trust and have a trustee of trust
20 funds?

21 A No, I'm not involved in town management. That's
22 not what I've been asked to do.

23 Q Would it surprise you that the town would accept
24 a gift of \$40,000 that it would be obligated

1 under the law to only use the funds for the
2 purposes for which the gift was given?

3 A That would not surprise me.

4 Q And I'll refer just for the record to RSA 31:19.
5 So what I want to do then is do you have, I've
6 marked it as Antrim Exhibit 8 [Antrim Exhibit
7 11]. I may have taken this out of order and
8 jumped ahead a couple because I don't think
9 there's a 6 and 7. But what I want to ask you
10 about is you see this as a Volunteer Lake
11 Assessment Program Individual Report. It's
12 prepared by DES, and it's for Gregg Lake. Do
13 you see that?

14 A Yes.

15 Q And you see apparently the Department of
16 Environmental Services is examining aquatic life
17 in Gregg Lake, and do you see where it says
18 phosphorous, the total, is slightly bad?

19 A Yes.

20 Q And pH, it says, is bad. DO which stands for
21 dissolved oxygen percent saturation is
22 cautionary. It says more data is needed. And
23 chlorophyll a, it says, is categorized as
24 slightly bad. So would it surprise you that

1 there are water quality problems at Gregg Lake?

2 A I'm not able to determine that this is a
3 water -- I don't interpret water quality charts
4 so I don't know how this actually ranges
5 throughout the region.

6 Q Okay. That's fine. So let's flip it over and
7 you see there's a box at the top of the second
8 page where it says recommended actions, and it
9 says that the one thing is recommended by DES is
10 increased sampling frequency to three times per
11 summer to better assess summer water quality and
12 historical means, and then the part I want to
13 focus on is the next sentence which says discuss
14 dirt road maintenance with the town road agents
15 to reduce storm water runoff and washout into
16 the lake.

17 So it appears that that would be something
18 that DES is recommending in order to address the
19 water quality concerns. And so I guess my
20 question is to you, if the town were to use the
21 mitigation funds to address a water quality
22 concern at the lake that might prevent
23 eutrophication or reduce its impacts, isn't that
24 an aesthetic benefit to the public?

1 A Can you clarify what you're asking?

2 Q What I'm asking is improving water quality of a
3 water body that has certain impairments, if
4 you're able to use funds to address those
5 concerns and either improve water quality or
6 reduce the rate at which it's deteriorating,
7 isn't that a benefit to aesthetics?

8 MS. LINOWES: I'm going to object to the
9 question because in the past Mr. Richardson has
10 argued that the \$40,000 would be used for
11 putting bathrooms in. It very hypothetical, and
12 it's just, it's not even, it's not even getting
13 to the point, in my opinion.

14 MR. RICHARDSON: Those were certainly
15 things that we argue they might be used for, and
16 in this case the witness has argued that there
17 is essentially nothing that the funds could be
18 used for so I'm asking if the town were to use
19 these funds to address and identify water
20 quality concern, would that be something that
21 would benefit aesthetics.

22 PRESIDING OFFICER SCOTT: Why don't you
23 continue, Mr. Richardson?

24 Q So what is the answer to that question?

1 A I'm going to reiterate what I've said which is
2 that I don't think the use, the gifting of money
3 is a successful mitigation for aesthetic. It's
4 a wonderful thing to do. It's great to improve
5 the quality of a region. Clearly this region
6 has importance, but I do not personally include
7 money gifts as a means for mitigation.

8 Q Okay. But would you accept improvements to
9 water quality at Gregg Lake?

10 MS. MALONEY: I think she's answered that
11 question.

12 PRESIDING OFFICER SCOTT: I'm not sure I
13 heard the answer to that.

14 A No. I would not.

15 Q Okay. You're aware, and this is the second
16 document, we'll call it Antrim Exhibit 9 [Antrim
17 Exhibit 12], and I'll just make a passing
18 reference to it because I don't think you've
19 given testimony on water quality so I don't want
20 to cross-examine you on it, but this is the DES
21 Water Resources Primer, Section 3.12. Water
22 quality in New Hampshire is generally good, but
23 salt is becoming a problem, and that could be
24 related to the maintenance of the roads, right?

1 A I would have to read this document to see what
2 their findings would be related to.

3 Q And obviously, impervious surfaces are a
4 significant impairment to water quality as well.
5 Are you aware of that concept? Storm water
6 runoff?

7 A Yes.

8 Q So is it your testimony then that using these
9 funds to reduce runoff and reduce water quality
10 deterioration just couldn't work as a form of
11 mitigation?

12 A For aesthetic impact, no, it does not.

13 Q I have no further questions. Thank you.

14 PRESIDING OFFICER SCOTT: What's your
15 desire from the Applicant? Would you like us to
16 take lunch now so we don't break you in the
17 middle?

18 MR. NEEDLEMAN: I guess that would, well,
19 whatever you want to do, but that would
20 certainly make sense.

21 PRESIDING OFFICER SCOTT: Why don't we take
22 lunch now. Again, we'll be back promptly in 45
23 minutes, please.

24 (Lunch recess taken)

1 PRESIDING OFFICER SCOTT: Back on the
2 record from lunch. Before we start with the
3 Applicant, I understand, Mr. Richardson, you had
4 something?

5 MR. RICHARDSON: Yes. Thank you,
6 Mr. Chairman. I inadvertently skipped over the
7 exhibits that I had brought in on the last day
8 we were here, so what I described as Exhibits 8
9 and 9 have been renumbered in the record as
10 Exhibits 11 and 12, and I understand that the
11 stenographer has graciously agreed to change the
12 transcript to reflect 11 and 12, and the
13 exhibits have been marked that way. So I wanted
14 to state that for the record, and if that's
15 acceptable, we can proceed on that basis.

16 MR. IACOPINO: Actually, so everybody
17 knows, what will happen is it will have the
18 original thing and in parentheses it will have
19 the correct number after it. So the transcript
20 will actually read Antrim 8 and then in
21 parentheses it will be Antrim 11.

22 MR. RICHARDSON: I appreciate the help on
23 that. Thank you.

24 PRESIDING OFFICER SCOTT: That's done then.

1 Mr. Needleman, so you have a little over an
2 hour. Wish you could have more today, but see
3 what you can get done.

4 MR. NEEDLEMAN: The good news I feel like
5 we're ahead of schedule at this point so we will
6 finish on Monday. I'm an optimist.

7 (Applicant Exhibit 53 marked for identification)

8 (Applicant Exhibit 54 marked for identification)

9 (Applicant Exhibit 55 marked for identification)

10 **CROSS-EXAMINATION**

11 **BY MR. NEEDLEMAN:**

12 Q Before we get started, I handed out three
13 exhibits. Applicant 53, 54 and 55. 53 is the
14 full VIA on the thumb drive, and, again, the
15 purpose of that is I'm going to make frequent
16 reference to portions of your materials, Ms.
17 Connelly, and I just thought if people could
18 punch in the number it could allow them to jump
19 to it more quickly. There should be 282 pages
20 on that PDF.

