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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

November 7, 2016 - 9:00 A.M. DAY 13

49 Donovan Street **Morning Session**
Concord, New Hampshire **ONLY**

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

PRESENT FOR
SUBCOMMITTEE: SITE EVALUATION COMMITTEE:

Cmsr. Robert R. Scott Public Utilities Commission
(Presiding as Presiding Officer)

Cmsr. Jeffery Rose	Dept. of Resources & Economic Development
Dr. Richard Boisvert (Designee)	Dept. of Cultural Resources/ Div. of Historical Resources
John S. Clifford (Designee)	Public Utilities Commission
Dir. Eugene Forbes (Designee)	Dept. of Environmental Services/Water Division
Patricia Weathersby	Public Member

Also Present for the SEC:

Iryna N. Dore, 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 Robert Edwards, Selectman

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

15 James Newsom, Esq.

16 **Reptg. Audubon Society:**

17 Francie Von Mertens

18 **Reptg. Abutting Landowners Group:**

19 Barbara Berwick, pro se
20 Bruce Berwick, pro se
21 Richard Block, 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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E X H I B I T S

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P R O C E E D I N G S

1
2 PRESIDING OFFICER SCOTT: Good morning,
3 everybody. Welcome to Day 13 of the Antrim Wind
4 hearings. Never thought I'd say that. Good
5 morning. So by memory, I think we were still at
6 Attorney Needleman was questioning the panelist.
7 I do know we had a request from Mr. Block to be
8 able to question so I don't see him in the
9 audience. So with that, I guess we'll proceed
10 with Mr. Needleman.

CROSS-EXAMINATION CONTINUED

11
12 **BY MR. NEEDLEMAN:**

13 Q Thank you. Hello, Ms. Connelly.

14 A Good morning.

15 Q So I want to quickly go back to something we
16 discussed the other day. When I was asking you
17 about Black Pond, you held up a photo from Mr.
18 Raphael's materials which you indicated had come
19 from a shoreline location, and I believe that
20 that is from Applicant's Exhibit 34 and I just
21 wanted to ask you a quick set of questions about
22 that.

23 You indicated that you thought Mr. Raphael
24 did his analysis from that viewpoint. Is it

1 your understanding that the analysis that was
2 done in Mr. Raphael's Visual Impact Assessment
3 was submitted with the Application on October of
4 2015?

5 A The exhibit that I was referring to, Exhibit 26,
6 which is "Existing conditions from private camp,
7 Waterfront Road, Windsor, New Hampshire," which
8 is this exhibit --

9 Q Right.

10 A -- was part of the February 19th, 2016,
11 submission.

12 Q Okay. So Mr. Raphael when he did his initial
13 assessment in his VA which he submitted to the
14 Committee with our Application was not relying
15 on that photograph; was that correct?

16 Maybe I could try to short-circuit this a
17 little bit because you said that photograph was
18 provided with the February 2016 Supplement and
19 that Supplement was submitted in order to comply
20 with the Committee's new rules; is that right?

21 A Say that again, please?

22 Q That photograph was part of Mr. Raphael's
23 February 2016 Supplement and that Supplement was
24 intended to comply with the Committee's newly

1 adopted rules; is that correct?

2 A I can't speak to what the intention was. What I
3 know is that there is mention, I don't have a
4 specific area unless you can direct it to me in
5 the VIA regarding Black Pond which is what I was
6 wanting to refer to, and the simulation is part
7 of that package, yes. Whatever the intention
8 was, I can't speak to.

9 Q Mr. Raphael discussed Black Pond in his initial
10 VA at pages 60, 69, 70 and 71, but just to get
11 to the point here, so when he submitted that
12 photograph in February 16, that was in
13 compliance with the Committee's Rule
14 301.05(b)(7) which was meant to be a
15 representative sample from a private location;
16 and, in fact, the photo itself is titled as
17 "private camp, waterfront road, Windsor, New
18 Hampshire," isn't that right?

19 A Correct.

20 Q So this was intended by Mr. Raphael to actually
21 be a view from a private property, is that
22 right?

23 MS. MALONEY: I'm going to object. She
24 already said that she didn't know what his

1 intention was.

2 PRESIDING OFFICER SCOTT: Mr. Needleman,
3 can you direct the Committee what photograph
4 we're looking at?

5 MR. NEEDLEMAN: Applicant's Exhibit 34, and
6 it is attachment 4.

7 BY MR. NEEDLEMAN:

8 Q So, in fact, the purpose of this was a
9 representation from a private property, correct?

10 PRESIDING OFFICER SCOTT: We have an
11 objection, correct?

12 MS. MALONEY: Yes. She already said she
13 doesn't know what the intention was.

14 MR. NEEDLEMAN: I think the intention is
15 right there on the documents.

16 MS. MALONEY: Well, then it speaks for
17 itself, and he doesn't need to answer the
18 question.

19 PRESIDING OFFICER SCOTT: I agree. She's
20 already answered.

21 BY MR. NEEDLEMAN:

22 Q So I want to move on to a different topic, and
23 I'm going to take a moment to pass out three
24 exhibits. These will be Applicant's Exhibits

1 58, 59 and 60, and what I want to do now is jump
2 into specific parts of your visual assessment
3 and ask you some questions about that.

4 (Applicant's Exhibits 58, 59 and 60 distributed)

5 MR. NEEDLEMAN: Mr. Chair?

6 PRESIDING OFFICER SCOTT: Yes.

7 MR. NEEDLEMAN: I notice Mr. Block is here.
8 Would it be appropriate to pause and allow him
9 to ask his questions now?

10 PRESIDING OFFICER SCOTT: If that works for
11 you, that's fine. Mr. Block, are you prepared
12 to -- we've made time for you to question.

13 MR. BLOCK: About ten minutes worth.

14 PRESIDING OFFICER SCOTT: So you're
15 prepared to go now? Is this a good time or do
16 you want to --

17 MR. NEEDLEMAN: No, it's fine. Thank you.

18 PRESIDING OFFICER SCOTT: With that then,
19 we'll move to Mr. Block and then come back to
20 the Applicant.

21 **CROSS-EXAMINATION**

22 **BY MR. BLOCK:**

23 Q Good morning.

24 A Good morning.

1 Q Can you hear me okay?

2 A I can.

3 Q Back on September 22nd I had the opportunity to
4 cross-examine David Raphael, the Applicant's
5 visual impact expert. Have you had the
6 opportunity to read any of the transcripts of
7 that cross-examination?

8 A Not in depth.

9 Q All right. If I may, I'd like to just read one
10 of my questions to him. In regard to his
11 assessment of the visibility of the wind
12 turbines from various locations, I asked him,
13 isn't it logical to assume that if you can stand
14 at a resource and see the ridge from these
15 locations then one would be able to see any
16 turbines that were installed on that ridge. His
17 response to that was no. Is it your opinion
18 that a clear view of the ridge from any given
19 location would also result in a view of 488-foot
20 turbines installed on that ridge?

21 A Well, I think the simulations speak exactly to
22 that point.

23 Q And I was asking about places that maybe
24 simulations weren't done. If you could stand

1 some place on a site visit and see the ridge, I
2 assume that if there were turbines on that ridge
3 you'd see them. Would you agree with that?

4 A I think that we can make assumptions based upon
5 viewshed mapping and our understanding of the
6 turbine arrangement, but, in fact, the use of
7 simulations are the best way for us to truly
8 understand that or to use ballooning which is a
9 field tool where we show potential visibility
10 within a study area.

11 Q There are discrepancies in the analysis of the
12 visibility of the project between the Visual
13 Assessments from LandWorks and Antrim Terraink.
14 Can you explain in simple terms why your Visual
15 Assessment differs from theirs?

16 A Can you repeat your question one more time,
17 please, to make sure I understand what you're
18 asking.

19 Q When you look at the visual assessment analyses,
20 there are discrepancies. They're not exactly
21 the same, your conclusions and his. I'm looking
22 for very simple terms, very simple summary of
23 why you think the two Visual Assessments are
24 different.

1 A Every visual expert will have a different
2 methodology by which they produce their results.
3 Mr. Raphael and my Visual Assessments look
4 different because we approach the problem
5 differently, but we are all working for a
6 conclusion which is an opinion about visual
7 impact. The difference between the methodology
8 that I use, the visual impact assessment
9 methodology, is that we look at the worst case
10 scenario of effect on sensitive resources that
11 are based upon the potential for exposure to the
12 project, and then holistically look at that and
13 come up with a solution. Mr. Raphael is quick
14 to eliminate sites early on in his methodology
15 which then eliminates the greater conversation
16 of exposure and potential impact.

17 Q On the Terraink viewshed maps, you used five
18 colors to indicate the level of potential
19 turbine visibility from any given point in the
20 visual study area. You've got dark green for
21 one to two turbines, light green for three to
22 four, yellow for five to six, light salmon for
23 seven to eight, and a dark pink for nine
24 turbines. Would you consider this choice of

1 colors to follow any logical progression?

2 A I would. Yes.

3 Q Can you explain why that color scheme was used?

4 A So when you have eight to nine turbines, you
5 could consider that to be a hot spot or a high
6 visibility area and so your eyes should be drawn
7 to the areas of most critical visibility and
8 exposure, and then it can graduate out from
9 there into cooler tones which may have lesser
10 visibility or potential exposure.

11 Q Are you familiar with the viewshed maps created
12 by LandWorks for their visual assessment?

13 A I am.

14 Q Have you observed the color scheme used in those
15 maps to indicate potential turbine visibility?

16 A I have.

17 Q Do you find that their color choices follow any
18 logical progression?

19 A Again, because every visual expert has their own
20 approach, it is an approach that works for
21 LandWorks, for Mr. Raphael. It was not
22 something that was readily apparent when I first
23 looked at it what the colors meant.

24 Q So how would you characterize the difference for

1 someone looking at and interpreting these maps
2 in terms of their ability to grasp any patterns
3 resulting from the data?

4 A There would be a heavy use of the key on each
5 map, and depending upon on the methodology used
6 which I would say the methodology that was used
7 in the Terraink viewshed mapping that was set
8 forth through practice working with EDR as our
9 technical consultant, that pattern, once you
10 understand the key, is easy to apply throughout
11 the map because, again, it's sort of red is hot
12 or high, and we work from there, where
13 LandWorks, there is more of a referencing back
14 until the pattern is understood.

15 Q So does the use of a random color scheme for
16 mapping quantitative data emphasize or obscure
17 patterns in the data?

18 A Repeat the question, please?

19 Q Pardon me?

20 A Repeat the question, please?

21 Q Yes. Does the use of a random color scheme for
22 mapping quantitative data emphasize or obscure
23 patterns in the data?

24 A Well, the pattern is inherent on the key so one

1 may be easier to interpret than the other, but I
2 don't think there's an intention to obscure.

3 Q During your testimony last week, Attorney
4 Richardson questioned you at length about
5 whether the visual impact of this project could
6 be considered to be temporary. Do you recall if
7 either of you discussed definition of the term
8 temporary?

9 A I think there was a discussion of time but not
10 necessarily a full description of Webster's
11 dictionary definition.

12 Q I didn't see it in there so in your opinion how
13 would you define temporary? Or perhaps just as
14 an abstract term.

15 A I think there's a lot of qualifiers to
16 temporary, what is temporary. So it's not a
17 one-word answer. It's multi-dimensional.

18 Q Okay. If you were interested in a job that
19 might last only a few weeks, would you consider
20 that a temporary job?

21 A Yes.

22 Q If you were offered a job that might last a few
23 months, would that be what you consider
24 temporary?

1 A Yes.

2 Q If you were offered a position for the next 30
3 to 40 years, would you consider that job
4 temporary or term permanent?

5 A I would say it's not temporary, but nothing is
6 permanent.

7 Q Okay. On the ridge between Tuttle Hill and
8 Willard Mountain are significant boulder
9 formations and impressive rock outcroppings left
10 by the last glacial period around 25,000 years
11 ago. Would you normally consider those kind of
12 geological formations as temporary or permanent?

13 A Well, glacial erratics are sort of amazing in
14 themselves, and they, I mean, all geology is not
15 permanent but it's certainly not temporary.

16 Q If those rock and boulder formations are
17 demolished by blasting them to rubble, would you
18 consider that demolition to be temporary or
19 permanent?

20 A Permanent.

21 Q Please look around this room. Would you agree
22 that the median age for people in this room
23 probably falls somewhere in what we might call
24 midlife?

1 A Now you're going to get me in trouble.

2 Q That's why I'm leaving that kind of a wide
3 range.

4 A Yes.

5 Q Okay. If the Antrim wind turbines were to stand
6 for the next 40 years, what would the median age
7 of these people in this room be when that
8 project is decommissioned and the land on Tuttle
9 Ridge is reseeded and restored as best as it can
10 be to its original condition.

11 A Repeat the first part of that?

12 Q In the Antrim wind turbines were to stand for
13 the next 40 years, what would the median age of
14 these people be when the project is
15 decommissioned and the land on Tuttle Ridge is
16 reseeded and restored as best at as it can to
17 its original condition?

18 A 80 to 100 years.

19 Q So 40 years is a long time in a person's life.
20 Some of us probably won't be around anymore by
21 then. Do you think, therefore, that we should
22 consider the visual impact on this project on
23 the people in this room to be temporary or
24 permanent?

1 A My job is to look at the now. This is the
2 impact that is intended to happen with the
3 installation of this project. We don't, as VIA
4 experts, I don't look into the future. We don't
5 judge projects based upon when they're
6 decommissioned. Decommissioning is always part
7 of a process. Again, temporary/permanent, there
8 are a lot of qualifiers to it. I think for
9 people who are in the age that you're speaking
10 of, this will be a permanent installation in
11 their lifetime.

12 Q Thank you. No further questions.

13 PRESIDING OFFICER SCOTT: I think we're
14 back to Mr. Needleman.

15 MS MALONEY: If I could just interject, I'm
16 having trouble hearing because of the heat so,
17 Kellie, if you could, I hate to, yes. Okay.
18 Thanks.

19 **CROSS-EXAMINATION CONTINUED**

20 **BY MR. NEEDLEMAN:**

21 Q Thank you. So I want to talk to you now about
22 the rating panels that you used in your VIA. As
23 you explained earlier, there were three members.
24 You, Jocelyn Gavitt, and Jade Cummings. Do you

1 recall that?

2 A Yes.

3 Q And at the technical sessions, I asked you about
4 the various experience levels of these members,
5 and you said that you and Jocelyn Gavitt had
6 experience on rating panels but neither of you
7 had ever used the rating forms that you used
8 here. Do you recall that?

9 A This exact rating form, no, we had not used that
10 one.

11 Q And I asked you about Ms. Cummings, and you said
12 that she had never served on a rating panel and
13 also had never used that form. Do you recall
14 that?

15 A Yes.

16 Q Now, this package that you provided to the three
17 raters, we talked about that the other day, and
18 I want to focus in particular on Applicant's
19 Exhibit 58 which I just handed out. This is a
20 copy of two of the rating forms that were
21 actually filled out. These are the forms that
22 were filled out by Jade Cummings for Willard
23 Pond, and they are in the integrated PDF that I
24 handed out at pages 226 and 227 if people want

1 to see them in there, but I'm going to spend
2 some time focusing on them so I printed them out
3 separately. Is it correct that this first form
4 which has two boxes at the bottom, one for
5 scenic quality and one for sensitivity, is what
6 the raters use to rate the resource before the
7 project was built?

8 A This is for the existing conditions photograph,
9 yes.

10 Q And then you flip the page over, and this is
11 meant to be the raters' ratings after the
12 project is built, the contrast ratings, is that
13 right?

14 A The proposed conditions simulation.

15 Q Okay. And so then these are the forms that they
16 return to you and then you synthesize them all
17 and they went into your chart on pages 55 and
18 56, is that right?

19 A Correct.

20 Q So if you look again at Exhibit 58, let's look
21 at the first page, the scenic quality and
22 evaluation chart, next to the title you have
23 then a parenthetical that says see Reference 2.
24 See where I'm talking about?

1 A Yes.

2 Q And underneath on the sensitivity analysis, it
3 says see Reference 3?

4 A Yes.

5 Q And then at the top of the resource contrast
6 chart on the next page it says see Reference 4,
7 and those are the reference sheets I asked you
8 about the other day that are in the back of your
9 materials, do you recall that?

10 A Yes.

11 Q And I was asking you about the sources of the
12 material on those reference sheets, and I think
13 you told me that it was an amalgamation of BLM
14 and other sources, is that right?

15 A BLM, Army Corps.

16 Q So I want to ask you about that. I'm going to
17 hand out an exhibit, and this exhibit is out of
18 order. We're going to call it Exhibit 74. And
19 this is a printout of your Reference page 2
20 which you can also see in the PDF document, PDF
21 page 124.

22 (Applicant's Exhibit 74 marked for identification)

23 Q So what I did here is I printed out your
24 Reference 2 to which is correlated to your

1 Scenic Quality Evaluation Chart, and I looked at
2 the sources for each of the statements in there,
3 and what I found is that in fact every statement
4 in here is sourced directly to the BLM manuals.
5 Did I miss something?

6 A The definitions which are well-written, to the
7 point, easily understood, were used from the BLM
8 reference. Absolutely. It does not mean that
9 this is a BLM form. It means that these are
10 good definitions that are easily understood by
11 practitioners participating in the rating panel.

12 Q Right. But that wasn't my question. The other
13 day you told me this was from an amalgamation of
14 sources, and, in fact, it's all from BLM on this
15 form, isn't it?

16 A The rating form is an amalgamation of my
17 experience. So if you want to talk about the
18 references that deal with definitions, that came
19 from the BLM Reference GUIDE which is
20 well-written, but my form is from my experience
21 working at EDR, and it's a combination of things
22 that occur in BLM and Army Corps, DOT
23 methodology that created this form. So the form
24 is not BLM, but the definitions that I'm using

1 which are quite good are.

2 Q Okay. So we've clarified that, and I understand
3 that when you say the form, what you mean is the
4 forms we're looking at on Exhibit 58?

5 A Correct.

6 Q And then when we talk about the reference in
7 there that sends us to these charts, the
8 references are all derived from BLM.

9 A For this Reference 2, the definitions come from
10 the BLM.

11 Q So I want to ask you now to look at Applicant's
12 Exhibit 59. 59 is portions of one of these BLM
13 manuals that you have referred to in here. This
14 is Manual 8431, and it's the BLM guidance for
15 filling out the second form, the contrast form,
16 in Exhibit 58, and I'm going to ask you to look
17 at page 3 of Exhibit 59, and looking toward the
18 bottom of page 3, it's letter D. It says
19 contrast rating, do you see that?

20 A Yes.

21 Q And the first sentence says the actual rating
22 should be completed in the field from KOPs which
23 are key observation points; is that right?

24 A That's what it reads.

1 Q So when your rating panel did its analysis, Ms.
2 Gavitt and Ms. Cummings didn't fill out their
3 contrast rating sheet in the field, did they?

4 A I don't know of any rating panel outside of the
5 BLM proper who fills out their rating sheet as a
6 field exercise. I have never in my professional
7 career done that, and I certainly didn't ask my
8 panel to do that.

9 Q And, in fact, neither Ms. Gavitt or Ms. Cummings
10 visited any of the 14 resources that they rated,
11 is that right?

12 A No. That was not part of the rating panel
13 requirement.

14 Q Okay. Now I want you to look at Exhibit 60.
15 This is the other BLM guidance document. It's
16 guidance document 8410, and this is the one that
17 correlates to your first sheet, the before
18 conditions and its guidance for filling out
19 scenic quality, and I want you to look at page 4
20 of that Exhibit 60. At the top under B it says
21 valuating scenic quality. Do you see that?

22 A I do.

23 Q And in the fifth line down, the guidance says
24 evaluate each SQRU, and SQRUs are defined on the

1 previous page as a Scenic Quality Rating Unit.
2 By observing the area from several important
3 viewpoints, scores should reflect the
4 evaluator's overall impression of the area. Do
5 you see that?

6 A Yes.

7 Q Now, am I correct that your rating panel members
8 did not do that? They evaluated each viewpoint
9 from only one location?

10 A I would say that we evaluated several important
11 viewpoints of the study area. We did not
12 evaluate several viewpoints of one particular
13 sensitive side. However, in a place like the
14 dePierrefeu Wildlife Sanctuary we had three
15 resources and Gregg Lake we had two resources,
16 including the lake itself. So we were being
17 mindful that there may be multiple sensitive
18 receptors within one locale, but we were looking
19 at a holistic study of the study area versus
20 focusing on one area that could have slanted the
21 findings.

22 Q The ratings that your panel produced for Bald
23 Mountain are all from one viewpoint, is that
24 correct?

1 A Say that again, please?

2 Q The ratings that your panel produced for Bald
3 Mountain are all from a single viewpoint; is
4 that correct?

5 A The ratings that our panel produced were from
6 the worst-case scenario of visibility and
7 exposure from Bald Mountain, right.

8 Q So one viewpoint, correct?

9 A Correct.

10 Q The ratings that your panel did for Goodhue Hill
11 are from one viewpoint, correct?

12 A Same. It is from the worst-case highly exposed
13 location of that resource to the project, yes.

14 Q And, in fact, for all six of the key resources
15 we're looking at here, your rating panel member
16 looked at them from a single viewpoint, is that
17 correct?

18 A Yes. Again, because we're looking at worst case
19 effect and exposure.

20 Q You say worst case. That's inconsistent with
21 this BLM guidance which actually tells people to
22 look from multiple important viewpoints, right?

23 A Well, I see that we keep on the BLM subject
24 matter. My methodology is not BLM. My

1 methodology came from my experience working at
2 EDR using a well-respected visual impact
3 assessment methodology, my 13 years as a rating
4 panel member for them in modifying rating forms
5 that I thought had good language and good
6 language and definition, so that we could get
7 good answers from the panelists so they didn't
8 burn out while doing the work. This is not, the
9 Terraink Visual Impact Assessment is not a BLM
10 assessment.

11 Q You said you were, quote, "charged" to do an
12 assessment from worst case scenario that was
13 your testimony the other day. Who charged you
14 to do that?

15 A I charged myself to do that as a practitioner
16 that is trying to show the impacts in a region.
17 I truly believe that if we are not looking at
18 worst case impact, we can't look at what's
19 behind us that has no visibility. We have to
20 look at the worst case in order to get a sense
21 of the impact to a region.

22 Q There's no place in the SEC regs that requires
23 worst-case analysis, is there?

24 A I think inherently in the regs they're asking

1 for places that have exposure, and that we as
2 professionals should be, if we're not showing
3 worst case, then we're not showing the true
4 effect, and that can be taken as being hidden or
5 not actively showing the full potential for
6 exposure within the study area.

7 Q I understand that's your opinion, but I don't
8 think you answered my question. There's no
9 place in the SEC regs that requires a worst-case
10 analysis, is there?

11 A In 301.05, effects on aesthetics, number 7,
12 photo simulations from representative key
13 observation points from other scenic resources
14 for which the potential visual impacts are
15 characterized as high. I would take that to
16 mean worst-case scenario, but here they used the
17 term high.

18 Q Okay. Let's go on. I have another exhibit to
19 look at. This will be Applicant's Exhibit 61.
20 (Applicant's Exhibit 61 marked for identification)

21 Q So while this is being passed out, I'll explain
22 what this is. This is a map of the Willard Pond
23 and Bald Mountain area. It's from the
24 Appalachian Mountain's Club Fourth Edition

1 Southern New Hampshire Trail Guide, and the
2 letters A, B, C, D, E and F I put on there.

3 Now, you see the P at the bottom of the map
4 there? That's the parking area where we parked
5 when we did our site tour and then walked into
6 Willard Pond. Do you see what I'm talking
7 about?

8 A I do.

9 Q And this loop that goes up from that parking
10 area to the Tamposi Trail around the summit down
11 the Bald Mountain Trail and back on the Tudor
12 Trail, is that a loop that you hiked? Or you
13 just did portions of that loop, I think, right?

14 A I went up the Tamposi Trail to where the scenic
15 overlook is. I went up to the top of Bald
16 Mountain, I went down the Bald Mountain Trail to
17 the beautiful pine glade to the north of Willard
18 Pond and then came back the Tudor Trail.

19 Q So you did most of if not all of this loop?

20 A Yes.

21 Q Okay. And Ms. Cummings and Ms. Gavitt didn't do
22 the loop, right?

23 A That is correct.

24 Q So the stretch from the parking lot up to point

1 A, that's a wooded stretch; isn't that correct?

2 A Deciduous tree cover with glacial erratics.

3 Yes.

4 Q And when you get to point A and you look over
5 toward Willard Pond, there's actually a view
6 through there to the pond, do you recall that?

7 A Yes.

8 Q And if the project was built, that wouldn't be
9 affected in any way, right? This map is
10 oriented to the north and the project is off to
11 the northwest so the summit of Bald Mountain
12 would block any view from there, right?

13 A We could make an assumption of that.

14 Q Then when you hike over to point B, there are
15 really nice views off to the southwest, do you
16 recall that, towards Monadnock? There are some
17 nice open areas?

18 A Yes.

19 Q And again, the project would have no effect on
20 those views, isn't that right?

21 A Correct. It's a wooded peak.

22 Q And then you hike up a little bit and get over
23 to the summit and if you recall the summit is
24 sort of a wooded area in the woods with a flat

1 rock there and a cairn on it; is that right?

2 A It's actually not a cairn. It's been torn down
3 and it's like a wind shelter. Small foundation
4 shape.

5 Q All right. Well, I was there in September, and
6 it looked like a cairn to me, but we can agree
7 it's a rock pile.

8 A Yes, it's been modified.

9 Q Okay. Then you get over to point D and that's
10 really a pretty big spectacular ledge just about
11 five minutes or so off the summit that looks
12 directly across to Willard Pond. Do you recall
13 that ledge?

14 A Yes.

15 Q And you can see Goodhue Hill on the other side
16 of Willard Pond and distant views beyond that
17 from that ledge, right?

18 A That's the open ledges that have been in
19 constant discussion.

20 Q Actually, it's not. The open ledges are E,
21 they're the second ledge.

22 A Okay.

23 Q That first ledge looks completely to the east,
24 and there's no view at all around the corner

1 from that ledge.

2 A D did not strike me in the way that you've
3 described it.

4 Q Okay. Well, I wish I had some pictures because
5 it was pretty spectacular. But at any rate,
6 that's only five minutes or so from the summit
7 if you recall correctly, right?

8 A Um-hum.

9 Q You and I both hike a lot and you would agree
10 that when people set out to climb mountains
11 typically they aim to get to the top, right?

12 A Not always. Not always.

13 Q I know that you're working hard to get to the
14 top of a lot of mountains, aren't you?

15 A I am doing very well in my personal endeavors,
16 yes, but group endeavors are very different.
17 Groups don't always get to the top because
18 that's not what it's all about.

19 Q When people do try to go to the top of Bald Peak
20 they probably wouldn't want to spend too much
21 time at a wooded summit if there was a nice
22 beautiful ledge just five minutes away, would
23 you agree?

24 A I think the ledge that they'll be on is the

1 ledge that I keep referring to which is the
2 great expanse that looks over Willard Pond that
3 has the view to the project. That is the hot
4 spot for this trail.

5 Q So they would bypass ledge D and keep hiking
6 down another 15 minutes to that lower ledge
7 after they got to the summit.

8 A I would have. I don't really, the D that you're
9 speaking of is not --

10 Q It's actually, the D that I'm speaking of is
11 probably the former shelter area that you're
12 talking about which is a big open area, but at
13 any rate, we can agree from point D there's no
14 view of the project if it's built, right?

15 A Correct.

16 Q And then we get down to E and that's the place
17 we've been talking so much about. It's the
18 place where you did your visual simulation,
19 correct?

20 A Well, I can't speak to exactly that that is the
21 location but from those ledges.

22 Q Right.

23 A Yes.

24 Q And, again, that's the place where the trail

1 goes along the top of the ledge and you need to
2 climb down the ledge a little bit and look
3 around the corner and we disagree about how hard
4 it is, but we do agree you've got to climb down
5 the ledge and look around the corner, right?

6 A I think similar to most outlooks. Every outlook
7 I've basically been on in the Adirondacks or the
8 White Mountains you kind of have to go off trail
9 a little bit to get to that opening. So I would
10 put it in the same context of most scenic
11 overlooks on a trail system where you just have
12 to come off of it a little bit.

13 Q And then you continue down the Bald Mountain
14 Trail where it intersects the Tudor Trail, do
15 you see that?

16 A I do.

17 Q And then you come along the lake on the Tudor
18 Trail and there are pretty nice views of the
19 lake along that trail, right?

20 A I'm sorry. Say that again?

21 Q I would say that along that stretch of the Tudor
22 Trail they're really nice views of Willard Pond,
23 right?

24 A I think the most spectacular is actually the

1 glen at the top of the lake where it's the pine
2 grove.

3 Q Um-hum.

4 A Along the Tudor, yes, you have openings as well.

5 Q And all of those openings are pretty much in the
6 woods and facing east and none of these would be
7 affected if the project was built, right?

8 A We could make that assumption. Visually.

9 Q Right. That's what we're talking about. Right.
10 Now, if you look at PDF page 187, these are a
11 series of handwritten notes that are included in
12 your material. See what I'm talking about?

13 A Yes.

14 Q And my understanding, if you look up in the
15 corner, these notes are from March 19th of this
16 year, and they were taken by someone named J.H.
17 which I understand to be John Hecklau, right?

18 A Yes, it's John Hecklau from EDR.

19 Q So he was a subcontractor who did some work from
20 for you here, but he wasn't a member of the
21 rating panels, right?

22 A That's correct.

23 Q And he seemed to do portions of those hikes and
24 the first five notes that he talks about note

1 some of the same things that I just noted about
2 various open views, right?

3 A Yes.

4 Q And these notes weren't provided to the rating
5 panel members from what I can tell, right?

6 A No. They were not.

7 Q So the rating panel members who didn't do this
8 hike would not even have had the benefit of Mr.
9 Hecklau's comments here about lack of visibility
10 in various places, correct?

11 A Again, that's not how our rating panel procedure
12 is done. We're not rating views that don't have
13 view to the project. We're rating the view to
14 the project. So no, they would not have these
15 notes.

16 Q Okay. So in this entire 2.5-mile loop that we
17 just went through, there's one place where if
18 the project was built it would be affected,
19 right? That's viewpoint E. All those other
20 places wouldn't be affected if the project was
21 built, right?

22 A We can make that assumption, but, again, having
23 not ballooned it to see what the actual
24 visibility is I can't say with a hundred percent

1 certainty, but I would say yes, likely those
2 spots do not have visibility based upon what
3 we've discussed.

4 Q And so your other two rating panel members would
5 have had no idea about that fact, isn't that
6 correct? Because they just looked at the single
7 viewpoint that you provided to them, right?

8 A Yes, because that is the procedure by which we
9 do our rating.

10 Q Do you think maybe this is what the BLM had in
11 mind when they encouraged people to do the
12 ratings in the field and to look at it from
13 multiple points so they could get a total
14 appreciation for the impacts on a particular
15 resource?

16 A I can't speak to the BLM and how they put their
17 methodology together. What I can speak to is
18 the methodology that I was trained in that
19 Mr. Hecklau at EDR has used on projects here in
20 New Hampshire that involve rating panels not
21 going into the field but rather rating the worst
22 case scenario with high exposure.

23 Q This whole thing that we just walked through
24 with Bald Peak is just one resource. I just

1 wanted to talk to you quickly about some other
2 ones. With respect to Meadow Marsh, again, you
3 provided one simulation for your raters, and Mr.
4 Raphael observed in his VIA on page 13, quote,
5 had a photo been provided looking in the
6 opposite direction or if the reviewers had
7 actually experienced the resource, it would have
8 placed this view in it proper context. Gregg
9 Lake Road, comma, power lines, comma, the public
10 beach area and parking lot and other cultural
11 features are all visible.

12 Your rating panel members didn't appreciate
13 those facts when they rated that view from
14 Meadow Marsh, did they, because they weren't
15 there.

16 A The view to Meadow Marsh is about Meadow Marsh.
17 It's not about turning around and looking at
18 Gregg Lake which is its own entity. So we are
19 looking at Meadow Marsh as a site, not
20 diminishing by saying well, don't look here,
21 turn around and look the other way. So Mr.
22 Raphael took a stance to, his pictures of Meadow
23 Marsh are looking backwards versus looking at
24 the resource, and I don't believe that that's an

1 accurate way to do a visual impact assessment.
2 I want to talk about the impacts to the resource
3 that is at hand, not turn around, turn my back
4 to it and say, well, there's this over here.
5 That's not what I've been charged to look at.

6 Q So if I were standing looking at a beautiful
7 pond, and it just so happens that I was looking
8 at it from the side of an interstate highway,
9 you're saying that the fact that I'm standing on
10 an interstate highway and the highway is behind
11 me really has no impact on the context of how
12 you view that pond?

13 A That's not a reasonable comparison. Interstate
14 highway is not what we're dealing with at Gregg
15 Lake. And, interestingly, I think Mr. Raphael
16 said that this area had paved roads, yet when I
17 was questioned earlier about the water quality
18 at Gregg Lake it was an unpaved road so I think
19 there's some confusion about how developed this
20 resource is by Mr. Raphael. I see it as being a
21 trail, it has a trailhead parking area, people
22 move across the bridge, this is a great view
23 into the marsh, and then you head into the trail
24 system which would not be exposed to Gregg Lake.

1 So our approach is to look at what is the level
2 of exposure that happens from this project site
3 to the installation of the turbines and that's
4 what we focused on.

5 Q With respect to Goodhue and his Supplemental
6 Testimony on page 32 which is Exhibit 23, he
7 said, quote, Terraink's viewpoint does not take
8 into account that the area is an active logging
9 area with remnant debris piles, clearing areas
10 and roads that are not particularly scenic or
11 pleasing.

12 So, again, your view panel members didn't
13 have any appreciation of that context, did they?
14 You didn't communicate things like that to them,
15 and they didn't see Mr. Hecklau's notes, did
16 they?

17 A No, because there again we're looking at the
18 view to the project.

19 Q And, interestingly enough, on page 13 of his
20 Supplemental Testimony with respect to Loverens
21 Mill Cedar Swamp, he said, quote, "scenic
22 quality is far more diverse and appealing than
23 what the photo implies and the reviewers grossly
24 underscore its value due to the drastic

1 limitations of the single photo simulation." So
2 he actually thinks that you went too low on
3 Loverens Mill because you just used a single
4 photo.