21 I handed out Exhibit 54 which are your
22 responses to our data requests. I'll refer to
23 those in a minute. And I handed out Exhibit 55
24 which is just a photocopy of pages 55 and 56 of

1 your VIA, and the only reason I did that was
2 because I'm going to refer to those very
3 frequently, and I thought it might be convenient
4 for people to separately have them in front of
5 them rather than have to jump around within the
6 Application. So let me get started.

7 We've heard a lot during the course of the
8 examination of visual experts about scenic
9 inventories and visibility assessments and
10 things like that, and I don't want to dwell on
11 that. What I want to do is really jump right
12 into your VIA and to the place where you focused
13 which is on the 14 sensitive resource
14 viewpoints, and that's on page 39 of your VIA
15 which is PDF page 40. And during those pages
16 that follow, I think it's pages 40 to 53, you
17 summarize the before and after findings that you
18 made with respect to these 14 key resources, is
19 that right?

20 A Correct.

21 Q And your method for evaluating these viewpoints
22 was, as we've heard, to use this panel of three
23 raters, and the panel, as I understand it,
24 consisted of you, someone named Jade Cummings

1 and someone named Jocelyn Gavitt; is that right?

2 A Correct.

3 Q Each rater received a package of materials which
4 if we look at Applicant's Exhibit 54, you
5 describe that package of materials in Data
6 Response 1-8 so why don't we take a look at that
7 for a minute. What this shows us, if I
8 understand it correctly, is this identifies
9 specifically what each rating panel member had
10 in front of them when they undertook their
11 rating exercise and so they had the before and
12 after photos with the visual simulation of each
13 of the 14 points, correct?

14 A Correct.

15 Q They had the set of forms which we're going to
16 look at more later, but it was two forms. It
17 was a "before" form where they analyzed scenic
18 quality and sensitivity prior to the
19 installation of the project, and then it was an
20 "after" form where they analyzed contrast of
21 looking at the visual simulations; is that
22 correct?

23 A Correct.

24 Q And they had a set of what you refer to as

1 sensitive site and viewpoint location maps which
2 they could refer to during the rating process;
3 is that right?

4 A Correct.

5 Q So am I correct then that that is the package of
6 materials as you describe here in 1-8 that they
7 were looking at when they did their work here?

8 A Did you include the reference sheets and the
9 table?

10 Q Yes. Actually, I didn't. And if you could
11 please explain those, that would be helpful.

12 A The reference sheets are companions to the
13 rating forms to give explanation to what the
14 numbers pertain to and what the definitions of
15 different terms are that we might incorporate in
16 the answer because the rating form has a verbal
17 and a numerical component. So each one of those
18 items that people are reacting to has an
19 associated sheet with it with further
20 explanation.

21 Q I'm actually, those reference sheets are in your
22 appendix on this PDF, and I'm actually going to
23 have us take a look at those in a little while.

24 A Okay.

1 Q So what happened here was the raters received
2 this package of information as you described
3 earlier, they independently filled out the
4 rating forms and then they sent them back to
5 you, correct?

6 A Correct.

7 Q And then their work was done; is that right?

8 A Correct.

9 Q And then your work began or continued where you
10 took these rating forms and you assembled them
11 together into the charts that we see on pages 55
12 and 56; is that right?

13 A Correct.

14 Q So I'm looking now at Applicant's Exhibit 55,
15 which are these two pages from your VIA and I
16 want to make sure we understand exactly how that
17 came together. So if we look at page 55 in that
18 chart, we have VP, let's focus on number 1. VP
19 is a viewpoint; is that right?

20 A Correct.

21 Q And if we look at number 1 for Willard Pond, the
22 scenic quality number that you have there for
23 Willard Pond is 19.7. Is that right?

24 A Correct.

1 Q And the 19.7 comes from the three sensitivity
2 ratings that each of the raters came up with;
3 one for each rater and then you averaged the
4 sensitivity ratings together and you put that
5 number in here; is that right?

6 A Scenic quality rating.

7 Q I'm sorry. Scenic quality. And you did the
8 same thing for sensitivity and resource
9 contrast, is that right?

10 A Correct.

11 Q So all of these numbers that we have here in
12 this chart just represent the average of what
13 the three raters did in this case?

14 A Correct.

15 Q Now, when you go over to the next page, which is
16 page 56 of your VIA, I think what you've
17 essentially done is you've moved the information
18 from that last page to this page. You've gotten
19 rid of the numbers and you've put in just words
20 to substitute for numbers based on a chart you
21 prepared. So, for example, a 19.7 for scenic
22 quality equates to high, right?

23 A Correct.

24 Q And then you filled this chart in based on that.

1 But what this chart has that the other one
2 doesn't have is that in the end you've got a
3 visual impact, and that's your ultimate
4 conclusion about the impact on each one of these
5 resources by going through this analysis we just
6 discussed, correct?

7 A Correct.

8 Q So we have these six resources here that are
9 rated high, and those are the ones I think we've
10 already heard about which are the ones that you
11 focused on in particular and concluded there
12 would be an unreasonable adverse effect; is that
13 right?

14 A Correct.

15 Q So I want to talk a little bit now about some
16 aspects of your methodology. You said today,
17 and I recall you saying at the technical
18 session, that your methodology was adapted from
19 a number of sources including the Bureau of Land
20 Management or BLM methodology, is that right?

21 A Correct.

22 Q And these rating sheets that you provided to the
23 rating panel members, those sheets were also
24 specifically adapted from the BLM methodology,

1 is that right?

2 A Adapted from the rating sheets that I've used
3 over the last 13 years.

4 Q And when I asked you about that at the tech
5 session as to why you just didn't use the BLM
6 sheets but instead used your own, you said to me
7 the BLM method here is confusing and not clear,
8 do you recall that?

9 A I remember something to that effect.

10 Q And you also told me that you made an
11 interpretation of the forms and tried to create
12 a rating sheet that was true to the intent of
13 the form. Remember that?

14 A Yes.

15 Q Now, when you look at those rating sheets that
16 you distributed to your panel, there are little
17 reference numbers on there that refer to what
18 you were talking about earlier which are your
19 reference sheets; is that right?

20 A Correct.

21 Q So I'm going to ask, and you don't have this in
22 front of you, but I'm going to ask everyone to
23 jump to PDF page 124, and for your benefit what
24 I'm looking at is the Reference Sheet 2, the

1 Scenic Quality Inventory and Evaluation Sheet.
2 The page is titled Visual Impact Assessment
3 References. Do you see that?

4 A Yes.

5 Q And so for purposes of filling out the scenic
6 quality portion of the rating sheet, you
7 directed your panel to look at this as a
8 reference guide, right?