5 A My interpretation of that comment by Mr. Raphael
6 is that because he is not looking at the
7 worst-case scenario from a viewpoint but rather
8 looking at the resource as a whole that
9 viewpoint rated low because the trailhead
10 parking area and road which has a very close
11 view to the project, that is what they are
12 rating. They were not rating the cedar swamp
13 which is an amazing resource but more about what
14 is the view from the trailhead, and, again, what
15 is the level of exposure. At the same time,
16 that view also offers an example of what
17 foreground/midground views to the project would
18 be from regional roads within the study area.

19 Q Isn't it true that each of the members of the
20 Committee actually spent more time at these
21 various resources than your rating panel
22 members?

23 A I can't speak to how often the panel's gone to
24 the resources.

1 Q On page 59 of your VIA, you are commenting on
2 Mr. Raphael's VIA, and you say, "The breadth and
3 detail of the information within the Visual
4 Assessment is commendable and also textbook in
5 nature." Do you recall that?

6 A It goes further beyond that statement.

7 Q Okay. Why don't you tell us what more it says.

8 A It made for a large document that was often
9 difficult to navigate and hone in on the
10 specific Antrim VIA methodology and results.

11 Q Would you agree that Mr. Raphael when he did his
12 analysis appreciated the context of these
13 various resources that he was assessing?

14 A I can't speak to what Mr. Raphael did.

15 Q I want to look now back at Exhibit 58. I want
16 to focus on the first page which is your
17 sensitivity level analysis, and I want to ask
18 you some questions about that. So the
19 sensitivity level chart produces, for each rater
20 at each resource it produces their number for
21 sensitivity at their resource, is that correct?
22 So, for example, Jade came up with a 19 here,
23 and she got that by adding up the first column
24 under sensitivity which is 15, she added the

1 second column which was 3, and the third column
2 which was one, and then she added those numbers
3 and her sensitivity rating for Willard was 19;
4 is that right?

5 A Correct.

6 Q And then you did the same thing for Willard and
7 then the other rater did the same thing and then
8 you took the three numbers and averaged them and
9 that was your sensitivity rating for Willard.

10 A Correct.

11 Q And that's the number that you plugged into the
12 chart on pages 55 and 56 of your assessment
13 which we've labeled as Exhibit 55 here, right?

14 A Correct.

15 Q Okay. So I want to ask you a little bit about
16 that. At the tech session I asked you about how
17 it was that on this chart on page 56 you got to
18 that ultimate rating for each of the resources,
19 and you couldn't explain it to me at the time,
20 but you made a couple of comments, and one of
21 the things that you said was that with respect
22 to sensitivity and contrast you said, quote,
23 these two middle columns are very important to
24 consider and are weighted more.

1 Do you recall telling me that at the tech
2 session?

3 A I don't. I remember I answered poorly to that
4 question, and I could have been clearer.

5 Q Right.

6 A So I do not have a direct recollection of what I
7 said, but I realized after seeing the comments
8 that this was something that needed to be
9 clarified.

10 Q Right, and we're going to get to that in a
11 little while, but I just wanted to ask you that
12 with respect to sensitivity. So let's look now
13 as your sensitivity chart, and what you do here
14 is you ask the raters to look at each of these
15 five categories: User resident, user commuter,
16 user recreational, adjacent land use and special
17 area. And then to fill in a rating for each one
18 of those, and they rate them on the scale that
19 you have here from 1 to 5. And, in fact, in
20 your methodology itself at page 19, you
21 specifically describe this part of the
22 methodology. Do you recall that?

23 A Page 19?

24 Q Page 19 of your methodology.

1 A Which is about existing visual setting?

2 Q Yes. You say right there at the top, the
3 existing conditions form also examined the
4 sensitivity levels of users and adjacent land
5 use or special areas ranking from low 1 to 5
6 high.

7 A Yes.

8 Q So as I look at this chart, let's say, for
9 example, we're looking at resident. This rater,
10 Jade, had an opportunity to rate the resident
11 part of this from a five to anywhere down to a
12 one, right?

13 A Correct.

14 Q And it's the same for all of those across,
15 right? Five down to one.

16 A The raters can choose between five and one, yes.

17 Q Right. And then at the bottom of this you have
18 your sensitivity level classifications where you
19 describe what you've done here. If it totals up
20 to a 16 or more it's a high, if it's a 6 to a 15
21 it's a moderate and if it's 5 or less it's a
22 low, and that's how you came up with these
23 ratings here; is that right?

24 A The classification, yes.

1 Q Right. So the highest possible sensitivity
2 rating that Jade or anyone could have come up
3 with was 25, right? They put a five for each
4 one of these categories?

5 A Correct.

6 Q Conversely, the lowest possible sensitivity
7 rating that Jade or anyone could have come up
8 with is five. They put a one for each one of
9 those categories, right?

10 A Correct.

11 Q So when you look at the bottom of your chart
12 here where it says low equals five or less,
13 that's not actually right. Low equals only
14 five, correct?

15 A Unless a rating panel member didn't put a number
16 in, then it would be less.

17 Q But your methodology says they have to put a
18 number in, right? 1 to 5.

19 A The chart says 1 to 5.

20 Q Right, and in fact I looked at every single
21 rating sheet for every panel member and every
22 one of them for every one of these categories
23 put at least a one in every place. So they
24 followed your methodology.

1 A Yes.

2 Q So then in fact the lowest is five and the
3 highest is 25, right?

4 A Yes.

5 Q Now, it would seem like the way you set this up,
6 the scale is actually zero to 25, but in reality
7 the scale is really 5 to 25, right?

8 A I think that we should have removed the "or
9 less" after the five to avoid confusion.

10 Q Well, I think it does more than create a little
11 confusion so I want to pass out another exhibit
12 and let's look at that.

13 (Applicant's Exhibit 62 marked for identification)

14 Q So what I wanted to do based on the scale that
15 you set up, and, again, you've explained to us
16 several times, this is your methodology, these
17 charts that you created, you've created
18 specifically for this project here, and it
19 hasn't been used before. So I wanted to see
20 what the distribution was on this scale that you
21 set up from 5 to 25, and so that distribution is
22 reflected on Applicant's Exhibit 62. Do you see
23 that?

24 A I see that you handed me a paper. Yes.

1 Q And so the only number in the low category is 5.
2 And then in moderate, according to you, 6 to 15
3 and then high is 16 to 25, correct?

4 A In this chart rating scale is five, 6 to 15, 16
5 to 25, yes.

6 Q That's your rating scale, right?

7 A Yes.

8 Q The distribution that you set up here has five
9 at under five percent and then the others at
10 over 47 percent. Correct?

11 A That's how the raters rated the project, yes.

12 Q Well, no. It's not how the raters rated the
13 project. It's the distribution that you created
14 on the sensitivity form, right?

15 A If you're implying that I weighted the form to
16 be heavy, that's not what -- I'm not quite sure
17 where you're going with this.

18 Q I'm not implying it. I'm saying mathematically
19 this is what we have. We have a distribution
20 from 5 to 25 which means that only 4.8 percent
21 of the distribution is low, right? And I guess
22 my question to you is did you set the
23 distribution up to be skewed like this?

24 A No. I set up the distribution to follow the

1 practice that we're using in scenic quality that
2 deals with a rating system of 5 down to in some
3 cases for a scenic to -4. So to be consistent
4 with our numbers, it's set up the same way where
5 you would have a range that is determined by
6 what is the highest number that can be achieved
7 within each column and that sets up the
8 breakout. It's as simple as that.

9 Q It's not though because you just mixed scenic in
10 with sensitivity. Scenic is a different scale,
11 and we'll talk about that later. I'm just
12 talking about your sensitivity scale, and your
13 sensitivity scale runs from 5 to 25 and so for
14 sensitivity only, this is the distribution,
15 isn't it? And my question to you is when you
16 created this sensitivity scale in your new form,
17 did you intend to skew it this manner?

18 A I don't think that it's skewed. I think it's
19 your interpretation. What it is is it's using a
20 numerical system from high to low that is
21 consistent within the form.

22 Q Okay. So let me reverse it then. If Mr.
23 Raphael --

24 A If I skewed the form, it would mean that every

1 site would average out high which is not what
2 happened. We had a range of results for this
3 project. So I think what you're proposing would
4 result in a consistent high ranking of all
5 sites, and that's not what happened within our
6 rating forms.

7 Q I don't think that's what I'm proposing at all.
8 I'm simply taking the distribution that you set
9 up and I'm looking at how it plays out, and
10 mathematically what we see are these
11 percentages, and my question is did you intend
12 to set it up that way? I guess you're saying
13 you didn't. So let me ask you this. If Mr.
14 Raphael had set up a distribution where the high
15 percentage was 4.8 and the low and the moderate
16 were 47, do you think that would be a fair way
17 to approach this?

18 A I would be very interested to know how Mr.
19 Raphael did his rating, but I have no forms, I
20 have no numerical data to judge that by, and I
21 would say that our rating, it was set up with
22 three options of low, moderate and high.

23 Q You didn't answer my question so let me try
24 again. If Mr. Raphael had used this same

1 distribution, would you consider that to be a
2 fair way to do it?

3 A I can't speak to it because I don't know how he
4 would be applying it, and I would look at the
5 form, and I would judge it based upon the merit
6 of the form that he was using.

7 Q So before I made this point to you right now,
8 did you realize that the distribution was skewed
9 in this manner?

10 A I would say that -- sorry. I thought I heard
11 something.

12 MS. BERWICK: Can I object because he just
13 put his opinion as a fact.

14 MR. NEEDLEMAN: I think the distribution is
15 factually skewed so I'm going to ask the
16 question again.

17 MS. MALONEY: Well, I'm going to object
18 then, too, because you give an opinion that's
19 some kind of mathematical formula that he hasn't
20 presented any evidence on.

21 Q I'll ask the question again. Before I showed
22 you this spread right here, did you realize that
23 it was set up in this manner so that this tiny
24 proportion, less than five percent is on the low

1 end and everything else was on the high and
2 moderate end?

3 A This form was not set up using mathematics to
4 skew anything. It was set up to be consistent
5 with a means of rating.

6 Q All right. So to me, I thought that this was
7 pretty striking that the distribution was set up
8 this way, and so I wanted to understand what the
9 effects on your analysis would be if there were
10 a more even distribution, and so I want to give
11 you another exhibit to look at.

12 (Applicant's Exhibit 63 marked for identification)

13 Q It seemed to me that one logical approach to
14 creating a distribution like this would be to
15 simply split them into three even categories,
16 and that's what I've done here on Exhibit 63.
17 Do you think that's unreasonable?

18 A I think that this is your interpretation of
19 rating. It's not mine. And I would not use
20 this, no.

21 Q But do you think it's unreasonable to just split
22 it into three equal categories?

23 A Yes. I think that it's not, this is not a
24 mathematical weighting problem. It's an

1 approach to keeping a system of rating that is
2 universal between the two sheets using numbers,
3 I don't, I inherently, I don't have a problem
4 with the five, three, one. I'm sorry that you
5 do, but no, I'm not going to accept your
6 proposal for correcting distribution.

7 Q So you think it's acceptable to just have a
8 distribution that puts it at five percent for
9 low and 47 for the other two as opposed to three
10 even categories. You think that creates a fair
11 and reasonable outcome.

12 A I think that it is consistent with what I was
13 working with and trying to build upon, and also
14 trying to be open and transparent with what we
15 were doing and having results that were highly
16 varied. It's not all weighted to one direction.
17 So I don't accept your distribution on 63.

18 Q Okay. Well, I want to look at that further. So
19 if we were to take that distribution and just
20 carve it into three equal categories, do you
21 have any sense of what it would do to change
22 your ratings? Have you thought about that at
23 all? Did you think about any of this when you
24 were creating this rating chart for the first

1 time?

2 A I thought about a lot of things when I created
3 the rating chart. So, again, I have 13 years of
4 experience being a rater. I've used, I think,
5 four different types of forms plus forms that
6 we've used in college application studies. The
7 goal was to create a form that was easy for the
8 raters to understand and had a unified numerical
9 approach that people were not confused, but I
10 certainly was not looking to mess around with
11 the mathematics of percentage in developing the
12 form.

13 Q I'm going to hand out another exhibit. And this
14 is what I did with this exhibit was I left all
15 of your numbers intact just the way you came up
16 with them, but I wanted to see what would happen
17 if I applied this even scale, 33 percent, 33
18 percent, 33 percent instead of the scale that
19 you used.

20 (Applicant's Exhibit 64 marked for identification)

21 Q What you have in front of you is Exhibit 64. It
22 lists the six resources, it shows the scale at
23 the bottom as I just showed on the previous
24 exhibit where the categories are just evenly

1 divided up, 3, 3 and 3, and then the next column
2 shows the sensitivity levels that you came up
3 with, and then I just applied the corrected
4 scale to that, and five of the six resources go
5 from high to moderate just by using an evenly
6 spaced scale. I guess you think it's
7 unreasonable to do that using an even scale. Is
8 that right?

9 A I don't accept your premise. I'm comfortable
10 and confident in my rating form given my
11 experience, and I think that if the form was not
12 viable we would have had more uniform results
13 versus the wide range of results, and I think
14 these sites that do have visual sensitivity rose
15 to the top through the rating.

16 Q But, again, when you say it would have been
17 uniform and you would have had more skewed
18 results, that actually has nothing to do with
19 what we're talking about because the ratings are
20 the ratings. This is the scale that you created
21 separately after the fact to then figure out how
22 you take the ratings and put them into different
23 categories, right?

24 A So you are asking me to accept your rating and I

1 say that I do not. If you want to create a
2 rating form with your scale and have it used,
3 you are welcome to do that. I say no, I'm not
4 comfortable with your premise. I am good with
5 my premise.

6 Q And I'm not asking you to use any of my ratings.
7 I'm taking your ratings as your people came up
8 with them, and I'm just applying an evenly
9 spaced scale and I take it you disagree with
10 that?

11 A I do.

12 Q Okay. So let's move on. I have another exhibit
13 to hand out. So then what I wanted to do is I
14 wanted to see what the effect might be on the
15 total ratings for each site just using this
16 corrected scale, 33 percent in each category,
17 and that's Exhibit 65.

18 (Applicant's Exhibit 65 marked for identification)

19 A I would say it's a modified scale, not a
20 corrected scale.

21 Q Modified.

22 A You're insinuating that you're correct. I would
23 say it's a modified scale.

24 Q Fair enough. We'll use the term modified scale.

1 So in Exhibit 65, in that middle column
2 under sensitivity level, I just plugged in the
3 modified sensitivity numbers or ratings using my
4 modified scale to try to get a sense of what it
5 would do on the total visual impacts. So this
6 is a modified version of your chart on page 56,
7 and it seems like in five of the six
8 circumstances, just by changing the scale and
9 doing nothing else, five of the six ratings
10 change.

11 A However, you're using just the terminology. The
12 final rating is based upon a numerical average
13 so if the numerical averages did not change, it
14 means the final result doesn't change no matter
15 how you change the sensitivity level from high
16 to moderate.

17 Q That's a fair point, and we're going to look at
18 that again later so let's hold that idea and I
19 want to go on to the next topic.

20 Go back again, please, to Exhibit 58. I
21 want to spend some more time asking you about
22 your sensitivity scale. Now, if we look at
23 Exhibit 60, this is the BLM guidance document I
24 handed out, and I'm looking at page 4 of Exhibit

1 60. Let me know when you're there.

2 A I'm there.

3 Q So in the middle under A, factors to consider,
4 number one says types of users, and this is how
5 the BLM describes type of users, and it says
6 visual sensitivity will vary with the type of
7 users, recreational sightseers may be highly
8 sensitive to any changes in visual quality
9 whereas workers who pass through an area on a
10 regular basis may not be as sensitivity to
11 change. Do you see that?

12 A Yes.

13 Q And then if you go over to the next page, page
14 5, that's the actual BLM sensitivity form that
15 they use for rating sensitivity.

16 A Yes.

17 Q And it's got those six columns there that starts
18 with type of users and then runs over through
19 another group of categories, do you see that?

20 A Yes.

21 Q And what they do is they make type of user one
22 of six categories, right?

23 A Yes.

24 Q On your chart, you have user as three of five

1 categories, correct?

2 A So, yes.

3 Q So in comparison to how BLM does this, you
4 dramatically emphasize users, correct? They
5 were one of six, you're three of five. Sixty
6 percent of your sensitivity analysis relates to
7 user ratings, correct?

8 A The BLM form has type of users, amount of use,
9 public interest, adjacent land uses, special
10 areas, and other factors. That makes up their
11 six. Other factors is way too ambiguous so I'm
12 not going to put that on the form. Amount of
13 use and public interest is difficult in a
14 nonfederal location to determine how many
15 visitors you're having to the site. Public
16 interest can be biased based upon what
17 information you're looking at from your sources.
18 Therefore, in an effort to maintain a
19 representative number of factors, and because
20 the user, in the BLM most of your users are
21 going to be recreational, they are public bureau
22 of lands, there is a more homogenous possibly
23 quality where in the sites that we're looking at
24 you do have the people who live there, the

1 residents, the commuters who pass through to
2 their works or through the area and recreational
3 users, and it is, I think, negligent to lump
4 them into one user group, and, therefore, in an
5 effort to respect proportions in a form, we
6 split those out into three.

7 Q So your view is that the BLM methodology is
8 negligent.

9 A The BLM methodology is for different user type
10 and for a federal application which is why this
11 is not an one-to-one application of BLM within
12 our methodology, but rather also looking at Army
13 Corps and DOT which also have statements about
14 user groups which include commuter, recreational
15 and residential.

16 Q So you thought it was appropriate in this new
17 methodology you've created to place a very heavy
18 emphasis and sensitivity on users. Sixty
19 percent of it focused on users.

20 A That has been my experience on the forms that I
21 had used in my work with EDR which has users
22 that are based upon recreational, residential
23 and commuter.

24 Q So on page 23 of your VIA which is PDF 24, you

1 explain these three user groups.

2 A Correct.

3 Q And down at the bottom, number 3, recreational
4 users, you say recreational users is a broad
5 category including local residents. You see
6 that?

7 A Yes.

8 Q On top, you have a separate category for local
9 residents, right?

10 A Correct.

11 Q So it's possible that these can overlap, right?
12 I mean, in fact, by definition they overlap.

13 A It's based upon use. Right? So you have local
14 residents who may never ever hike, but they will
15 see this project site from their home or when
16 they go to the grocery store or when they pick
17 up their kids, but they're not necessarily
18 recreationalists.

19 Q But they could be the same, right? The local
20 resident in number one could also be the
21 recreational user in number 3, right?

22 A Along with all the other individuals who would
23 be visiting the site for recreational use, yes.

24 Q Now, this issue is not possible in the BLM

1 methodology because they all put users into one
2 category, right? So this is unique to the
3 approach you set up here, right?

4 A Based upon my prior experience, yes.

5 Q When you say prior experience, again, you've
6 said this is the first time this methodology has
7 been used, right?

8 A This is the first time this form has been used,
9 but it comes from my extensive experience as a
10 rating panel member having used multiple forms.

11 Q Now, at the tech session, I asked you about this
12 issue, and you said to me, quote, "in order to
13 not double count, raters had to make a judgment
14 about what type of user they were rating."

15 Do you remember telling me that?

16 A I do not. No.

17 Q Well, that's what I wrote down. You didn't
18 instruct the raters in how to avoid double
19 counting here, isn't that correct?

20 A Well, there's no double counting happening.

21 Q You didn't instruct the raters how to
22 distinguish between local resident versus
23 recreational user when they filled out the form,
24 right?

1 A They received the package that had definitions.

2 Q It's these definitions right here and the
3 definitions in the reference sheets, right?

4 A So Reference Sheet 3, they're able to read the
5 definition of that user as well as the other two
6 categories, and then they have a rating criteria
7 and score chart that talks about sort of
8 maintenance of visual quality, how important is
9 the view is broken down from five to one.

10 Q But again, you never instructed them how to
11 avoid this overlap between, say, recreational
12 and local or commuter, did you? You didn't
13 provide instructions to them. You just gave
14 them these materials that we've seen as part of
15 the rating packet, right?

16 A I don't believe there's an overlap. That's your
17 belief. I don't subscribe to that.

18 Q Well, when you provided the information to them,
19 you also didn't do anything to ensure that they
20 were consistent in how they managed this. You
21 just gave them the information you referenced
22 right here, is that right?

23 A I gave the rating panel the packages and asked
24 them to move forth and rate, yes.

1 Q And you didn't give them any empirical
2 information about use of these resources. So
3 you didn't tell them, for example, how many
4 residents might use Willard Pond versus how many
5 nonresidents might use it or these other
6 categories. So they had no empirical
7 information on a resource by resource basis to
8 distinguish between a local user versus a
9 recreational user when filling out the
10 sensitivity form, isn't that right?

11 A I have never provided such information or been
12 provided such information during rating, and it
13 would be very difficult to have that data that
14 would be correct and viable to use. The notion
15 is who is visiting these sites, who is affected,
16 who is the sensitive party at this view. Again,
17 we're talking about the worst case scenario of
18 visual impact at a sensitivity resource, and
19 we're taking into account who the potential user
20 of that resource is, and what is the level of
21 their potential sensitivity which varies,
22 depending on the user.

23 Q So I want you to look at the second column
24 there, user commuter, and I want you to look at

1 your definition on page -- we were just there.
2 PDF page 24. And it says, "commuters within the
3 study area will tend to be concentrated along
4 the major roadways and highways." Do you see
5 that?

6 A Yes.

7 Q Now, again, as we talked about earlier, each one
8 of the raters had an option to rate commuter on
9 a scale from 1 to 5. Right?

10 A Yes.

11 Q So in every case, every one of the raters had to
12 put at least a 1. Isn't that correct?

13 A Yes.

14 Q All right.

15 A And if you throw commuters out as a whole, it
16 doesn't change the overall rating.

17 Q Well, it actually does, but we'll look at that
18 in a minute, but I still want to focus on the
19 methodology. So let's look, for example, at
20 page 238 of the PDF. So in this approach you
21 set up, you demanded that each rater --

22 A I didn't demand anything. I requested.

23 Q The methodology requires that each rater put at
24 least a 1 for commuter in each category,

1 correct?

2 A Correct.

3 Q Now, on page 238, this is Jade's rating sheet
4 for Bald Peak. So this is the viewpoint up on
5 the side of the mountain from that ledge we've
6 been talking about, and Jade gave it a 1.5. Who
7 commutes over that ledge?

8 A No. I think you're mistaken.

9 Q I'm looking at PDF page 238.

10 A I'm sorry. I was looking at your paper.

11 Q PDF page 238. Jade's rating sheet for viewpoint
12 number 27. Bald Mountain. And I look at her
13 sensitivity analysis. Under commuter, she gave
14 it a 1.5. So who commutes over the ledge on
15 Bald Mountain?

16 A Commuter in that instance can be someone who's
17 commuting to the area to do trail work, someone
18 who's commuting to the area to check the pond
19 condition, someone who's coming to deal with the
20 roads. Commuter is not just taking my car
21 through the scenic resource but possibly moving
22 through it in multiple ways, meaning that the
23 commuter can be an individual that's coming for
24 service to a property, to a place.

1 Q Is there any place in your methodology that
2 explains that? I'm looking at the definition of
3 a commuter, and I don't see anything like that.
4 What I see is you saying they're going to be
5 concentrated along major roads and highways.

6 A So my, I don't want to speak for Ms. Cummings
7 and what her thoughts were for the 1.5, her
8 interpretation of the definition and the
9 potential for people to be commuting or moving
10 from one place to another to this location.
11 That was her rating.

12 Q Do you think a rating of 1 or 5 for commuters on
13 the ledge on Bald Peak makes sense?

14 A I'm not going to speak to Ms. Cummings' rating.
15 Looking at my own? But these are how the raters
16 rate the forms. I don't go back and start
17 asking them to modify their data in any
18 direction.

19 Q On page PDF page 211, you gave a commuter rating
20 of 1 on the summit of Goodhue. Who commutes
21 over the summit of Goodhue?

22 A This, again, is the rating form taking into
23 account individuals who may be going to this
24 site to perform task or duty.

1 Q On PDF page 259, Jocelyn gave a commuter rating
2 of 2 at White Birch Point. I guess one question
3 I have is where is that rating from? Is that
4 within the red line historic district or is it
5 from the visual simulation on the lake?

6 A Again, the Gregg Lake whole, the entity of Gregg
7 Lake in White Birch Historic District are a
8 combined entity so that they're not double
9 counted within the overall tally, and so
10 commuters that are going to White Birch Historic
11 District could be people that are servicing
12 properties, people who live there and are going
13 to work. It's a broad category of potential
14 users whose main purpose is to travel through an
15 area to the or from the or through the sensitive
16 resource.

17 Q So when Jocelyn did this rating, she was doing
18 it looking at the visual sim that you provided
19 which is out on the lake, and she gave it a 2.
20 So who's commuting out on the lake?

21 A What I would say is that because we know there
22 are roads in proximity to the lake she's looking
23 at the lake in a holistic, since it is a lake
24 view, it's taking in the whole Gregg Lake

1 experience into account, and she's factoring
2 that into her rating.

3 Q Where in your VIA does it tell raters how to do
4 that and how do you ensure that they're being
5 consistent in that interpretation?

6 A They're making a reasonable judgment as to what
7 a commuter is.

8 Q So when they make that judgment, they have no
9 guidance that helps them to be consistent from
10 place to place and nothing in here that tells
11 them how to make that judgment. You're just
12 counting on them to make it.

13 A They apply the definition and the lowest rating
14 that they can give is a 1, and so that is, if
15 there is not an extensive commuter designation,
16 then they give it a 1.

17 Q Don't you think it would have made sense to
18 allow raters to put zeros in here?

19 A I think that's something that can be considered,
20 but in this form, no.

21 Q So I want to go back now to what I was asking
22 you before about sensitivity analysis and these
23 various categories. Let's look at Jade's sheet
24 again, Exhibit 58, the first page, she gave a 5

1 to resident and a 5 to recreational, and from
2 what I understand, there's no way to determine
3 whether or not she was double counting an
4 individual user. This could have been somebody
5 who lives right next to Willard Pond who then
6 goes to Willard Pond and paddles around there,
7 and that same person would be given a 5 for
8 recreational and a 5 for user.

9 A You're implying that there's one user.

10 Q But we don't know, do we?

11 A We know that it's a highly used location. It's
12 ridiculous to insinuate that there's one user
13 and they're either a resident or they're
14 recreational. There's multiple users in
15 multiple seasons, and there's users, one of
16 which I met, who was only there as a
17 recreationalist. There's people who live in the
18 vicinity, we've heard their voices, who paddle
19 there. They're a recreationalist, but they have
20 a residential experience. So I think it's
21 unfair to make it into a double count. It's two
22 different user groups. Two different sets of
23 priorities, two different sets of sensitivities.

24 Q But again, there's nothing in your methodology

1 and nothing that you've described that tells us
2 how we can distinguish between these groups to
3 ensure we're not double counting, right? You're
4 just leaving it to the rating panel members to
5 be sure they're not double counting, right?

6 A No. The definition is clear. I think that we
7 have to take into account both the recreational
8 user but also the residential user as well as
9 the commuter who is passing through this
10 vicinity.

11 Q When you say in your definition, recreational
12 users include local residents, aren't you by
13 definition lumping two of these into the same
14 category and double counting them?

15 A It's a recreational use. Again, the
16 recreational use is different than the
17 residential use in the sense that, as I
18 mentioned, a residential user may never visit
19 Willard Pond where a recreational user would.

20 Q I looked at every one of your rating forms, and
21 on every one of these forms, I'm seeing pretty
22 much in every situation 5s being given or 4s
23 being given for both resident and recreational.
24 Does that surprise you?

1 A I would want to look at every form. What I
2 would say is that given the fact that we were at
3 all investigating these sites as being visually
4 impacted and having a sensitivity, I'm not
5 surprised that there was a rating panel reaction
6 as well to these sites as being important and
7 assuming that the recreational and residential
8 users would also find these sites to have
9 importance.

10 Q We obviously disagree on whether there's double
11 counting going on here. I think there is. You
12 think there isn't. But can we agree that this
13 would not be a problem in the BLM methodology
14 because in the BLM methodology they have a
15 single category of users, correct?

16 A The BLM is a different method. This is a
17 combined method of multiples so it's not an
18 apples to apples.

19 Q But that's not my question. In the BLM
20 methodology which we can see you've drawn
21 heavily from, this is not a problem, is it?

22 A I'm not going to, I can't judge that. I don't
23 actively do their rating forms. I don't have
24 empirical data to tell me if it is a problem or

1 not.

2 Q So if there is double counting going on here,
3 let's look at Jocelyn's sheet for a minute, she
4 gave a 5 to resident and she gave a 5 to
5 recreational, and we can't know whether or not
6 that's the same person. If it is the same
7 person or there's some kind of double counting
8 going on, then in reality, the 15 that she
9 marked down there would actually only be a ten.
10 Isn't that correct? I understand that's not
11 your approach, but if there's double counting
12 going on here, you would have to back this out,
13 wouldn't you?

14 A I'm not going to concede to double counting.
15 That's not what's going on. That is not what is
16 being put forth.

17 Q All right. I want to take a look at this issue
18 because I disagree with you and I think there is
19 double counting, and I want to see what affect
20 it would have if we did something to address
21 that so I want to hand out Applicant's Exhibit
22 66.

23 (Applicant's Exhibit 66 marked for identification)

24 Q So Applicant's Exhibit 66 in the first column

1 just lists the three reviewers, and then going
2 across, it lists each of the resources, and this
3 was a little bit of a challenge to try to figure
4 out how to deal with this because as we've
5 heard, we didn't have any empirical data about
6 users. So what I did was to try to look at how
7 this might be viewed differently, I left your
8 categories intact. I assumed it would be
9 possible to have a methodology and empirical
10 data that would clearly distinguish between
11 these categories, and then I just wanted to see
12 what would happen if we eliminated what I
13 perceive to be the double counting.

14 And so when I look for example at Willard
15 Pond, under Jade, she gives a rating of 19, and
16 if you eliminate -- again, my words -- the
17 double counting, then it goes down to a 14 and
18 her rating changes from high to moderate. Do
19 you see that?

20 A I see that on your form.

21 Q And on my form, that's essentially what I did
22 across the board. I tried to find a way to
23 eliminate my perception of the double counting
24 here, and in every case what that does is it

1 changes at the bottom the total rating for the
2 resource from high to moderate. Do you see
3 that?

4 A What is listed in red on your form?

5 Q Right.

6 A Yes.

7 Q I want to go to the next exhibit.

8 A But, again, I'm going to just, if I may, you can
9 push numbers around to make this however you
10 want it to be because you don't like the result,
11 but I do not believe there's double counting. I
12 think it is important to acknowledge that
13 there's multiple users within an area and so to
14 start removing stuff so that it gets down to
15 what you want it to be is problematic. You're
16 messing with something that I don't agree with
17 what you're doing. I don't agree with your
18 premise. So I feel confident in form. I feel
19 confident in my background. I feel competent
20 that these were well received when they were put
21 forth before the rating again in review.

22 And so I think this is a reaction to it not
23 tallying the way that you want it to tally. We
24 need to account for the different users within a

1 vicinity. It's unfair to just glom them all
2 into one group. Their sensitivities, what
3 they're looking for, the things that matter to
4 them are too vastly different to put them all in
5 one category. I fundamentally disagree with it.

6 Q You mentioned the EDR form before. We actually
7 talked about that the other day, and in fact,
8 EDR doesn't do it this way, do they? They don't
9 have the separate user categories the way you
10 have here.

11 A They have a check box for user, yes.

12 Q They have a check box for user, but they don't
13 break them out among these various categories,
14 do they, the way you have. They actually do it
15 the way BLM does it with a single user category,
16 right?

17 A No, they don't. Because they're not actually
18 putting a quantifiable amount to it. It's a
19 check box that doesn't have a numerical
20 component to it. I feel strongly that there
21 should be a numerical component to it. So that
22 inherently is why I changed that within this
23 form because I think that is as important to
24 acknowledge that they do have an impact in

1 sensitivity above just being a check box.

2 Q Okay. So did we hand out 67?

3 (Applicant's Exhibit 67 marked for identification)

4 Q So Exhibit 67 is the extension of what I was
5 just talking about where I take the sensitivity
6 levels corrected for, again, what I'm calling
7 double counting, and I see what effect that
8 would have on your total analysis, and in this
9 case the impact on every resource appears to go
10 to moderate. I understand that we're going to
11 talk more about how you add these columns up a
12 little bit later, but do you see what I'm
13 referring to here in Exhibit 67?

14 A I see that you have a column that you have
15 modified. Again, I don't believe the term
16 corrected is appropriate. This is a
17 modification based upon your thought.

18 Q Just so we're -- well, I think we've covered
19 that. All right.

20 So now I want to talk about your contrast
21 chart. So this is Exhibit 58. It's the second
22 page. And this is the after rating, right?
23 This is where the reviewers are trying to assess
24 what the change in the environment would be if

1 the project was built. Is that right?

2 A Correct.

3 Q And if you look at Exhibit 59, I'm looking at
4 page 7. It's titled visual contrast rating
5 worksheet. This is the visual rating worksheet
6 for contrast that the BLM uses, is that right?

7 A Yes.

8 Q And I look at the bottom of that, and those are
9 the boxes that they ultimately fill in, they
10 check to come up with their contrast rating,
11 right?

12 A Degree of contrast, yes. They check a box.

13 Q And what they're doing there is they're
14 comparing features, landscape features with
15 those various elements to come up with a degree
16 of contrast, right? It's all physical
17 comparisons which makes sense because you're
18 looking at physical contrast, right?

19 A Yes.

20 Q When I look at your form, it looks similar to
21 that, but it's not the same. You have
22 additional contrast categories in there. You
23 have a user activity and you have a land use and
24 special areas activity. So this is another

1 modification that you've made to the BLM
2 approach to deal with contrast, is that right?

3 A Which I've repeatedly spoken to the fact that
4 this is a combined approach of BLM, Army Corps,
5 reference to DOT, and specifically those two
6 that you speak of are part of Army Corps rating
7 methodology.

8 Q Now, I didn't understand how you factor user
9 activity into contrast and so I wanted to ask
10 you about that. There's no place in the BLM
11 contrast materials that include user activity;
12 is that right?

13 A I can't say there's no place. I'd have to read
14 all of the documentation, but it is something
15 that I have reference from Army Corps.

16 Q Well, I gave you Exhibit 59 which is the BLM
17 contrast rating guide, and I looked through that
18 pretty carefully and I certainly didn't see
19 anything in there that talked about user
20 activity as it relates to contrast. Do you at
21 least agree with that?

22 A I think there are components. The term "user
23 activity" may not show in those direct terms,
24 but there are factors that are part of user

1 activity such as distance, length of time in
2 view, size or scale that affect the user's
3 sensitivity, what they're doing in that place
4 and how they are affected by that project in
5 place.