9 A Can you say that again?

10 Q For purposes of filling out the scenic quality
11 portion of the rating sheet, you referred to
12 this as a reference for your rating panel
13 members?

14 A Correct.

15 Q Now, what's the source of this document?

16 A It's my document.

17 Q But where does this come from? You didn't
18 create this document, did you?

19 A I did, but I -- yes. I had typed and created
20 this document.

21 Q What does it come from? Where did you get from
22 information from?

23 A Some of the definitions are from the BLM.

24 Q So when you say source, colon, BLM, VRM manual,

1 that's the Visual Resource Manual, and the H8410
2 is the BLM reference for that manual, is that
3 correct?

4 A Correct.

5 Q Then if we jump to PDF 126, that's another
6 visual impact assessment reference, sensitivity
7 level, and, again, you reference that same BLM
8 manual, is that right?

9 A Correct.

10 Q And then when we jump to PDF 128, that's
11 reference sheet number 4, and again, there's a
12 reference to a BLM manual. That's a different
13 one. That's the manual that deals with
14 contrast; is that correct?

15 A Correct.

16 Q And I think you'd agree with me that based on
17 everything we've just talked about and your
18 methodology, the filling out and the compiling
19 of these rating sheets really is the critical
20 component in how you got to your ultimate
21 conclusions here; isn't that right?

22 A They're a factor in making that determination,
23 yes, with mine as the prime and then the other
24 two as supplemental.

1 Q Right, and just to be clear, they are more than
2 a factor, as least as I understand it, because
3 when you say you're the prime, you didn't weight
4 your ratings any greater than anyone else's
5 ratings, did you?

6 A No, I did not.

7 Q So if Ms. Gavitt said that scenic quality was a
8 15 some place and Ms. Cummings said it was a 17
9 and you said it was a 19, then you averaged
10 those three, and it was a 17; is that right?

11 A Correct.

12 Q And that went into these tables which ultimately
13 became the components that we talked about
14 earlier, right?

15 A Correct.

16 Q So each rater basically had an equal vote in the
17 creation of these tables; is that right?

18 A Correct.

19 Q Now, when we were at the tech session, you told
20 me that this is the first project, even though
21 you worked at EDR and worked on other projects,
22 you told me that this is the first project that
23 you'd ever been the lead on with respect to
24 creating a VIA; is that right?

1 A Correct.

2 Q And you also told me that this is the first time
3 that you testified with respect to defending
4 your own VIA; is that right?

5 A Correct.

6 Q And I think you also told me that this is the
7 first time that you've used this methodology; is
8 that correct?

9 A Correct.

10 Q And I think you also told me that this is the
11 first time that the two reviewers, Ms. Cummings
12 and Ms. Gavitt, have used this methodology; is
13 that correct?

14 A This form, yes.

15 Q So is it fair to say that this particular
16 methodology that you're relying on here given
17 it's the first time that it's ever been used
18 hasn't been accepted yet by any administrative
19 body anywhere?

20 A I'm not sure that any rating form is accepted by
21 any administrative body.

22 Q Well, I mean, for example, I think Mr. Raphael
23 testified that he's used his methodology five or
24 six other times, and it had been accepted

1 elsewhere. That's not the case with yours, is
2 it?

3 A I'm not sure it's the case with his either.

4 Q Well, the record is what it is, but that being
5 said, yours certainly hasn't been accepted any
6 place else yet; is that right?

7 A No.

8 Q Now, earlier today, I think it was Mr. Reimers
9 asked you about some of your prior work at EDR,
10 do you recall that?

11 A Yes.

12 Q And he made reference to a Visual Impact
13 Assessment that EDR did here for the Merrimack
14 Valley project, do you recall that?

15 A I do.

16 Q In fact, EDR has done another assessment for an
17 SEC project. They worked on Groton also, didn't
18 they?

19 A Yes.

20 Q Did you work on Groton?

21 A I did not.

22 Q Okay. At the tech session, I was interested in
23 understanding the differences between the
24 methodology that you've provided here and the

1 EDR methodology, and we talked about that a
2 little bit; do you remember that?

3 A I do.

4 Q And you said to me that you drew heavily on the
5 BLM methodology because it, quote, "felt more
6 natural both in academic studies and
7 professional experience." Does that sound
8 familiar?

9 A Yes.

10 Q Now, the EDR process actually draws heavily from
11 the Army Corps of Engineers methodology; is that
12 correct?

13 A I believe I stated that.

14 Q Right. I got that from you. And when you look
15 at these two methodologies, there are some
16 significant differences between the two that I
17 wanted to ask you about, and I think we
18 discussed some of these. So, for example, with
19 respect to scenic quality, you used a numeric
20 quantitative system, but EDR uses a descriptive
21 qualitative approach; is that right?

22 A Depends on which form they're using. There are
23 several.

24 Q But for purposes of the Merrimack Valley

1 project, they used the narrative qualitative
2 approach, right?

3 A May I look at their form?

4 Q I don't have it handy.

5 A I do.

6 Q Sure.

7 A Would you like to see what I'm looking at?

8 Q Not at this point. I've seen it before.

9 A Okay. Can you repeat your question for me?

10 Q Sure. So what I was asking you is with respect
11 to scenic quality, you use in this case a
12 numeric quantitative system, EDR used a
13 descriptive qualitative approach; is that right?

14 A They have a box for low, moderate and high.

15 Q Right, but they're not putting numbers in.
16 They're using a descriptive approach, a
17 narrative approach, right?

18 A Using a check-box approach.

19 Q Correct, but not numbers the way you did?

20 A Correct.

21 Q And with respect to viewer type, you did a
22 modified BLM assessment which we're going to
23 talk about in a minute that was also
24 quantitative whereas EDR, again, used a

1 descriptive approach. It wasn't numeric, is
2 that correct?

3 A For which element?

4 Q For viewer type.

5 A Correct.

6 Q With respect to sensitivity analysis, another
7 key feature in your VIA, you developed your own
8 quantitative numeric sensitivity analysis. EDR
9 I don't even think did a sensitivity analysis;
10 is that right?

11 A They have a viewpoint sensitivity, says rate the
12 scenic quality of viewer exposure for this view,
13 and there is a list of scores to choose from.

14 Q Right, but that sensitivity analysis is not
15 separate. It's a component of their broader
16 contrast rating form, right?

17 A This form.

18 Q Right. And you also, we've heard about the ROS
19 which is the recreational opportunity spectrum.
20 You used that in your VIA, and I don't think
21 there's any place where EDR used that. Is that
22 correct?

23 A I can't speak to that.

24 Q As you sit here today, do you know of any place

1 where they used it in the MVRP project?

2 A No.

3 Q So I want to ask you about mitigation now. We
4 talked about that a little bit before. You
5 expressed skepticism about the helpfulness or
6 usefulness of offsite mitigation for visual
7 impacts. You did so today and you did so in
8 your testimony. Do you recall that?

9 A Yes.

10 Q I asked you at the tech session if you had any
11 experience developing mitigation measures for
12 wind farm projects, and you told me you didn't;
13 is that right?

14 A Correct.

15 Q And I also asked you at the tech session if you
16 had any experience recommending mitigation for
17 projects like this one and you told me you
18 didn't; is that correct?

19 A Outside of what I would put on a rating form,
20 no.

21 Q Okay. Now, I'd like you to look at, and I don't
22 know if you have it in front of you, but I'm
23 looking at Applicant's Exhibit 23, and that is
24 Mr. Raphael's rebuttal testimony. Do you have

1 that handy?

2 A I do.

3 Q I'm going to give everyone a chance to get to
4 it. I'm in particular looking at page 20 of
5 that testimony. Are you there?

6 A Um-hum.

7 Q So looking at page 20, there's a questionnaire
8 which is essentially asking Mr. Raphael to
9 comment on your mitigation discussion, and I
10 want to start at line 15 on page 20. I'm just
11 going to read that. It says, "Terraink includes
12 a list of 11 mitigation recommendations for each
13 rater to choose from which are based on the
14 decades-old BLM/VRM methodology. While some of
15 these are possible options, most are not
16 reasonably applicable or practical for wind
17 projects. Furthermore, there are many other
18 available mitigation strategies that are
19 specific to wind projects that are not included
20 here. These include Best Management Practices
21 recently developed by the BLM specifically for
22 wind power and renewable energy projects." Do
23 you see that?

24 A I do.

1 Q Then there's a footnote there where he cites
2 specifically to this recent BLM guidance from
3 2013; do you see that?

4 A Yes.

5 Q Now, I looked through your report and your
6 materials, and I didn't see a reference anywhere
7 to this. Did I miss it?

8 A No.

9 Q So when you prepared your report, and you asked
10 your rating panel to make mitigation
11 suggestions, nobody considered this recent BLM
12 methodology; is that right?

13 A I think what's important to note is the recent
14 mitigation, the report that is listed here,
15 directs people back to the original BLM
16 documentation that is included in my sourcing.
17 The document, the color document that this
18 refers to, has a bunch of data information, but
19 it doesn't usurp or, in my view, it goes back to
20 the original manuals when it talks, and also
21 these are Best Management Practices where I'm
22 looking at actual mitigation strategy, and that
23 is different within that report.

24 Q Well, it actually doesn't incorporate the

1 earlier stuff. It does that, but it also goes
2 further and adds new concepts, doesn't it?

3 A Best management practice concepts.

4 Q Right. In fact, Mr. Raphael lists a whole
5 series of those concepts on page 21 which as far
6 as I can tell your rating panel members didn't
7 consider when they were making mitigation
8 recommendations; isn't that right?

9 A Because they're best management practices versus
10 mitigation.

11 Q So you don't think any of these things pertain
12 to mitigating visual effects of a wind project?

13 A I think they are best practices when you're
14 siting and developing a wind project but not
15 necessarily mitigative after it's been
16 developed.

17 Q So is it your view that developers when they are
18 building mitigation into a project and doing all
19 they can to avoid adverse impacts, that
20 shouldn't be considered as mitigation?

21 A I think it's best if it's part of best practice.
22 It's the best way to design and build your
23 project.

24 Q That's not what I asked. What I asked is, if a

1 developer has an opportunity to site a turbine
2 in a way so that it won't be visible from a
3 scenic resource and they specifically design the
4 project to do that, you're saying that doesn't
5 count as mitigation?

6 A Then that would never trigger in the report as
7 an issue to be reviewed if that's what the
8 developer had done.

9 Q So it sounds to me like you're saying developers
10 get no credit for good design.

11 A That's not what I'm saying at all. It should be
12 built into the product that they're putting
13 forth.

14 Q Now, on the top of page 22, one of those
15 recommendations from this BLM guidance is using
16 offsite mitigation. Do you see that?

17 A I do.

18 Q So I guess you disagree with the BLM. The BLM
19 thinks it valuable to use offsite mitigation and
20 I've heard you say that when you don't.

21 A I think it's interesting that when you look at
22 the language within the BLM manual on this
23 subject, it's low on the list and there's
24 specialized terms by which it's done. It's not

1 a blanket statement.

2 Q Low on the list, sure, but an element, correct?

3 A It is an element of their list, but it has got
4 conditions attached to it.

5 Q I heard you say earlier that you don't consider
6 offsite mitigation to be adequate in any
7 circumstance. So, again, I'll ask you, do you
8 disagree with the BLM recommendation that
9 offsite mitigation can be helpful in this
10 context?

11 A I think it's a very different context dealing
12 with federal lands versus private properties
13 that are developed.

14 Q I understand that, but, again, the core of your
15 methodology is based on the BLM, isn't it? And
16 this is a BLM recommendation.

17 A My methodology is a blended methodology of
18 multiple sources and tools. It is not a strict
19 adherence to BLM which I mentioned in the
20 technical hearing. I find portions of the BLM
21 useful. I think their terminology and the way
22 that people can understand the definitions by
23 which they're applying is quite useful, but I am
24 in no way basing my entire project solely on the

1 approach of the BLM.

2 Q All three of your reference sheets are derived
3 from the BLM methodology, aren't they?

4 A The terminology with modification and with some
5 of my own terminology. It's a blended sheet,
6 and I thought it was improper to not source the
7 fact that these definitions had come from BLM.

8 Q And your rating forms are derived from the BLM
9 methodology as well, aren't they?

10 A They are a conglomerate of rating forms that
11 I've used over the last 13 years with a basis to
12 information I've used based upon BLM.

13 Q I'm going to take a minute to hand an exhibit
14 out. This will be Applicant 56.

15 (Applicant 56 marked for identification)

16 Q I'm going to ask you to focus on page 4. So
17 this Exhibit relates to the Granite Reliable
18 Project which is a certificated wind project
19 here in New Hampshire, and these were
20 recommendations associated with mitigating
21 visual impacts, and on page 4 in the middle of
22 the paragraph it begins, "As mitigation for the
23 unavoidable visual impacts the Applicant should
24 be directed to develop a visitor center and

1 several kiosks with information about the
2 project on roadside areas where the project may
3 be visible as well as contribute to Coos County
4 and DRED for ecotourism development focused on
5 the project's areas and wildlife resources."

6 So in this case in another New Hampshire
7 project, offsite mitigation and contribution of
8 funds was advocated for as appropriate
9 mitigation. I take it that you disagree with
10 that approach?

11 A I would have to actually explore this entire
12 process to know what the context is to this and
13 what the effects were, what the magnitude of
14 effects were. So I'm uncomfortable making a
15 statement about a project that I'd have no
16 working knowledge of nor do I have any backup
17 for it.