6 Q At the tech session I asked you about this. I
7 asked you how you fit user activity into your
8 contrast rating form, and you couldn't answer at
9 the time. So I gave you a data request, and I
10 asked you to explain it in the data request, and
11 you gave me an answer in the data request, and
12 that's Applicant's Exhibit 57, and it's response
13 number 1. Do you see that?

14 A Which response?

15 Q Response number 1.

16 A My data requests I have a 1-1, 1-2.

17 Q It's Applicant's Exhibit 57, and I'm looking
18 at --

19 A Did you give that to me as a paper?

20 Q I believe we did. Last time. Does the
21 Committee have Exhibit 57? Okay. So we did
22 pass it out. We can get you another copy.

23 A No. I have it. I just have a lot of papers
24 now.

1 Q Okay. So I asked you about this, and this is
2 the answer that you gave me and you provided
3 that long explanation there, but everything in
4 that explanation as it relates at least to the
5 BLM forms relates to Form 8410 which is for
6 scenic quality and sensitivity. It's not Form
7 8431 that relates to contrast. Isn't that
8 correct?

9 A So, again, these forms are a combination of
10 methodologies put forth by BLM, Army Corps, DOT,
11 and we have included user activity as part of
12 our contrast, and whether or not it shows up in
13 the BLM is irrelevant because it's a combined
14 methodology. It's to be broader than just BLM.

15 Q So when I look at your contrast rating sheet,
16 look at the bottom of it and it has that
17 parenthetical that says Reference 4. Follow me?

18 A Yes.

19 Q And I go to Reference 4 in your materials which
20 is PDF page 128.

21 A Yes.

22 Q Which I guess is where you sent your other
23 rating panel members to help them understand how
24 to fill out this form. I don't see anything

1 there about user activity. So how did your
2 raters understand how to apply this in your
3 methodology?

4 A Because they had been inherently part of the
5 rating form in an understanding of user activity
6 as based upon who our users were.

7 Q So when they're filling out the contrast form,
8 if they have a question about how to fill out
9 contrast with respect to user activity, and they
10 go to Reference 4, there's nothing there to help
11 them.

12 A I think if the rating panel member was that
13 confused about how to use the form, they would
14 contact me before they began since I have a long
15 history with both of these rating panel members,
16 and we would have a conference to sort through
17 any confusions. I received no calls or
18 indications that they had any confusion filling
19 out this form. Therefore, I assume that they
20 understood what was being put forth in front of
21 them and how to use it as a tool.

22 Q But, again, there's nothing in Reference 4 that
23 explains this, and there's nothing in your
24 methodology that explains how to do this.

1 Right? So somebody who's picking up your
2 methodology and wants to reproduce it has
3 absolutely no guidance to use in order to
4 understand how user activity relates to
5 contrast, correct?

6 A I think that there's a, I think one can
7 reasonably understand how user activity relates
8 to contrast. The activity of the place with the
9 project in place changes. There is contrast.
10 If someone is going to fish and now this project
11 is put in place, there is a contrast to the
12 activity that once was versus the activity that
13 now is with the project in place.

14 Q But, again, my understanding is that one of the
15 hallmarks of these methodologies is that they're
16 supposed to be reproducible.

17 A I would agree, and I do not find Mr. Raphael's
18 to be reproducible nor can I understand how he
19 tallies, averages and collects his data to come
20 up with the result. So at least I have things
21 that we can look at, and you can pick me apart
22 about that you don't like my form, but I have
23 not hidden any of my information and everyone
24 knows how I got to the end tally.

1 Q And if your methodology is supposed to be
2 reproducible, and someone who say has 30 years
3 of experience using the BLM methodology picks
4 yours up, they're not going to have any idea how
5 user activity and contrast fit together and
6 they're not going to be able to find anything in
7 their materials that tells them how to do that.
8 Isn't that correct?

9 A I don't agree with that statement.

10 Q Okay. And if somebody has a lot of experience
11 using the BLM methodology, they could certainly
12 pick that up and look at those guidance
13 documents and clearly understand how to fill out
14 each of those charts, isn't that correct?

15 A Say that again, please?

16 Q If somebody has experience using the BLM
17 methodology, they could certainly pick up the
18 guidance documents for that and clearly
19 understand how to fill in those charts, couldn't
20 they?

21 A If they're well acquainted with the BLM
22 methodology, worked for the Bureau of Land
23 Management, I would hope that they would know
24 how to fill out the form. However, visual

1 impact assessment experts don't use those forms
2 in their pure state because they're very hard to
3 apply outside of federal lands. Army Corps is a
4 super dense rating package that burns out
5 raters. So we take those forms and we make them
6 into tools that get good rating results, people
7 stay engaged, the factors are -- you can't just
8 apply the BLM process to a project. If it was
9 that easy, we would all do that because then we
10 wouldn't be having this conversation about
11 methodology with rating forms.

12 Q Let me also ask you on your contrast form about
13 this category for special areas. Again, special
14 areas doesn't appear anywhere in this BLM
15 guidance document for contrast, is that right?

16 A It is part of the first part of the form that we
17 speak to under sensitivity level.

18 Q Right, special areas does appear in the BLM
19 guidance document for that first category,
20 sensitivity, and let's look at that for a
21 minute. I'm looking at Exhibit 60, and I think
22 it's on page 4, and, again, this is not for
23 contrast which I wanted to ask about. This is
24 for the first forms, but when you look at

1 special areas, under sensitivity, on page 4, it
2 describes them, and then in the middle of the
3 paragraph, it says this does not necessarily
4 mean that these areas are scenic, but rather one
5 of the management objectives may to be to
6 preserve the natural landscape setting.

7 So, first of all, it seems to me that the
8 things they list here are really BLM type and
9 federal land resources with specific management
10 objectives. So I don't understand how somebody
11 filling out your contrast rating form could know
12 what they're supposed to be doing with respect
13 to special areas.

14 A Well, they would be looking at Reference 3 in
15 the definition of special areas on Reference 3
16 which is different. It's been modified to this
17 condition, this site, this methodology. It is
18 not a one-to-one from the BLM.

19 Q But you send them to Reference 4 for your
20 contrast sheet, not Reference 3, and Reference 4
21 doesn't have anything about special areas.

22 A They would have used Reference 3 and now they
23 move on to Reference 4. You don't do the rating
24 out of order. It's sequential. And so as they

1 read special area for Reference 3 for
2 sensitivity, it holds true, and we talk about
3 the adjacent sensitive resources which would be
4 special areas that are in proximity to the site
5 that is being evaluated so they receive and they
6 have a sensitive site map. So they have a
7 plethora of information that they can draw on to
8 say that these are federal, state and local
9 sensitive resources, frequently requiring
10 special consideration for the protection of
11 visual values and quality. It goes to how the
12 Town of Antrim, the study area as a whole takes
13 conservation very seriously. I would consider
14 that a special area.

15 Q So how does special areas fit into contrast. If
16 contrast is really functionally trying to look
17 at physical changes with before and after, how
18 does special area fit into that, and certain BLM
19 doesn't include it in their methodology. How do
20 you fit it in?

21 A Well, if we look at adjacent sensitivity
22 resources, it is sort of taking into the
23 landscape view what is in proximity, what is
24 also in close distance, may have a view to the

1 project based upon the simulations that we're
2 looking at. So it is a holistic tool to see
3 these are some of the regional components that
4 can be considered that are special areas that
5 are affected. There is contrast.

6 Q So when Jade and Jocelyn were doing their
7 contrast ratings for Black Pond, how did they
8 know what the special areas were around Black
9 Pond, and how did you ensure that they would be
10 consistent in their approach to addressing those
11 special areas?

12 A On the proposed conditions form, the adjacent
13 sensitive resources were the Windsor Hill Camp
14 and Retreat Center, Windsor Camp International
15 School, Wediko School, and then looking at the
16 sensitive site map they can see the variety of
17 conserved lands that are surrounding it.

18 Q So sensitive areas are special areas?

19 A Say that again, please?

20 Q You just talk about sensitive areas. So
21 sensitive areas are special areas?

22 A We gave what adjacent sensitive resources there
23 were to the site, again, given that holistic,
24 what is around or near, and I would say that

1 those sensitive resources are part of special
2 areas.

3 Q Is there some place in your methodology where
4 you told the raters that? That the sensitive
5 areas that you've identified in this packet are
6 intended to be treated as special areas so they
7 could all do it the same way?

8 A I think that's part of the definitions for
9 special area.

10 Q The definition of special area includes the
11 sensitive areas in this package?

12 A Management objectives for special areas such as
13 federal, state and local sensitive resources
14 frequently require special consideration for the
15 protection of the visual values and quality.
16 This does not necessarily mean that these areas
17 are scenic but rather that one of the management
18 objectives may be to preserve the natural
19 landscape setting. The management objectives
20 for these areas may be used as a basis for
21 assigning sensitivity levels.

22 Q Right. I guess we're talking in circles because
23 that all related to sensitivity. I was trying
24 to understand how they applied to contrast.

1 A Because we are looking at what is the contrast
2 on the special areas. Part of this landscape
3 view that we're taking of the project, the
4 holistic quality, what is the contrast about
5 special areas that are sensitive as they relate
6 to the study viewpoint.

7 Q How did they know the contrast in those areas?
8 Was it just the viewshed map because they didn't
9 have simulations? Did they have the viewshed
10 map?

11 A They did not have the viewshed map.

12 Q So what did they base their contrast judgments
13 on for the sensitive areas? You didn't give
14 them the simulations for those areas and they
15 didn't have the viewshed map so what did they
16 base it on?

17 A They based upon their understanding of what was
18 an adjacency, what was special about this area,
19 and how those things are contrasting how they're
20 changed by the employment of this project in
21 place.

22 Q So they actually had no idea whether these
23 special areas would have visibility of the
24 project. You didn't give them any information

1 either way to make that determination.

2 A They would know based upon the simulations which
3 show there's, for example, on Willard Pond we
4 have WMA land, Bald Mountain, Goodhue Hill,
5 dePierrefeu Willard Sanctuary, Forest Legacy
6 Conservation Area, so on and so forth. So they
7 would know that these sites relate to each other
8 in a larger sense.

9 Q But, again, that didn't answer my question. So
10 for Black Pond, they were given one visual
11 simulation and there are a bunch of what you
12 call sensitive areas around Black Pond, and your
13 rating panel members had no information at all
14 to know whether those special areas would have
15 visibility of the project. All they knew was
16 visibility from the one viewpoint you gave them,
17 correct?

18 A Yes. They would not, we did not do view visual
19 simulations for all locations.

20 Q So Mr. Chair, I'm about to go into a different
21 area. I can keep going or we can stop if you
22 want to take a short break.

23 PRESIDING OFFICER SCOTT: Yes. Why don't
24 we take a five-minute break. Thank you.

1 (Recess taken)

2 PRESIDING OFFICER SCOTT: Back on the
3 record. Mr. Needleman, back to you.

4 Q Thank you. I want to direct your attention to
5 Counsel for the Public's Exhibit 1, your
6 testimony, and I'm just going to read you a
7 quote from it. Then I want to ask you about it.
8 It's on page 16, lines 1 through 3. You say
9 that the Terraink VIA determined that with the
10 wind project in place the overall project's
11 resource contrast within the entire study area
12 was 14.65 or high moderate. Do you recall that?

13 A I recall that in my report, yes.

14 Q And then when you look at your VIA, on pages 66
15 and 67, which is PDF 67 and 68, you talk about
16 how you came up with this overall area contrast
17 rating, and on the bottom of page 6 what you
18 tell us is that you looked at these 14 resources
19 that you evaluated which we've been focusing on
20 the whole time. You looked at the contrast
21 ratings for the 14, you dropped the high and the
22 low, you averaged the remaining 12, and that's
23 what gave you your overall contrast rating,
24 right?

1 A Correct.

2 Q And what you've said is that this is an overall
3 contrast rating within the entire study area,
4 correct?

5 A The 14.65.

6 Q Right. In reality, though, it's not within the
7 entire study area, is it? It's just 14
8 resources within the study area, isn't that
9 right?

10 A It's a representative selection within the
11 10-mile study area that are based upon sites
12 that had the highest level of exposure or
13 visibility to the project.

14 Q In fact, Mr. Raphael identified 290 scenic
15 resources within the study area, didn't he?

16 A I don't know the exact number, but I know it was
17 quite a few.

18 Q And he found that only 30 of those had
19 visibility. How many did you find had
20 visibility?

21 A What we did was we looked at Antrim 1, we looked
22 at what Jean had done, we looked at what Raphael
23 had done and we took into account the visibility
24 that was offered by each one of those experts.

1 We did not replicate that work. But we did, in
2 fact, find that there was visibility to Highland
3 Lake where Mr. Raphael had said there wasn't.
4 So we did look at potential visibility quite in
5 depth but did not create a chart similar to what
6 Mr. Raphael had done.

7 Q So you don't have your own independent opinion
8 about how many of the 290 resources actually
9 might have visibility?

10 A I have an independent opinion that's based upon
11 all the work that had been done previously and
12 felt it was not in the best interest of the
13 project to replicate that work since it had been
14 done three times prior.

15 Q So according to Mr. Raphael, there's about 353
16 square miles in the study area, and according to
17 his viewshed assessment, only about nine miles
18 or two and a half percent will have project
19 visibility; does that sound right?

20 A I would have to look at what his report says. I
21 don't know his numbers. I can look that up if
22 you'd like.

23 Q You're free to. I want to keep moving, but I'll
24 represent to you that those were his numbers.

1 A Okay.

2 Q My real question is if you were assessing
3 contrast within the overall study area, wouldn't
4 you look at all the resources in the study area
5 and not just pick a handful with the highest
6 visibility to address study area contrast?

7 A If we're looking at the visual impact on a study
8 area, we look at those 14 sites as a
9 representative selection of both foreground,
10 midground, background views, different types of
11 uses, so that you get a sampling of what is in
12 the study area. There is, it would be
13 impossible to do this project for every one of
14 the sites that are within the ten miles. We
15 would never finish. So we need to take a
16 representative sampling and the process for
17 rating is that we rate those 14 sites and use
18 those as a gauge for the amount of impact within
19 the study area.

20 Q So your approach is really giving no credit at
21 all to the project for designing it in a way to
22 minimize visibility. So, for example, if I
23 design a wind project so that it's not visible
24 from 98 percent of the scenic resources in a

1 particular area, what you will do is look at the
2 other two percent and then make a contrast
3 determination based on that, right?

4 A No. I think what we do is, what I know we do is
5 we look at the resources within a locale, we
6 choose sites that are both multiple distance,
7 viewing distance, that will have a different
8 effect of how people perceive the project in
9 place based on viewing distance. We have images
10 that are from right-of-ways, people that are
11 traveling, we have sensitive sites that are
12 deemed sensitive through our research and
13 understanding what is held as important within
14 the community, and so it is not just a, we're
15 not cherry picking our sites. We're looking at
16 a broad -- it's really why, honestly, I love the
17 use of ballooning because when you balloon a
18 site, and you drive the 10-mile radius, you have
19 a strong sense of what is impacted beyond just a
20 list, things show up that you didn't expect,
21 things come off the list that you thought were
22 good to go. So there's many ways to determine
23 sensitivity, but in no way is it a cherry
24 picking event.

1 Q So I now want to focus on your final charts on
2 page 56 and 55 of your VIA and these were given
3 out as Applicant's Exhibit 55. We had a tech
4 session on July 13, 2016, and at the tech
5 session, I observed that with respect to the
6 chart on page 56, there was no place in your
7 methodology that told us how you came up with
8 that final column, the visual impact. So in
9 other words, for a resource like Willard Pond,
10 the scenic quality rating you assigned was high,
11 sensitivity was high, resource contrast was
12 high, proposed ROS was moderate, and you came up
13 with an overall impact of high, and you can go
14 across for each one of those, and there was
15 nothing that I could find that told me how you
16 did that when we were at the tech session. Do
17 you recall that?

18 A I recall you having that question, yes.

19 Q And you admitted to me at the time that there
20 was no place in your methodology that explained
21 this. Do you recall that?

22 A I recall giving a rather confused answer.

23 Q And you couldn't tell me at the time in the tech
24 session how you did this, do you recall that?

1 A I recall that I needed to have more time, yes.

2 Q And you did tell me that it wasn't explained
3 anywhere in your methodology and there was no
4 description of how to do it, and you also
5 acknowledge that at the tech session based on
6 your methodology nobody could recreate this, do
7 you remember that?

8 A I don't think I would have said no one could
9 recreate it.

10 Q That was in my notes. I guess we'll have to
11 just leave it at that. So the tech session
12 ended, and then a month later Mr. Raphael filed
13 his Supplemental Testimony and as part of his
14 Supplemental Testimony he criticized you for not
15 articulating a methodology for coming up with
16 this final column. Do you recall that?

17 A I recall a lot of criticism. So specifically,
18 if you want to point out which page, I would
19 read it, but yes, I know he was critical.

20 Q And then three weeks later, on September 7th, we
21 received from your counsel a one-page
22 explanation that seemed to be a description of
23 how you came up with these overall ratings which
24 is Exhibit 68. I want to hand that out now.

1 (Applicant's Exhibit 68 marked for identification)

2 Q So my understanding is that Exhibit 68 is meant
3 to be your explanation of how you summed up
4 these various columns to come up with your
5 ultimate rating. Is that right?

6 A What it is is it's Table 5 and it's showing the
7 process through the averaging.

8 Q And again, just to be clear, this was not part
9 of your materials and we didn't receive it until
10 September 7th of this year, correct?