18 Q So when you offered your opinions about
19 appropriate mitigation for this project, you did
20 not have in mind what had been done with respect
21 to this Granite Reliable project; is that right?

22 A Can you say that again, please?

23 Q When you offered your opinions here about what
24 would constitute appropriate or inappropriate

1 mitigation, you actually had no idea what had
2 been done in this other New Hampshire project;
3 is that right?

4 A No. I was only speaking to the project at
5 Antrim.

6 Q And, in fact, I take it then that you haven't
7 looked at any other New Hampshire wind projects
8 to make a determination about what acceptable
9 mitigation was in those cases?

10 A No. I'm only focused on the Antrim project.
11 That's what we've been charged to look at.

12 Q When you offer the opinion or your view that
13 offsite mitigation is not an acceptable
14 approach, you're offering that opinion simply
15 within the narrow context of Antrim and not in
16 light of anything that's been done at any New
17 Hampshire projects?

18 A I'm offering that as my opinion about mitigation
19 and offsite mitigation.

20 Q Let me ask you about White Birch Point. We
21 talked about that a little bit before. You have
22 the New Hampshire rules in front of you, I
23 understand?

24 A Yes. I do.

1 Q I'm looking at 102.45 which is the definition of
2 scenic resource.

3 A Yes.

4 Q It begins by saying scenic resources means
5 resources to which the public has a legal right
6 of access, correct?

7 A Correct.

8 Q Now, White Birch Historic District is a private
9 area; isn't that right?

10 A Its boundaries are private on a public waterway.

11 Q Public waterway but the boundaries are private,
12 right?

13 A Correct.

14 Q Let me refer you to Applicant's 33, Appendix 9
15 F, which is the map of White Birch Point, and
16 I'll give you a copy while other people are
17 jumping to it. The map is on page 46 of that
18 PDF, and I guess we have copies of the map if
19 anyone needs it.

20 MR. IACOPINO: Mr. Needleman, what exhibit
21 is this from?

22 MR. NEEDLEMAN: It is Application's 33,
23 Appendix F.

24 MR. IACOPINIO: Can you tell us what

1 Applicant's 33 is? What document?

2 MR. NEEDLEMAN: I'm sorry. The
3 Application. And it's PDF page 46.

4 Q Are you set?

5 A I am.

6 Q In your VIA and I think it was at page 39 you
7 specifically said as part of your methodology
8 that views from private property aren't eligible
9 for use in the VIA; is that right?

10 A I'm just going to look and see where that's
11 referenced in my report, please.

12 Q Sure. Page 39 of are VIA. Do you see where I'm
13 looking?

14 A Those properties were from the inward boundaries
15 of private residential properties that we were
16 speaking of here.

17 Q But you aren't including private properties for
18 purposes of your VIA, are you? The rules don't
19 permit that, isn't that right?

20 A Actually, the rules do permit that where it
21 states that there should be, in Site 301.05
22 where it requests that we have photo simulations
23 from private property. By that designation, we
24 included some that were from private property to

1 fulfill that request.

2 Q Are you saying that your analysis of White Birch
3 Point is in that context or are you saying your
4 analysis of White Birch Point is from the
5 perspective of it being a scenic resource under
6 the rules?

7 A White Birch Point is part of the greater Gregg
8 Lake complex which there are multiple
9 simulations from different vantage points, and
10 because we were able to be in a water view that
11 took in both the recreational aspects of Gregg
12 Lake as well as the historic components that
13 should be recognized, it is a combined scenario,
14 but it doesn't double count. It was purely that
15 the Gregg Lake simulation was able to be taken
16 from a vantage point that acknowledged that
17 there was a historic district in the vicinity.

18 Q I don't understand your answer so I'm going to
19 ask the question a different way. Why don't you
20 look at the map that I just referred to that
21 defines the boundary of the White Birch Point
22 Historic District. Do you see that?

23 A Yes.

24 Q And that red line on that map, that's the

1 definition of the historic district. Is that
2 right?

3 A I would assume so.

4 Q Is there any place within that red line which is
5 the definition of the historic district where
6 the public has a legal right of access?

7 A Outside of those people who may be invited in?
8 No.

9 Q I'm not talking about people who are invited in.
10 I'm talking about the general public having a
11 legal right of access; they don't, do they?

12 A Within the red line, no.

13 Q Right, and that's the defined historic district,
14 isn't it?

15 A Yes.

16 Q So for purposes of this VIA, that's the scenic
17 resource, that area within the red line, that's
18 the White Birch Historic District, isn't it?

19 A I think that we can have an acknowledgment that
20 this resource is in existence in an adjacency to
21 this greater view to the project as part of the
22 Gregg Lake sensitivity site, just the same way
23 that the picnic shelter can be included in that
24 or the boat launch can be included within that.

1 Q Again, that's not what I'm talking about. Your
2 analysis was from a scenic resource called the
3 White Birch Historic District as defined within
4 that red line; isn't that correct?

5 A It was from the water view which is how it's
6 labeled and adjacent to the White Birch Point
7 historic district.

8 Q Why was it from a water view? Why didn't you do
9 it from inside the historic district?

10 A I was not able to contact the property owners in
11 a timely enough fashion to get access to the
12 land holdings before we needed our window for
13 field work.

14 Q In other words, you didn't have a legal right of
15 access to get inside the red line; is that
16 right?

17 A Correct.

18 Q Let's look at PDF page 89. This is the visual
19 simulation you did from the historic district.

20 Now, just to be clear, this simulation is
21 not a simulation that is taken from within that
22 red line; is that right?

23 A Correct.

24 Q And when your rating panel members looked at

1 these two pictures before and after to do their
2 rating for what you've referred to as the White
3 Birch Point historic district, did they
4 understand at that time that the simulation was
5 not actually within the historic district?

6 A They understood that it was from a boat view,
7 adjacent to the historic district.

8 Q That's not my question. Did they have the same
9 map with the red line that I just gave to you so
10 that they could understand specifically whether
11 the simulation was inside or outside the
12 historic district?

13 A May I have one moment?

14 Q Sure.

15 A So since they would have the sensitivity site
16 map that shows the digitized boundary of the
17 White Birch Historic District which does not
18 extend into the lake and then the viewpoint map
19 which shows that the viewpoint is in the water
20 body, there was no means to disguise or hide the
21 boundary line.

22 Q I'm going to ask it a different way. I'm not
23 suggesting that it was being disguised or
24 hidden. I'm asking did you ever specifically

1 convey to the other two members of the rating
2 panel that the visual simulations that they were
3 using to rate the White Birch Point Historic
4 District were from a location that was not
5 within the district?

6 A I did not specifically speak that sentence, no.

7 Q And so it's correct then that the ratings that
8 are reflected in your report aren't actually
9 from the scenic resource, isn't that right?