11 A Yes. When I realized that I had poorly answered
12 the question, it was important to explain the
13 process so that it wasn't, there was no
14 deception. It's purely an averaging, and we
15 thought we should share that to clarify that
16 answer.

17 Q And you understood at the tech session that this
18 was a pretty important part of this process,
19 right? This was your final chart and how you
20 came up with those numbers?

21 A Yes. I could have answered better.

22 Q So if the tech session was in the middle of
23 July, why didn't we get this until September
24 7th? Why didn't you produce it right after the

1 tech session to clarify what you yourself have
2 said were poor answers to this question?

3 A I think that it wasn't as clear to me how
4 problematic that my answer was, and it was easy
5 to give this information because it's purely
6 just a mathematical exercise, and what I, going
7 to Table 6 trying to be simpler with using words
8 was not easily understood, and so it was
9 important to share this and so we did.

10 Q So when was this document created?

11 A The averaging happened at the time of the
12 rating, but I didn't include it in the document
13 and then I formalized it in response to
14 Mr. Raphael's criticism to this.

15 Q So this document wasn't created until after
16 Mr. Raphael prepared his testimony?

17 A No. The averaging was done, the formality of
18 this document, I mean, all the averaging had to
19 happen in order to get to the final chart, but
20 the formality of this document was in response
21 to the criticism, yes. So I can't get to the
22 end if I don't average, and so it was realizing
23 that we needed to actually show that so people
24 understood what that averaging was. There's no

1 magic to it. It's just an average. And so
2 creating something that would clearly articulate
3 that versus my sidebar averaging.

4 Q Why didn't you tell me about this at the tech
5 session?

6 A I remember just not thinking clearly at the time
7 about it.

8 Q Why didn't you include this in your methodology?
9 It seems to be pretty critical. I mean, if I
10 look at page 119 and page 120 of your
11 methodology, or the PDF, you've got very
12 detailed charts there that talk in great depth
13 about how you come up with the scenic quality
14 and the sensitivity numbers. Why not include a
15 chart like this in your VIA which seems to be
16 the critical document.

17 A I think that that is the chart that would be
18 used here on out. I was simplifying it, and I
19 think that that led to confusion, and so I agree
20 that having the numerical chart that shows the
21 averages is a better chart for number 6 than
22 just using the words or letter options.

23 Q So looking at this document, Exhibit 68, if I
24 understand this correctly, take viewpoint number

1 1 which I understand to be Willard Pond, you
2 took the 19.7 for scenic quality, 19.7 for
3 sensitivity, the 20.3, and you just added them
4 together and divided by three to come up with
5 19.9; is that right?

6 A Correct.

7 Q This is supposedly how you came up with your
8 final ratings; is that right?

9 A The final averages for each site. Yes.

10 Q Now, at the tech session, you said to me, and I
11 guess you don't recall it, that you weighted
12 sensitivity and contrast more heavily, and we
13 all wrote that down because I thought that was
14 important. Are you saying you don't recall
15 saying that?

16 A I don't recall saying that.

17 Q Certainly there's nothing in here that shows any
18 different weightings for sensitivity and
19 contrast; is that right?

20 A Correct. It's an averaging as all the other
21 averaging has been within the forms.

22 Q Now, when I look at the table on page 56, and
23 you go across that table, it's got scenic
24 quality, sensitivity, resource contrast and

1 proposed ROS, and certainly someone looking at
2 that table would reasonably conclude that
3 somehow you factor all four of those together to
4 come up with the overall visual impact. But in
5 Exhibit 68, you now seem to push ROS off to the
6 side and not include it. Is that right?

7 A So ROS does not have a numerical datum. It's
8 not how we apply it. It's looking, it's a tool
9 that looks at what the level of recreational
10 remoteness is within a site, and it, again, is
11 something that in the future tables I would move
12 out since it is not part of the numerical
13 averaging and I think it's confusing.

14 Q You certainly understand how somebody without
15 the benefit of this chart who's looking at your
16 page 56 wouldn't understand how you used ROS and
17 would conclude it's part of the overall visual
18 ratings, right?

19 A Except we do talk about the specific ROS in each
20 of the project descriptions based upon with the
21 project installed whether or not there was a
22 change to the ROS. There's no numerical
23 component given. It is purely a tool of
24 description.

1 Q I don't think you answered my question. I'm
2 looking at your Table 6 on page 56, and when I
3 first got this VIA, I looked across at those
4 columns, and I was eyeballing it without the
5 benefit of this methodology, and it certainly
6 looked like ROS was a component of how you come
7 up with overall visual impact based on your own
8 chart, correct?

9 A That was a confusing alignment, yes, and I would
10 not do that in the future because of that
11 confusion.

12 Q Well, if you look at the bottom of page 55 of
13 your VIA, the text says using the rating panel
14 results from the categories of scenic quality,
15 sensitivity level, resource contrast, and
16 proposed ROS, a determination of the potential
17 impact from the wind turbine installation can be
18 estimated for each viewpoint.

19 So it's more than confusing. You seem to
20 specifically say in your methodology that these
21 four are considered to come up with an overall
22 score, don't you?

23 A ROS is considered as sort of a qualifier to me.
24 It's the, to me it's the, it keeps things from

1 getting too precious because it calls out what
2 level of remoteness that they are based upon our
3 writing which is either primitive is high,
4 there's a whole series in the middle of the
5 moderate and then a low. And so in looking at
6 the sites what is considered is whether or not
7 that recreational opportunity spectrum shifts
8 out of its category, what are the effects or if
9 it's moderate, if it began moderate and it
10 stayed moderate that doesn't enact a change.

11 Q So somebody who receives your VIA, I guess in
12 mid-May, and then questions you at the technical
13 session in July and is trying to analyze how you
14 did this, reads what you said about these four
15 being put together, it looks at your chart and
16 shows the four being put together, there's
17 nothing in your methodology other than that that
18 talks about this, and it's not until September
19 7th that we suddenly learn that in fact you're
20 now not considering ROS as part of the overall
21 rating. That's what happens, right?

22 A Right. It's not part of the numerical
23 averaging.

24 Q So when you look at this exhibit, underneath the

1 chart now you've got something that says rating
2 scale for scenic quality, you've got another one
3 that says rating scale for sensitivity, another
4 one that says rating scale for resource
5 contrast, and then you've got your overall
6 average. Do you see that?

7 A Yes.

8 Q So the highest possible rating for scenic
9 quality is a 32 and I just take that by looking
10 at your scenic quality charts. Do you agree
11 with that?

12 A I'm sorry. Say that again?

13 Q The highest possible rating that someone could
14 have for scenic quality is 32. Look at Exhibit
15 58. If I just add up the high side of that,
16 you'll see 5, 10, 15, 20, 25, 30, 32 for scenic
17 quality. It's the most that someone could have,
18 right?

19 A I'm sorry. I'm not following you.

20 Q If you look at Exhibit 68?

21 A Yes.

22 Q Jade's chart. And for scenic quality, and
23 evaluation, you see the chart?

24 A What is the number?

1 Q It's Exhibit 58, and I'm looking at Jade's
2 scenic quality and sensitivity level chart.

3 A Which chart is it? Sensitivity level?

4 Q Scenic quality and evaluation chart.

5 A Okay.

6 Q So if you just add up the highs, the highest
7 possible rating you could do would be 32, right?

8 A Um-hum.

9 Q And we already did contrast. The highest is, or
10 sensitivity, the highest is 25. And the highest
11 for contrast is also 25, right?

12 A Yes.

13 Q And the low end for scenic quality is zero,
14 right?

15 A Yes.

16 Q We already established the --

17 A Well, it would be less than zero.

18 Q Right, you could have that cultural one. It's
19 possible to go lower. For sensitivity, we
20 already established the low end is five?

21 A Um-hum.

22 Q And for contrast it's zero, right?

23 A Correct.

24 Q So if you average the three high, the highest

1 average of those three is 27, and if you average
2 the three low, the low is about 2. So that's
3 your distribution. And I want to pass out an
4 exhibit that shows that distribution similar to
5 what we did with sensitivity.

6 (Applicant's Exhibit 69 marked for identification)

7 Q So this is sort of, this is a pretty critical
8 distribution because this is the one that you're
9 now using to coming up with the overall ratings
10 for each resource, and what I did is I just took
11 the distribution based on your numbers in the
12 first column and then again I looked at the
13 percentages, and what you've done here is you've
14 set up a distribution where the high is a little
15 over 46 percent, the middle is about 38 and the
16 low is only 15. So my question to you is when
17 you created this chart and you prepared that
18 distribution, was it your intention to do it
19 that way?

20 A To create?

21 Q Create a distribution that looked like this
22 which is shifted toward the high end based upon
23 those percentages?

24 A My intention was to utilize a system that was

1 universal within the rating sheets. It wasn't
2 based upon percentages of distribution like
3 you're implying, no.

4 Q I'm not sure you answered my question. There's
5 nothing I'm really implying. This is just the
6 math from the distribution you set up, and I
7 guess my question is when you created these
8 distributions, did you understand that the
9 percentages were going to fall into these
10 categories? Did you look at that or is that not
11 something you considered?

12 A I did not run a rating scale average
13 distribution, no.

14 Q So I want to hand out Exhibit 70.

15 (Applicant's Exhibit 70 marked for identification)

16 Q What I did here was I tried to keep your numbers
17 whole. I didn't touch your numbers or your
18 conclusions, but I just wanted to see what a
19 distribution would look like that was more even.
20 And this time I couldn't get it 33, 33, 33,
21 without breaking up the numbers so I got it as
22 close as I could.

23 And, again, I'll ask you the same question
24 when I asked you earlier when we are were

1 looking at the prior distribution. Is it
2 unreasonable in your experience to just use a
3 distribution that tries to carve this up into
4 equal thirds?

5 A My experience as a rater, I've never taken our
6 distribution and put a percentage on it. I have
7 used sort of the basic premise that Army Corps
8 or BLM uses within their forms, and so no, I
9 have never percentaged out the forms.

10 Q Just to be clear when we look at Exhibit 68 and
11 we look at the rating scale, this is what you
12 created for this project which is your new
13 methodology that hasn't been used before,
14 correct?

15 A It is my rating sheet methodology that is based
16 upon prior sheets I have used, but no, this
17 rating sheet has not been, this is the first
18 time I'm using this form, but it's based upon my
19 experience of using other forms.

20 Q So, again, I wanted to see what would happen if
21 we left all of your ratings and numbers
22 completely intact and just looked at a different
23 scale that divided these into equal thirds and
24 so I want to pass out the next exhibit which is

1 Exhibit 71.

2 (Applicant's Exhibit 71 marked for identification)

3 Q All Exhibit 71 does is it applies the scale in
4 Exhibit 70 to all your numbers as-is.

5 When you do this, when you just divide them
6 up into three roughly equal categories and you
7 apply that scale to all your numbers as-is, it
8 provides a dramatically different result for
9 those six critical resources, doesn't it?

10 A I would say no. I think if you have a 19.9,
11 19.7, you have to acknowledge that that, I mean,
12 that is a high impact. Calling it moderate is,
13 you're using numbers to your will.

14 Q Oh, I agree with you. It's not easy to try to
15 figure out the right place to draw these
16 divisions, and I had a hard time with it, but
17 what I was trying to do was just divide them
18 roughly in thirds, and you could play around
19 with it and you could come up with something
20 different, but --

21 A I created a system that I support and believe in
22 based upon my experience based upon the forms
23 that I have used and so I don't need to play
24 around with it.

1 Q So when you say the forms you used, which form
2 have you used that had a sensitivity scale like
3 we saw before with the low only being five
4 percent and which form have you used which had a
5 final scale with the spread that we just looked
6 at for this scale. Which specific forms are you
7 talking about?

8 A So a lot of forms that I've used in the forms
9 have an inherent multiplier that's used kind of
10 behind the scenes so there may be a five to zero
11 rating but there's a multiplier to bring it into
12 conformity of the rating scale used by Army
13 Corps or used by BLM. So I chose to not conceal
14 the ranges but I know that there are forms that
15 have ranges, and that is the difference between
16 my form was I'm not using a multiplier to figure
17 out where my impacts land within a greater
18 system. I'm instead doing it out in the open,
19 up front and saying this is the range, this is
20 the basis for that range that comes from what
21 the initial BLM form is, and I extrapolate from
22 that to create a form that has a consistency.

23 Q I don't think you answered my question so let me
24 ask it a different way.

1 Can you give me a single example of a
2 rating scale from any methodology anywhere that
3 you are aware of that uses a sensitivity scale
4 with the distribution that you used for your
5 sensitivity scale here of 5 percent, 47 percent
6 and 47 percent? One example.

7 A I wouldn't know because I don't look at it by a
8 percentage basis.

9 Q Okay. So let's hand out Exhibit 72. Actually,
10 hang on. Sorry. Let's hand out Exhibit 73.

11 (Applicant's Exhibit 73 marked for identification)

12 Q So he did two things here. First of all, in the
13 red column under sensitivity, I just took what I
14 called my modified sensitivity scale that we
15 discussed earlier that just broke that scale
16 down into three equal parts, and I imported that
17 in here, and then in the other red column, the
18 average, I just used the sensitivity scale that
19 we just discussed for the final chart, again,
20 breaking them down into three equal columns.

21 And what this shows just with those
22 corrections or modifications, whatever word you
23 want to use, and doing nothing else and not
24 changing any of your numbers at all, that's a

1 dramatic impact on the results. Every one of
2 those clearly falls into moderate, isn't that
3 correct?

4 A I'd like to point out on chart 71, your average
5 Willard is 19.9 and you're using 18.2.

6 Q That's because the sensitivity level in the
7 middle column has gone down.

8 A Okay. So you're playing with numbers. Yes, of
9 course, the chart is different, but you've
10 changed the whole premise of how the rating is
11 done, and I would say that it would be silly to
12 say that the Willard Pond effect is moderate,
13 considering that there was another visual expert
14 who said that was not the case, and the SEC in
15 their decision had concerns about the scale and
16 placement of these turbines within these sites,
17 and so to say that I'm going to modify the
18 numbers so that they're moderate, to me is not
19 being truthful and authentic to the level of
20 impact that is happening.

21 Q So it sounds to me like everything you just said
22 is outcome-oriented. You're looking at what you
23 think the impact is and then you're looking at
24 these numbers to get to whether it makes sense

1 or not --

2 A No.

3 Q -- instead of looking at the numbers and seeing
4 what they tell you.

5 A I looked at the number of my rating which
6 supported the findings of Antrim 1 and supported
7 the SEC decision, supported the findings of Jean
8 Vissering and what it said to me was this
9 supports this preceding work. That's what I
10 found. I didn't come into this project with a
11 preset determination about where things were
12 going to fall, and I did not know until the end
13 where my opinion was going to land to be honest.

14 Q Now, the last column I have on this chart, on
15 Exhibit 73, is change to proposed ROS, and as
16 we've discussed, there's no way to figure out
17 based on your methodology how ROS fits in, and
18 it wasn't until September 7th that we learned
19 that you weren't counting ROS as part of this.

20 But if you look at this, every ROS rating
21 here is moderate or low so to the extent that
22 one was trying to factor ROS into that average
23 it would reinforce every one of those
24 conclusions, wouldn't it?

1 A The finding of the ROS is consistent in that
2 there are four that moved but they didn't move
3 out of category so they were moderate to start
4 and they remain moderate. Those that were low
5 remained low. So there was, there was no
6 qualifier to that other than to look at how was
7 the ROS quality which was written about in the
8 report. There was no numerical, and there
9 wouldn't be a numerical. It didn't come out of
10 categories.

11 Q No further questions.

12 PRESIDING OFFICER SCOTT: Thank you. Any
13 members of the Committee? I'll look at Ms.
14 Weathersby to see if she has any. I'll tell you
15 what, Ms. Weathersby. We'll come back to you.
16 Mr. Clifford.

17 **BY MR. CLIFFORD:**

18 Q Good morning. I just have a few questions. I
19 want to actually go through the new table that
20 you introduced, your new table that's
21 Applicant's 68 today. And I think you mentioned
22 that you based the high, medium and low on the
23 average of the scenic quality, sensitivity,
24 resource contrast, right?

1 A Correct.

2 Q So I'm curious with how you get to the overall
3 visual impact of the 14 resources because if I
4 average your averages, I get 221 of the 14, 221
5 and a half, and if I average the 14, I end up
6 with an average average of 15.8. So isn't
7 that -- I mean, how are you assessing the
8 overall impact of the 14 sites?

9 A Right. So the 14 sites are first looked at as
10 their own, where did they trigger. High, medium
11 low impact. Then the sites together with the
12 high and low removed becomes the overall
13 contrast for the study area. So what it says is
14 that there's a number of sites that have impact.
15 What is the overall impact within the study
16 area, and then is there enough impact for each
17 one of those sites to say that it is
18 unreasonable adverse aesthetic impact to the
19 resource so it's initially looking at a per
20 resource impact and then the collective study
21 area impact.

22 Q But if I include all of them, I would come up
23 with a ranking of 15.8 if I were just an
24 objective --

1 A Right. So when you average all of them I threw
2 out the high and the low.

3 Q Right. All the highs and all the lows?

4 A No. Just the highest and the lowest. And then
5 in the report on page 67, the resource contrast
6 rating goes from zero to 25 with 15-16 being the
7 break between high, moderate and strong. 10.5
8 is the midground. 6 to 10.5 is low moderate and
9 then you have low. So that 14.65 is the average
10 of the sites with the highest and the lowest
11 removed.

12 Q Right, and then I guess I was looking at that
13 scale, too, which leads me to my next question.
14 The low category represents five points, right?
15 And the strong is nine points. And then you're,
16 so I was trying to, I guess, wouldn't you think
17 it might have been easier to break that up into
18 a hundred point scale?

19 A Well, then you would have to multiply your
20 numbers. You'd have to factor everything.

21 Q Right. I didn't quite understand the scale is
22 what I'm getting at because I don't understand
23 how lows got five points in it, but strong has
24 nine points in it.

1 A Where do you see nine?

2 Q Well, 16 and 25 is basically 9 points for
3 strong, but low is only 5.

4 A Well, because the, you have low and then you
5 have, it's based upon the scale that we use
6 within the rating forms. So it continues the
7 same scale measures that we're using within the
8 rating forms.

9 Q Okay. So I mean, that's fine, I just, it
10 answers my question but it's a distinction I
11 wanted to clarify.

12 A Sure.

13 Q And then so if I were to look at this, there's
14 six that end up high and eight that ended up
15 moderate/low on the 14.

16 A Six that were high, yes. The rest were moderate
17 and one was low.

18 Q Okay. So if I just objectively, I was just
19 looking at this. If I take the six out of the
20 14, you get 42 percent high and 57 percent
21 moderate to low, right? If I was to ask what
22 the relative effect is?

23 A I'll take your percentages. I don't have those
24 calculated.

1 Q I can just tell you 6 out of 14 is 42 percent
2 and 8 out of 14 is 57. So I'm just trying to
3 understand from the laymen's terms, I get 42
4 percent of the sites were high and 57 were
5 moderate low. Would it be accurate just to say
6 that?

7 A Sure.

8 Q Okay. And then --

9 A But I think -- can I qualify that?

10 Q Sure.

11 A So I think that what we look at and what I think
12 is unusual about the Antrim site is the
13 clustering of the high. It's not just that
14 these are spread out throughout the region, it's
15 that they get clustered into these very
16 sensitive locations. So you have the Willard
17 Pond, the Bald Mountain, the Goodhue Hill. It's
18 sort of a trifecta of impact. That would change
19 that site quite drastically. And then you have
20 the Gregg Lake, the Meadow Marsh, you have the
21 historic district that we can argue about
22 whether it should be included or not, but it's
23 there and it's important. That's another
24 trifecta of impact that would forever change

1 that location. So it's more than just where
2 does it happen or what is the average but the
3 clustering that occurs and sort of the impact
4 that would happen from that clustering within
5 the region and these places that are deemed
6 sensitive and important.

7 Q And I wanted to ask you about earlier
8 methodology. You mentioned that this is the
9 first time you've used this, right?

10 A This rating sheet.

11 Q This rating sheet.

12 A Yes.

13 Q So in other, in your practice, just so I
14 understand, have you used more than three
15 raters? More than three evaluators?

16 A In my experience working at EDR, sometimes we
17 had more than three. That gets cumbersome.
18 Three tends to be a good number because it kind
19 of rounds out, and it is, often three is used.

20 Q And in your other experience with EDR, have the
21 raters actually visited the sites?

22 A The only difference was because I worked on the
23 report-writing end of things, I was a field
24 worker and also a rater, John made very good use

1 of my Harvard degree as a rater in his work, and
2 so I did both. I was in the field helping to do
3 field work, and I was also a rater within the
4 system. So my position was different, but the
5 other raters did not visit the site. They were
6 other landscape architects in the firm, and they
7 did not visit the sites.

8 Q So I'll withdraw that. I'll just stick to
9 the -- two of the three didn't visit the site.
10 You visited all of the locations you ranked,
11 right?

12 A That's correct.

13 Q I don't have anything further.

14 PRESIDING OFFICER SCOTT: Mr. Forbes?

15 **BY MR. FORBES:**

16 Q Yes. Thank you. I'd like to follow up a little
17 bit on Mr. Needleman's questions about double
18 counting.

19 A Sure.

20 Q I kind of get it, but I struggle to imagine how
21 your system works where you're measuring or
22 gauging the sensitivity of a resource. If I
23 were in a general sense to look at, say, a pond
24 or a lake that had users purely recreational

1 versus one might have houses on it, I would see
2 that there would be two types of users as
3 distinguished from a similar pond or lake that
4 may just have recreational users. I don't
5 understand how your approach would score those
6 two different resources. In the one case with
7 residents right there on the shore, another case
8 where there are no residents, wouldn't that come
9 up at the same result as we're seeing here in
10 these sensitivity ratings?

11 A It's a great question, and I think what you're
12 asking me is or what I'm interpreting you're
13 asking me is there are times when you would have
14 a very clear recreational versus residential
15 user. Let's say if there's homes on a lake
16 versus not.

17 Q Yes.

18 A And then your question is on a lake that maybe
19 doesn't have homes, is there still that
20 difference between the user of recreational and
21 residential.

22 Q Well, is there a difference in your gauging of
23 the sensitivity of that resource? I mean that's
24 really what I gather you're trying to get to is

1 some measure of saying that this resource is
2 more sensitive than that resource.

3 A Yes.

4 Q So I can appreciate where your approach might
5 recognize that there are different types of
6 users, but how, and in this particular case, I
7 can see a difference in how I might think of
8 Gregg Lake versus Willard Pond, and, of course,
9 there is a home right near Willard Pond, but if
10 that resource was to be gauged the same way, I
11 just want to understand how you're doing that.

12 A So I'm going to answer it, and I'm hoping I'm
13 answering what you're asking. What I would say
14 is that when you have a heart connection to a
15 place because it's your hometown, you have a
16 different relationship to what happens to that
17 place as a resident than you do as someone who
18 drives in from Boston to just paddle for the
19 day. Their sensitivities are different because
20 they're rooted in different emotion, different
21 experiences, different frequency. So I prefer
22 to accommodate that the recreational viewer
23 could actually have a lower sensitivity than the
24 resident depending on the circumstance.

1 Q But wouldn't that be seen in the numbers that
2 you would assign to that category?

3 A Yes. That's why we break them out independently
4 versus lumping them all into one number.

5 Q And at the end of the day then you would see no
6 difference in the scoring between a lake or a
7 pond that had residences there physically on the
8 lake versus not really directly impacted. You'd
9 still come up with the same score in that
10 regard.

11 A You could. Yes.

12 Q All things being equal. There is no method, as
13 I understand what you're saying, there is no way
14 to really gauge the difference between a
15 resident that is living on the lake versus a
16 resident that lives a half mile away but visits
17 the lake. They would both have a similar impact
18 and be sensitive but as you say in different
19 ways?

20 A Yes.

21 Q But there would not be really a significant
22 change in the scoring.

23 A I can't say. Like I can't say this with an
24 absolute, but I'm, I want to make sure I'm

1 answering exactly what you're asking me.

2 Q I just think in terms of these resources or,
3 again, in a general sense I think of things like
4 a scenic outlook on a road, certainly commuters
5 might use that and certainly recreational people
6 might use that. Recreational users might. But
7 a resident isn't going to use it. And so I
8 think that for any resource, whether it's a lake
9 or a scenic overlook or top of a peak, I try to
10 imagine the users that would be there.

11 A Right.

12 Q And I can appreciate where you would want to
13 have a system that would rank sensitivity based
14 on that vulnerability, so to speak, of the users
15 that are there.

16 A Right.

17 Q And so I think in my mind that there is a very
18 significant difference in the way that a
19 resource would be valued or determined to be
20 sensitive if people actually lived on it or not.

21 A I would agree with that.

22 Q Anyway. Thank you. Interesting point.

23 PRESIDING OFFICER SCOTT: Dr. Boisvert?

24 **BY DR. BOISVERT:**

1 Q What I perceive here is an attempt to take a
2 highly subjective set of observations and
3 quantify them, and what I hear is discussions,
4 sometimes elevated to a debate, as to how to set
5 the numbers than how to judge the numbers
6 afterwards. I think that's a fair observation.
7 In creating your data collection form, which I
8 understand is new, from your experience in using
9 it and listening to the comments on it by
10 others, is there anything that you would have
11 changed in terms of your data collection, and
12 then, secondarily, how you would interpret it
13 with the benefit of this experience?

14 A You're talking about the rating form?

15 Q Yes.

16 A So the rating form, I've talked to other
17 colleagues, and it's been well-received, and
18 there's talk of having a sitdown to further
19 refine it so it's been seen as something that
20 has great merit and with continued conversation
21 bringing everyone's experience to it, we could
22 continue to develop a form that is less at risk
23 of the kind of number play that we did today,
24 and I'm very interested in that.

1 The form as a whole I feel confident in,
2 and I think that it tries to draw out multiple
3 factors that goes beyond just me sitting here
4 and saying I disagree. This is a subjective
5 process. We have to acknowledge Visual has
6 subjectivity. What we try to bring is a level
7 of measure using multiple individuals to give
8 opinion, and we take into account what those
9 opinions are, and in the end we look at what the
10 result is, and what was most stunning for me in
11 the result was the clustering of effect. It's
12 not spread out throughout the region. It's
13 pretty localized, and that to me is a high
14 unreasonable aesthetic impact to an area.

15 Q And looking at the numbers and dividing them up
16 into the various categories, I'm much more used
17 to looking at a normal distribution where the
18 highest and lowest are actually very small
19 numbers with the large middle ground, but that
20 assumes that one is dealing with the idea of a
21 normal distribution and a normal population.
22 What I see, what you're doing is almost
23 equivalent to Olympic judging in figure skating
24 where you're not getting the average skaters

1 coming in. You're getting ones that are highly
2 skilled, and the differences may be actually
3 small and many that would rank very high because
4 they're good. To me, it seems the challenge is
5 how do we select and do we have to start with
6 Olympic-level competitors which is to say
7 extremely high quality visual resources, and
8 that's the challenge for me, and I guess the
9 question then becomes do we have that and has
10 the project challenged the quality of those
11 visual resources. Does that make any sense to
12 you? Is that a valid way to look at your data
13 and your methodology?

14 A I think it's a really interesting analogy, and
15 it resonates with me in the sense that we are
16 dealing with sensitivity resources with high
17 exposure. These are the ones that their impact,
18 the change that happens to them, could forever
19 alter the quality of that condition. We can't
20 take that lightly. At the same time, you know,
21 low ranking sites may not make the cut for
22 visual study because they don't have the level
23 of exposure or there's so much human development
24 that has occurred that it by its nature would

1 bias the result.

2 So this project had 14 sensitivity
3 resources that were deemed to be sensitive and
4 that were worthy of further study that came out
5 of Antrim 1, it came out of Jean's work, it came
6 out of looking at Raphael's work and comparing
7 and reviewing those in person, and yes, I think
8 that these 14 sites are worthy of investigation,
9 and I think the ones that show a high impact we
10 should be carefully evaluating whether or not
11 those sites can sustain the impact of this
12 development and remain something that people
13 want to continue to use in the future.

14 Q I guess finally the issue of the double counting
15 observations and so forth, as near as I can tell
16 there's never been any counting to begin with
17 except for Mr. Enman's quick sample. Is double
18 counting a problem if there were counting? I'm
19 genuinely puzzled of the concern of double
20 counting. I mean, my opinion as a resident
21 might shift if I'm a recreational user. Please
22 explain to me the counting and the problem of
23 double counting.

24 A So the double counting you're referring to has

1 to be with the user groups.

2 Q Um-hum.

3 A What I am not as comfortable with is putting
4 everyone in the same category because there's
5 too much variability to the user experience. I
6 prefer to have those acknowledged so that you
7 don't, it doesn't become heavily laden with a
8 number that isn't authentic to -- because
9 everyone could just always do it per the
10 resident or per the recreationalist and not take
11 into account the other three users. I would
12 prefer to draw out those three users so that we
13 have a better average of user effect based upon
14 people's perception.

15 As far as double counting, I think we
16 always want to be careful that we're not sort
17 of, for example, Gregg Lake, White Birch Point
18 Historic District, they're part of one entity
19 which is Gregg Lake. I could have done a sim
20 that was Gregg Lake. I could have done a sim
21 that was White Birch Point Historic District. I
22 felt it was better because of what Gregg Lake is
23 to look at it holistically; that we acknowledge
24 that that historic district is there but we're

1 also looking at the greater lake condition. So
2 in my mind that's double-dipping. That's doing
3 a sim of a place that is so similar, is such the
4 same that it unfairly weights the result.

5 Q The one thing that does seem to be countable in
6 the visual assessment is the number of the
7 turbines and their relative size on the horizon.
8 The distance, if you will. How much did that
9 play into the judgments?

10 A I think that the simulations where the panel
11 looks at the visual representation of the
12 turbines both in their bisected and full turbine
13 view and how close they are to the viewer is
14 part of the scale and dominance. It's part of
15 the language that every rating panel member
16 contributes to the form, and it is inherently
17 part of the rating numbers that are applied to
18 each category.

19 Q That's all I have.

20 PRESIDING OFFICER SCOTT: Ms. Weathersby?

21 **BY MS. WEATHERSBY:**

22 Q Good morning.

23 A Morning.

24 Q A few questions down in the weeds of the forms,

1 and then I'll try to get higher, but concerning
2 the user sensitivity again as to the level
3 analysis on the chart, do you feel as though,
4 after today's discussions do you feel as though
5 the user sensitivity is actually given too much
6 weight and would it maybe have been more
7 appropriate to perhaps average the three to just
8 come up with one -- average of three, resident,
9 commuter and recreational -- and come up with
10 just a single entry for that that still accounts
11 for the different types of uses?

12 A It's an interesting point, and another way to do
13 that is to treat it as a factor to the overall
14 scenic quality. So I think that there are ways
15 that it can be investigated and the form could
16 modify over time, but I do stick by my
17 conviction that user sensitivities really is
18 important, and it is very varied depending on
19 who is seeing the site. So I wouldn't want to
20 ever create a system by which everything always
21 comes out high for user sensitivity which is why
22 we went with the breaking it out.

23 But to your point, it's an interesting
24 concept and it's probably worth investigation.

1 Q If something like that was done, are you able to
2 determine what effect that might have had on the
3 end analysis for the sensitivity level?

4 A Well, what I know is if we took commuter out, it
5 didn't change anything from the rating. So we
6 did look at it because I knew this was going to
7 be coming up, you know, what would happen if we
8 just struck commuter out. I would not strike
9 resident and I would not strike recreational.
10 So I think that I can't speak to the result, but
11 I feel good that these results inherently show
12 the sensitivity and the very active averaging
13 them out helps to mitigate some of the concern
14 that you're expressing.

15 Q When the reviewers made their markings, were
16 they assuming that the resident, the commuter or
17 the recreational user was actually located in
18 the exact position of the photo simulation?

19 A I think that it's, I would say that the
20 perception is because we're talking about these
21 different individuals and how they might be
22 moving or using, it is of the place but also the
23 movement to the place or sort of inherently
24 being in the vicinity. I think it would be

1 impossible to say that this, you know, the
2 commuter, we're moving to or through a place,
3 we're not at that place exactly. So there's
4 some liberty with location.

5 Q That was my concern, I guess, is it was not a
6 resident, it was not a house at that location on
7 a number of these. They're much more secluded
8 locations and people, if they're commuting
9 they're hiking through. So I understand you're
10 trying to get the perspective of a long-term
11 Antrim resident who has the history and the
12 emotion of the area, but there's not somebody
13 living in that spot.

14 A Right.

15 Q So I was --

16 A The rating is not looking for an individual to
17 be living at that place because, inherently,
18 most of these resources because they're public
19 or they're in hiking areas or they're part of
20 conservation areas you wouldn't have that
21 occurrence, but what you would have is the
22 person who lives in the study area whose weekly
23 activity is to go walk, you know, in one of the
24 conservation lands or up Bald Mountain or to

1 paddle. Their reaction to the change will be
2 significant differently than a recreational user
3 who may just be coming in for the day to paddle
4 because they're bringing a collective history
5 and knowledge of place to it, and that is why
6 people who live in a locale have such heartfelt
7 angst when projects come on line because we're
8 changing their activity history, and that I
9 think is important to be reflected in
10 sensitivity.

11 Q Okay. Thank you. Again, on your sensitivity
12 level analysis, and indeed the other chart as
13 well, the scenic quality, and the resource
14 contrast, I'm wondering why the scales are so
15 different like the scenic quality the lowest you
16 can go is -4. Sensitivity, the lowest you can
17 go is one. This just seems to be, and yet
18 they're all averaged at the end. So there seems
19 to be an inconsistency, and I'm trying to
20 understand that. If you could speak to that.

21 A Sure. So the scenic quality chart I did use,
22 the numerical system was taken from the BLM form
23 which goes from 5 plus to minus 4. Sensitivity
24 level doesn't have a numerical system for BLM so

1 my goal was to look at what was the precedent
2 being set up within the scenic quality chart,
3 and how could I apply that concept. And then
4 the resource contrast rating, this range is part
5 of what you've used in the past on other rating
6 forms in trying to keep it also consistent with
7 the initial BLM. So the goal was to try and
8 minimize the difference, but I understand what
9 you're saying. They are built upon the same
10 numerical system, but they have some greater
11 variability within them.

12 Q Getting away from the charts. Is it fair to say
13 that your analysis uses the worst case scenario
14 whereas Mr. Raphael's analysis used the analysis
15 of a typical day with a typical viewer? Is that
16 kind of, you're just looking, are these two
17 perspectives that are being looked at?