10 A Gregg Lake is the scenic resource in tandem to
11 the historic district being an adjacency.

12 Q But you're not rating Gregg Lake here. You're
13 rating the White Birch Point Historic District;
14 isn't that right?

15 A No, I think we're rating the entire entity.

16 Q Where in your VIA do you describe that? Where
17 in your VIA do you say that your rating of the
18 White Birch Point Historic District is not
19 actually the historic district but this whole
20 entity that you're talking about?

21 A Can you repeat your question one more time,
22 please?

23 Q Yes. You keep referring to the White Birch
24 Point Historic District as this entire entity

1 that includes the environs of Gregg Lake and
2 everything else. I'm curious where in your
3 report do you specifically describe it that way
4 as opposed to just describing it as the White
5 Birch Point Historic District?

6 A So on page 32, number 15, White Birch Point
7 Historic District. White Birch Point, Gregg
8 Lake, Antrim. We say that it's a 40-acre parcel
9 on the eastern shore of Gregg Lake on Pattern
10 Hill, and we go into describing the cottages and
11 sort of its occurrence on the New Hampshire
12 Division of Historic Resources' radar for
13 possible eligibility.

14 Q So I appreciate your referring there. I think
15 that makes my point. Your own definition is a
16 definition that is the historic district, the
17 land-based parcel and the cottages, correct?

18 A We also talk about Gregg Lake, and in lieu of
19 double-dipping, for lack of a better term, we
20 decided to do a combined effort of Gregg Lake
21 with the historic district as a whole since this
22 area has been studied so extensively. There's
23 many views of this lake so this is not, this is
24 in keeping with the great study that has

1 occurred there.

2 Q Aside from the line on 15 that says White Birch
3 Point Historic District, semi-colon, White Birch
4 Point, comma, Gregg Lake, Antrim, New Hampshire,
5 which is identifying it, and then it talking
6 about it being on the eastern shore of Gregg
7 Lake, I don't see any place else in that
8 description that gives notice to anyone that
9 your analysis is also actually encompassing
10 Gregg Lake. Are you saying that it is
11 encompassing Gregg Lake based on this
12 description?

13 A That description is purely dealing with the
14 historic district.

15 Q Applicant's Exhibit 25 is the Agreement that the
16 Applicant reached here with the Division of
17 Historical Resources regarding the effects on
18 this historic district. Have you had an
19 opportunity to review that?

20 A Is that the letter regarding the sign?

21 Q Yes.

22 A Yes.

23 Q Okay. Earlier today, Ms. Berwick asked you if a
24 sign was adequate mitigation. Do you recall

1 that?

2 A Yes.

3 Q And do you agree with me that the only effect on
4 the White Birch Historic District from this
5 project if there's any effect at all is visual?

6 A And land value potentially from the project
7 being installed.

8 Q What expertise do you have in assessing impacts
9 of land values for wind projects?

10 A I don't.

11 Q Okay. So would you agree with me then that as
12 far as you know the only effect is visual?

13 A The only effect that I am an expert in is
14 visual. However, I believe there have been
15 studies about land value postconstruction that
16 would lead one to consider it could be a
17 situation here on a recreational lake source
18 that is open for recreational activity in a New
19 England woodland setting that is remarkably
20 changed with the addition of the turbines.

21 Q Earlier today you also said that there could be
22 a detrimental impact on the final ability to get
23 White Birch Point historic district named as I
24 think it was a historical resource. Do you

1 recall that?

2 A Yes.

3 Q What expertise do you have in historic
4 resources?

5 A I'm not an expert in historic resources
6 assessment. However, I have worked on a number
7 of historic projects in my practice, and there
8 are situations where having a modern industrial
9 development within a viewshed is contradictory
10 to the quality, the visual quality, the
11 aesthetic quality, the historic quality of a
12 site based upon that development being
13 installed.

14 Q Do you think the Division of Historic Resources
15 would have had those kind of issues in mind when
16 it assessed this project?

17 A I can't speak to what their basis, what they had
18 in their minds.

19 Q Would you agree that the people at the Division
20 of Historic Resources have far greater expertise
21 regarding historic resources than you do?

22 A Yes.

23 Q And the Division of Historic Resources entered
24 into an agreement here determining that the

1 mitigation with respect to these effects was
2 sufficient, didn't they?

3 A They did. I would say the community does not
4 agree.

5 Q Well, I'm not interested in the community. My
6 question is to you. Do you agree. Do you agree
7 with the Division of Historic Resources?

8 A That?

9 Q That the mitigation that has been proposed here
10 is adequate with respect to the effects of the
11 White Birch Point Historic District.

12 A Which is?

13 Q The kiosk.

14 A No, I do not.

15 Q So you think the Division got it wrong.

16 A I think that it's not enough.

17 Q Let's go to PDF page 181. It's the view and
18 visual simulation from Black Pond or it's the
19 Viewpoint 68, Black Pond. Let me know when
20 you're there.

21 A I'm there.

22 Q Okay. So this was taken from the shoreline; is
23 that right?

24 A Yes.

1 Q And we've heard something about this
2 amphitheater at a summer camp near there, and I
3 believe you mentioned that's near where this was
4 taken; is that right?

5 A It's where it was taken.

6 Q Have you had, I know you weren't here the other
7 day, but have you had an opportunity to review
8 the transcript with the testimony that Mr.
9 Cleland gave in this case?

10 A No.

11 Q My understanding is that Mr. Cleland is someone
12 who has spent a lot of time in that area and
13 worked at the summer camp for a long time, and
14 so I asked him about that, and what I asked him
15 was is this summer camp private property, and he
16 told me it was. Do you disagree with that?

17 A No.

18 Q And I also asked him if I were to go there,
19 could somebody come to me and tell me to leave,
20 and he said yes, they could. You disagree with
21 that?

22 A Do I disagree with what he told you?

23 Q Well, I'll just ask it to you directly. If I go
24 set up my beach chair by the amphitheater,

1 doesn't somebody who owns that property have a
2 right to come and tell me to leave?

3 A If you're there without permission, yes.

4 Q So then this place where you took this
5 particular simulation from, this is not a place
6 where the public has a legal right of access,
7 isn't that correct?

8 A What I would say is that the reason this picture
9 exists is because there were no posted signs so
10 we respected all posted markings when we did our
11 field work so it was not clear to me since there
12 is a road that is a named road that goes to this
13 area that it was a posted private property.

14 Q That's not what I'm asking you. Posted is not
15 the issue. The issue is does the public have a
16 legal right of access to be at this specific
17 point where you took the photo?

18 A Near the amphitheater? Not unless they're there
19 for an event where they've rented the property
20 or they're bringing children to the site, no.

21 Q So they need permission to be there.

22 A Yes.

23 Q So this particular viewpoint that you used
24 doesn't meet the definition of scenic resource

1 in the SEC's regulations; isn't that correct?

2 A It meets the request for private property which
3 I believe is why Mr. Raphael also used almost
4 the same exact view as one of his simulations as
5 well.

6 Q But this is not being analyzed for the purposes
7 of private property, is it? This is one of the
8 14 scenic resources that you evaluated; isn't
9 that correct?

10 A Yes.

11 Q So when you evaluated this and the rating panel
12 members evaluated it, they understood that they
13 were evaluating a scenic resource under the
14 rules, isn't that right?

15 A I would say this is a scenic resource under the
16 rules, that it is a scenic place that is
17 quasi -- it's not a private residence, we're not
18 trompsing through someone's background. It's a
19 summer camp that has 300 children, 100 staff,
20 people who can rent this for weddings and have
21 events. It has a quasi-public quality to it.
22 So given the implications of the project on this
23 place, it seemed appropriate to evaluate it in
24 the same way that it was researched and looked

1 at by your own expert.

2 Q In light of everything you just said, is it your
3 testimony that the public has a legal right of
4 access to be there?

5 A If they are there to drop off children or rent
6 the facility, yes.

7 Q At the time that the two other raters assessed
8 this particular resource, did they understand
9 the limitations we were just talking about
10 regarding public access?

11 A They understood it as a summer camp situation so
12 no, I would not say that there was an expressed
13 sentence about private land.

14 Q Mr. Raphael also evaluated Black Pond as a
15 scenic resource, didn't he?

16 A He provided a simulation of it. Yes.

17 Q Where was that simulation taken?

18 A Nearly the same position that I was in but lower
19 on the shoreline.

20 Q On the water, right?

21 A No. You can see the grass in the foreground.

22 Q Right. But the simulation is from the water and
23 the analysis is from the water; isn't that
24 correct?

1 A No. This simulation is from a shoreline
2 condition.

3 Q When your raters did this analysis from Black
4 Pond, what information did you convey to them
5 about the ownership interest of Black Pond?

6 A I'm sorry. Say that again.

7 Q When your raters did this analysis of this
8 viewpoint, what information did you convey to
9 them about the ownership interest at this
10 viewpoint?

11 A Give me one moment.

12 In the rating form what we said was
13 adjacent sensitive resources, Windsor Hill Camp
14 and Retreat Center, Windsor Camp International,
15 Wediko Schools.

16 Q And did you tell them, I guess what I'm
17 interested in knowing is did you tell them that
18 this was private property where someone needed
19 to be invited onto?

20 A No, I did not.

21 Q Okay. Let's move onto another topic. I guess
22 the question, Mr. Chair, is do you want me to
23 start a new topic right now?

24 PRESIDING OFFICER SCOTT: Well, we've got

1 about 20 minutes.

2 MR. NEEDLEMAN: Okay. All right.

3 Q So I'm looking at your VIA again, PDF page 69,
4 and this is your ultimate summary right near the
5 end, and at the bottom of that large paragraph
6 you are talking about, I'll start with however,
7 you say, however, what cannot be accounted for
8 by the, quote, on-paper assessment is the vigor
9 and commitment of the local population's passion
10 and investment in purchasing, connecting,
11 protecting and preserving local conservation
12 lands as a means to protect the regional
13 landscape which goes beyond national and state
14 significance. Do you see that?

15 A Yes.

16 Q So what I'm interested in understanding is how
17 you factored all of this into your overall
18 assessment, and we started to explore this
19 during the technical session. And if you look
20 at Applicant's Exhibit 54, data request number
21 9, at the technical session I asked you about
22 this, and I asked you when you did your VIA,
23 what information did you have about all these
24 conservation lands in the area, and I think you

1 told me that there was 105 square miles of
2 conservation land, but at the time you did your
3 VIA you didn't know what percentage was public
4 versus private, is that right?

5 A That's correct.

6 Q And also at the time you did your VIA, you
7 didn't know anything about the purposes of these
8 conservation lands like whether they were
9 conserved for scenic purposes or flowage or
10 agricultural usage or wildlife, something like
11 that; is that correct?

12 A We knew that they were conservation lands so
13 clearly they had value and were meant to be
14 conserved.

15 Q But you don't know the purpose for the
16 conservation.

17 A The exact GIS tag for them, no, I did not.

18 Q When I asked you about this at the tech session,
19 you also told me that you didn't do any
20 assessment as to whether any of these
21 conservation lands would have visibility of the
22 project if built; is that right?

23 A We have a viewshed map that is overlaid on these
24 to help us understand the level of potential

1 exposure, visibility.

2 Q Right. We talked about that, but my question
3 was did you ever do an analysis using your
4 viewshed map to determine which of these
5 conservation lands you were referring to might
6 or might not have visibility of the project, and
7 you told me you didn't.

8 A I'm not sure I'm following what the question is.
9 Because inherently -- I'm not understanding the
10 question.

11 Q The question then and the question now was when
12 you did your VIA, did you look at these 105
13 miles of conservation land that you referenced
14 and determine whether any of them would have
15 visibility, and, if so, describe that in your
16 report. You told me you didn't do that.

17 A For each and every one?

18 Q Right.

19 A No. I did not.

20 Q Then so to get more information about that, we
21 served data requests and I want to look at
22 Applicant's Exhibit 57 so I'll hand that out.

23 (Applicant's Exhibit 57 marked for identification)

24 Q So the purpose of this data request was to try

1 to get additional information that you didn't
2 have available to you when we were at the tech
3 session, and you provided some of that
4 information, and what you told us was that your
5 GIS analysis indicated there was 105 square
6 miles of conservation land, correct?

7 A Yes.

8 Q And you were able to go back and look at that,
9 and you determined that 77.8 percent of that
10 land was private; is that correct?

11 A Yes.

12 Q And even as we sit here today, you don't have
13 any sense of how much of that private land is
14 publicly accessible; is that right?

15 A I did not do an investigation of all the
16 conservation lands within the study area. No.

17 Q So you don't know.

18 A I do not know.

19 Q Do you know whether any of these conservation
20 lands are subject to a scenic easement?

21 A I don't have the data on that.

22 Q And so even today, you can't tell us what the
23 purposes of this land are. It could be
24 wildlife, could be flowage, it could be

1 agriculture. You don't know the purposes for
2 which they're conserved, right?

3 A I don't think the purposes determine its value
4 as conservation. It's being held in
5 conservation because it's serving an important
6 purpose and that in itself is why it's being
7 held.

8 Q But if there's no scenic value associated with
9 the land or if the land can't see the project,
10 it won't be affected by it. That's an important
11 factor, isn't it? And that's not information
12 that we have, correct?

13 A But I would say that conservation land can be
14 scenic in tandem to the other uses that may be
15 associated with it, but given the nature of the
16 conservation it's not necessarily always tagged
17 as being scenic, but it doesn't mean that it
18 does not have scenic value or visual value
19 within the greater context of the landscape.

20 Q And the answer is, we don't know whether it does
21 or doesn't. Do we? You're just assuming it
22 does.

23 A I'm making a judgment via my driving around the
24 study area and understanding the type of

1 typology of landscape that these great parcels
2 that are held in conservation are contributing
3 to a visual character and aesthetic of the study
4 area. So do I have a list tagged, no, but I
5 have a sense from my being in Antrim what having
6 these great parcels, especially when they're
7 connected to each other, have done for that
8 region.

9 Q When you did this analysis and you made that
10 statement that I just read at the end of your
11 report, were you factoring in the fact that
12 Harris Center has signed five conservation
13 agreements with Antrim Wind?

14 A No.

15 Q And when you made that statement, were you
16 factoring in the statements that the Nature
17 Conservancy in Applicant's Exhibit 16 has said
18 with respect to their supportive comments about
19 this project?

20 A That statement has to do with the six resources
21 that were deemed to be sensitive, to have an
22 unreasonable adverse aesthetic impact. The
23 conservation of those places is what drove that
24 conclusion; that it is an important component

1 that can't be overlooked. Just because they're
2 not on a national or a state listing does not
3 mean they're not important, and they have value.

4 Q See, that's the disconnect for me that maybe you
5 can explain. This seems like you're saying that
6 this 105 miles of conservation land was a factor
7 in your analysis in addition to all the findings
8 you already made about those six resources.

9 A I'm sorry. Say that again?

10 Q This statement here seems to be --

11 A Which statement are you referring to?

12 Q The one that we read earlier on page 68 of your
13 VIA where you talk about the importance of all
14 these conservation lands. That's an additional
15 statement which you're making after you've
16 already made a determination about the visual
17 effects on these resources.

18 A I'm sorry.

19 Q So I don't understand how this factor that
20 you've identified here relates to your analysis.

21 A Because of the investment of the dePierrefeu
22 Wildlife Sanctuary, the conservation lands that
23 are in association with Meadow Marsh, so on and
24 so forth. There is Goodhue Hill, Bald Mountain.

1 The conservation ring around Black Pond on the
2 sides where you don't have the camps. There's
3 great conservation that has occurred in this
4 vicinity that are adjacent to these resources,
5 and you can't overlook the value of that
6 investment in these sensitive resources.

7 Q I asked you about the Harris Center. We didn't
8 finish talking about Nature Conservancy. So
9 when you made the statement in your VIA, were
10 you factoring in the views that the Nature
11 Conservancy has expressed in this case?

12 A No.

13 Q When you made this statement, were you factoring
14 in the views that the New England Forestry
15 Foundation has expressed in Applicant's Exhibit
16 28?

17 A No.

18 Q When you made this statement were you factoring
19 in the views that the Sierra Club has expressed
20 in Applicant's Exhibit 29?

21 MS. MALONEY: Which views? Which views?
22 Which statements are they making?

23 MR. NEEDLEMAN: The statements in the
24 letters. The letters speak for themselves.

1 MS. MALONEY: She doesn't have a copy.

2 A I don't have the letters. I would say that this
3 is my statement based on my research. It is not
4 from other outside sources, and I have no idea
5 what views you're speaking to which is why I'm
6 saying no, I don't know what the views are of
7 those entities.

8 Q Did you ever have occasion to read what The
9 Nature Conservancy has said about this project?

10 A No.

11 Q Okay. Or the Sierra club?

12 A No. I purposely, that's bias. I wrote a report
13 based upon what I found as a study and that is
14 what my charge was to do. I'm very careful
15 about reading too much beyond what I've been
16 charged to look at so it doesn't start to color
17 my opinion.

18 Q So it seems as though you've gone to great
19 efforts here to create a comprehensive objective
20 methodology that comes to objective conclusions,
21 and I have questions about that, but it appears
22 that that has been your effort. What I don't
23 understand is in the context of that effort, how
24 does this last point fit in? How specifically

1 when you were making your judgments about the
2 effect on these six scenic resources did this
3 statement about the value of conservation lands
4 fit in and where in your methodology can I find
5 that?

6 A That statement is in direct relationship to the
7 level of conservation that is involved in those
8 six sites, meaning what their adjacent land
9 quality is, the conservation that is occurring
10 around them, and the fact that there is a high
11 level of conservation within this study area
12 goes to further support that these six entities
13 and the related conservation, it's an important
14 component.

15 Q Is there a page in your methodology that you can
16 point to that explains for all of us how these
17 factors relate to your overall analysis because
18 the rest of your methodology seems to try to
19 explain how factors relate to analysis. I don't
20 see any place where I can understand how this
21 relates, and if somebody were to pick your
22 methodology up and try to use it, how would
23 these factors be reproducible? How would they
24 know how to weight them?

1 A Well, the weighting, the overall conclusion
2 comes from on page 67 where we're looking at the
3 combined totals in the entire project with the
4 highest and lowest viewer removed and that
5 average and where it falls on the resource
6 contrast rating. So the overall project is
7 always coming back to this means of benchmark
8 from where it falls on the level of unreasonable
9 aesthetic impact.

10 The conclusion is just further reinforcing
11 the fact that these ranked high because they are
12 important sites, they're aesthetically
13 appealing, they have value, and they have a
14 conservation component to them. Inherently,
15 when you're looking at the dePierrefeu Wildlife
16 Sanctuary, that's an entire conservation area.
17 So I can't divorce that from Willard Pond,
18 Goodhue Hill or Bald Mountain. It's part of the
19 sanctuary. It's conserved land. So I don't
20 have a paragraph that speaks directly to it
21 because it's inherent in it.

22 Q So somebody picking up your VIA and trying to
23 reproduce this, they wouldn't know how to factor
24 that in. The most they could understand is it

1 was inherent to your analysis.

2 A They would be working with the system which I
3 just mentioned, the resource contrast rating,
4 and so that would tell it where it fell in the
5 sense of contrast and whether it was a trigger
6 above or below the reasonable, and then the
7 greater explanation of why that could occur, it
8 could be other reasons than conservation land.
9 That happened to be a component to these
10 sensitive sites that was quite significant,
11 especially at the dePierrefeu.

12 MR. NEEDLEMAN: I have another topic to
13 start. Do you want me to start?

14 PRESIDING OFFICER SCOTT: Probably not. I
15 don't want to break you. We'd have to end in a
16 couple minutes anyway so sounds like it's a good
17 breaking point for the day. Again, our next,
18 and, hopefully, last session before we go to
19 deliberations will be on the 7th. Not at this
20 location, but it will be at the other location
21 on 49 Donovan Street as we were before as
22 noticed. So thank you all.

23 (Recess taken at 1:48 p.m.

24 and concludes the **Day 12**

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Morning and Afternoon Session.
The hearing continues under
separate cover
in the transcript noted as **Day**
13 Morning Session ONLY.)