18 A So yes, I'm worst-case scenario. I'm looking
19 for the greatest level of exposure. Mr. Raphael
20 is using a landscape view which is taking into
21 account places that don't see the project into
22 his analysis. Should I explain that a little
23 further?

24 Q Sure.

1 A What I think is different between what we've
2 done with worst-case scenario is we're actively
3 looking at the view that most people would have
4 to look at that scenic resource or be in that
5 scenic resource and saying this is going to have
6 their attention. It's going to spin, there's
7 going to be this potential for a blue sky day,
8 to a cloudy day, but there's going to be this
9 experience where people look at that
10 installation and what is the impact of that
11 worst-case view to the site.

12 Granted, I can do this. I can turn around,
13 and not experience the view, but if this scenic
14 resource, if that view is what is most important
15 and critical to that place, people are going to
16 look at it. So I'm not comfortable making
17 assumptions about all the places I can't see
18 something. I'm going to talk about the view
19 that has the impact, and then we will make a
20 decision from looking at all those views in
21 their worst-case setting, whether or not that
22 impact is too great for the study area.

23 Q But a worst case doesn't happen that often, and
24 that's kind of what I'm struggling with a little

1 bit. It's not typical, and our rules talk about
2 typical viewers.

3 A Well, so the worst case is based upon the
4 exposure, and the exposure is mitigated by
5 distance and intervening structure, vegetation.
6 So, for example, Highland Lake, the worst case
7 view to Highland Lake has two turbines and then
8 two that are almost invisible, the tips. So
9 that's the worst case from that place, but it
10 doesn't mean that you see all the turbines in
11 full glory. So what we do is we try to find the
12 worst case that is representative of what would
13 be in the study area so that you're not
14 weighting it all as being bad. So, you know,
15 seeing two turbines that are partially concealed
16 from Highland Lake, the panel made a
17 determination of what was that effect, which was
18 moderate. It doesn't trigger a high reaction
19 because it's a limited view that is highly
20 screened, but it's the worst case from that
21 place.

22 Q In your analysis you speak about the scale,
23 particularly entering Willard Pond area, and
24 it's kind of, I look at it as kind of a catch-22

1 because the turbines size in relation to the
2 size of the hills, there's not that great a
3 difference, but if the mountains were taller
4 and, therefore, the turbines were higher, and
5 the scale would be reduced, but then people
6 could see them from a greater distance. So I'm
7 trying to grapple with what's kind of the
8 acceptable level, and I don't know if you can
9 speak to this or not, but do you impact more
10 people from a greater distance or do you impact
11 fewer people closer in? I don't know. Can you
12 speak at all to that?

13 A So it's a really interesting question and having
14 worked in central and western New York where
15 it's primarily farmland, I have to tell you that
16 a turbine even on flat land is pretty enormous
17 when you get up next to it, and that scale is
18 universal in the sense that when you're up close
19 to it whether it's on flat land or on a peak, it
20 still feels big. I mean, they're big, and that
21 viewer distance really affects that.

22 When we are further out in the landscape
23 like from Pitcher Mountain or from Crotched
24 Mountain, things start to feel less enormous

1 because you have all that perspective and you
2 have that distance.

3 The scale of the turbines is difficult
4 because of the relativity of scale being close
5 or far, concealed or not, and that is why I
6 think it has to be looked at on an individual
7 basis of if in this place the scale feels large
8 but as a whole it's better for the greater
9 region, that shows up in the rating. It shows
10 up in the analysis and how people respond to the
11 project as a whole. I think it's very difficult
12 to judge a project by one. It has to be by
13 multiple looking at a general region based upon
14 viewing distance.

15 Q How would you say the scale of this project
16 compares with projects that already exist in the
17 State of New Hampshire?

18 A So I have not studied the other projects. What
19 I can give is a personal opinion. I find the
20 scale of wind in mountainous regions
21 troublesome. It feels to me, it has different
22 sense than on flat land, let's say an
23 agricultural areas. And the very nature of the
24 terrain and just mountain views in general, I'm

1 not particularly, I am -- I like wind turbines,
2 I'm not against wind turbines, but I find them
3 troubling in the mountains, aesthetically and
4 scale-wise. Something feels, I think it's
5 important to look at the scale and the
6 surrounding terrain. But I have not studied the
7 other sites and done a comparison to them.

8 Q Your rating panels, why three panelists and not
9 a larger -- wouldn't it have been, when people
10 do a survey or the big greater number you get
11 better result, it's more accurate rather than a
12 limited number. So why only three reviewers and
13 wouldn't it have been better to do more?

14 A That's interesting. I was comfortable with
15 three, I've done three in the past. I know
16 Merrimack Valley had one, I'm not as comfortable
17 with that, for the transmission line project.

18 So I think there's some variability to how
19 many panel members tends to be on a panel, and
20 it really comes down to cost and time sometimes,
21 how many members that you have, but I thought
22 that three was a good number, and I did not
23 second guess that.

24 Q Tell me again about the relationship of, I know

1 you were one of the panelists, reviewers, and
2 the other two they worked for -- obviously, they
3 were hired by Terraink, but they were
4 consultants to your group? Who did they work
5 for?

6 A Sure. So the second panel member, Jade
7 Cummings, is my business partner who is taking
8 on an active role in rating projects, and so she
9 was involved, and the third was Jocelyn Gavitt
10 which is a consultant that I worked with in
11 Syracuse who is also used by EDR for rating. So
12 she's someone who is very familiar with the
13 process and familiar with wind.

14 Q From a visual perspective, when something large
15 goes up, cell tower, wind turbines, et cetera,
16 electric transmission lines, it's very obvious
17 when it first goes up, but in your opinion are
18 turbines or new additions to the landscape, are
19 they something that people get more used to over
20 time and they become less visually noticeable?

21 A That's an interesting question. I think that
22 people actually should pay more attention to
23 cell towers which I feel like people don't pay
24 attention to the cell tower on the horizon and

1 the fact that companies don't combine efforts on
2 a singular tower because they don't want to pay
3 rent so we get three of them where there could
4 be one and that has always been fascinating.
5 And I worked on the statewide wireless project
6 in New York State which came directly out of
7 911, and we were working with people who now
8 wanted to put up cell towers all across the
9 state. Important safety requirement,
10 absolutely. But it was, we did visual impact
11 training, so to speak. We taught people how
12 they had to submit forms because the potential
13 visual impact of those cell towers was huge, and
14 it needed to be managed.

15 So do people get used to things?
16 Absolutely. And some even enjoy them. And then
17 there's some objects that we never seem to pay
18 any attention to that are visual clutter. And
19 so I think it really depends on whether the
20 person sees the interruption or they're just
21 looking at the view, and that's a
22 person-by-person sort of sensitivity in a way.
23 What is their place where they start to notice
24 change.

1 Q My last question. Could you further explain
2 your concern concerning the clustering and that
3 is, what's really the most offensive thing here?

4 A Yeah. I was struck, as we moved into the
5 project, the clustering of the sensitive sites
6 within these regions and the impact that would
7 happen to the residential user, the person who's
8 coming to the site or moving through it. It
9 just seems to me understanding that there was a
10 high impact for each one of these sites, having
11 them so close to each other really changes a
12 place. More than something where someone just
13 gets used to the addition or they occasionally
14 see it flipping in the distance, this really
15 changes the character, and it's by the close
16 distance, and the fact that you can move within
17 the site in multiple vantage points and see that
18 installation.

19 I have to tell you the thing that also
20 gives me great concern and it's part of this
21 clustering is within the mitigation package that
22 you can have a house up by turbine 3 and in
23 between 3 and the met tower, and I think about
24 that house being built and how you'll see it

1 from near and far distance, how you'll see the
2 lights from it, and that will, that is a forever
3 change on the ridge. So all of these changes
4 make these places more vulnerable and it starts
5 with this big change that can lead to other
6 changes down the road, and I think we should be
7 mindful of that sort of cluster that is
8 happening.

9 Q Thank you. Nothing further.

10 PRESIDING OFFICER SCOTT: Commissioner
11 Rose?

12 **BY COMMISSIONER ROSE:**

13 Q Thank you. The majority of my questions have
14 been answered, but just a couple of quick
15 questions, additional questions. As it
16 pertained to the user type that was defined and
17 I think you had three different user categories
18 that were identified, and there was within the
19 Applicant's exhibits it was also, under BLM,
20 they just had the one listed for the user type,
21 and you had referenced how you tried to take
22 pieces of other different types of analysis that
23 other entities might utilize such as I think you
24 referenced Army Corps of Engineers and DOT and

1 there may have been others. Do any of other
2 assessment tools that you draw upon have
3 multiple user types, and, if so, I'm just
4 curious if they have 2, 3, 4 or if that
5 assessment of three was based on something other
6 than your own independent expertise?

7 A I'm going to look at a resource just so I can
8 give you a good answer.

9 Q Sure.

10 A Sorry. I should have marked it, and I did not.
11 I apologize.

12 Q No worries.

13 A I'm not going to find the section specifically
14 where they call out the user. So land use user
15 activity is an Army Corps terminology, and I
16 don't have it marked with the exact breakdown,
17 but it is used as, it has one, land use user
18 activity in the assessment forms is a single
19 entity similar to what we've used, and then
20 their inventory list, they'll have trail,
21 walkway, secondary road, primary road, highway
22 as dealing with land uses and so they tend to
23 have it more separated and broken out than I've
24 done in my forms where we're not using as many

1 categories. It's the problem with Army Corps
2 that it's quite cumbersome. There's a lot to
3 it. So I would say they tend to have things
4 broken out greater, and we are trying to
5 simplify that for our rating panel, but in the
6 end forms, they have it as a single line item of
7 user activity and land use similar to what we do
8 in the contrast form.

9 Q But within the type of user, do they have
10 multiple types of users listed within their
11 ranking categories? And I guess what, I think
12 it was pointed out that type of user was one of
13 7 or one of 8 within the BLM document, and yet
14 it was, I think, three of five within the
15 category that you were applying. So I was just
16 curious if there were other entities that were
17 utilizing type of user, you know, either 2, 3 or
18 perhaps more within their ranking system.

19 A So what they talk about is land use intensity so
20 they talk about different areas by which that
21 happens. Urban, suburban, rural, undeveloped,
22 it talks about industrial, commercial,
23 residential, agricultural, recreational, forest,
24 grassland, barren land. So they have quite a

1 breadth of land types, and then the users within
2 those landscapes which can be, I mean, it get
3 quite extensive. It can be residents, it can be
4 workers, it can be commercial workers,
5 agricultural workers, can be hikers, and that's
6 where it kind of gets too broad of a system, and
7 that's why we've reduced it to just commuter,
8 recreational and residential.

9 Q Thank you. Could you give me a little bit of
10 perspective. We talked a little bit about scale
11 in the last round of questioning, but do you
12 give me a little perspective as to how angle of
13 view might impact visual dominance and what your
14 perspective is on that?

15 A So we use angle of view as it relates to the
16 simulation view rather than -- Raphael uses a
17 larger landscape. Again, because we're most
18 interested in the view that people are actually
19 going to look at, we look at that angle of view
20 and the dominance, the visual dominance, has to
21 do with how close you are and how you perceive
22 that view within that framework. Inherently
23 what we know is that when you are closer, that
24 tends to have a greater impact than when you're

1 farther away and have a greater view spread
2 from, let's say, Pitcher Mountain. It tends to
3 resonate differently for people because of the
4 viewing distance which is inherently sort of the
5 dominance, how you feel that project is in
6 proximity to you.

7 Q Do you feel that the, well, I guess, do you feel
8 as though the other two raters were at a
9 disadvantage by not having been to the same key
10 observation points, the 14 that you had done
11 your simulation and your assessment on? Do you
12 feel that they were at a disadvantage by not
13 being there at all in person during the course
14 of while they were making their assessment?

15 A I don't, and the reason that in many ways I
16 prefer that they're not at the sites is it
17 limits bias. They're truly looking at the view.
18 What is my reaction to the project in place
19 within this key scenic place, and so it is, it's
20 pure, and so it's interesting. They are a check
21 and balance to my own rating because I am in
22 these places. I know the background. I have
23 all the history. I prefer the rating panel to
24 be more pure and not have all that to in any way

1 color their judgment.

2 Q In your Prefiled Testimony, I think it was in
3 your Prefiled, maybe it was in your
4 Supplemental, but it referenced specific colors
5 that you felt the turbines should be to try to
6 mitigate impacts, and could you just reference,
7 I can't recall. These are, I believe they fall
8 within the color scheme that you would recommend
9 in terms of the lowest visual impact. Is that
10 accurate? I'm just trying to --

11 A It's a great question, and I know in the front
12 end of my report I say that, on page 9, we talk
13 a little about the wind turbines from looking at
14 the Applicant's report, and it says that the
15 blades are a semi-gloss light gray paint color,
16 and then it said that the nacelle is light gray
17 in color and that there will be no insignias.
18 So the standard mitigation that we have, that
19 we've used, talks about color, and it says white
20 and off-white coloring, and I would assume that
21 the light gray would fall into that range of
22 color.

23 Q Thank you. Within your assessment score, your
24 overall impact score, I think you had it listed

1 at like 14.65 or I think that was the number
2 that I wrote down.

3 A Correct.

4 Q That was just from the, well, I shouldn't say
5 just from, that was from the 14 location points
6 that you did your assessment?

7 A It is. It's the 14 with the highest and the
8 lowest taken out and then averaged from there.

9 Q Okay. So it wouldn't necessarily be within the
10 entire assessment area but those 14 points that
11 you took, you did your observation from?

12 A Right. They are the sample, the selected sample
13 from the study area.

14 Q And then my last question was, there were some
15 very nice simulation photos that were provided
16 to us the other day, and I was just curious if
17 there were any points within the simulation
18 photos that, because we didn't really cover
19 those during the course of your testimony. I
20 didn't know if there was any points of emphasis
21 that should be brought forward from these
22 simulations versus what was in your original
23 report.

24 A No. I think that you should look at all the

1 sims collectively. That was just a subset for
2 reference, but there was no ranking to them.

3 Q Thank you. No further questions.

4 PRESIDING OFFICER SCOTT: Thank you.

5 **BY PRESIDING OFFICER SCOTT:**

6 Q I have to agree with Dr. Boisvert. I don't
7 enjoy your job. It seems to me very difficult
8 to quantify the subjective. I think, these are
9 my words, not yours, but it does seem like a
10 difficult thing to do.

11 I was curious, how long have visual
12 assessments been done? I just want to get idea
13 of the science of this.

14 A Gosh. So I think that, I don't have the exact
15 date of the beginning. What I would say is
16 looking at this really rather, you know, not so
17 great version of Army Corps, this is 1988 and I
18 actually worked with two of the professors when
19 I was at the Forestry School at Syracuse, Jim
20 Palmer and Rick Smarden, who were actively
21 involved in this, and I know this possess took
22 up a great amount of their academic life. So I
23 would say, you know, looking at this you have
24 from 1988, people were trying to figure out how

1 to quantify the visual, and I could look at the
2 BLM which I believe was, these are dated 1984.
3 So it definitely was something that was coming
4 on and being seen as an issue that had to be
5 addressed and trying to devise means and methods
6 to do that.

7 Q Is there a standard by which all people do
8 visual assessments by? Is there like a
9 framework or reference that everybody uses?

10 A I think you've probably got a sense from this
11 proceeding that we all come to it with our,
12 every visual expert has a leaning towards what
13 feels most familiar or most natural for them to
14 do their work by. Everything tends to come back
15 to the sort of the federal, the BLM, the Army
16 Corps, the DOT, the Forest Service. They were
17 having to deal with so many of these issues long
18 before we got into utilities, being wind farms
19 and things of that nature, because of just the
20 importance of their lands and needing to adopt
21 and change and allow for growth and development.

22 What I would say is typically consistent
23 amongst all experts is that first and foremost,
24 you should be looking at what are the regs of

1 the state that you're working in because they
2 are variable and some don't have any at all.
3 I've done work down south where there's very
4 little direction, and whereas up here in New
5 York, in New Hampshire and Maine and Vermont,
6 there's much greater regulation.

7 And then it goes into your standard like
8 what's the project, what is the existing visual
9 character, what is the visual resources within
10 that, what is the level of visibility to the
11 project, what is the impact that's using
12 simulations or another means.

13 And then coming to your potential
14 mitigation, maybe looking and making sure you're
15 in compliance with all of the laws that were set
16 forth at the beginning. In my case, because I'm
17 a reviewing expert versus the Applicant's
18 expert, I looked at what work had been done and
19 made comment and then you have your conclusions.
20 I think that format is sort of good report
21 writing methodology and that is pretty standard
22 or should be standard in most visual impact
23 assessment so that's where I think the
24 consistency is. The way that people formulate

1 their work and how it visually looks I think is
2 variable.

3 My report is still crafted very similarly
4 to EDR because I like their report style. I
5 like how it reads, it's clean, it's to the
6 point, nothing is getting lost as far as being
7 too much imagery of things of that nature, but I
8 choose to stay in that format versus going out
9 into a different text and written document
10 format.

11 Q I'm really thinking, trying to think beyond this
12 project, but, obviously, we just did rules for
13 SEC. Is there an association or an academy or
14 something we should be pointing to in the rules
15 to try to minimize the controversy,
16 understanding that there will always be a little
17 bit of tension between an Applicant and others
18 perhaps, but it sounds like you say there is
19 none. Is there a standard we should be looking
20 at?

21 A Well, I think you could look at the standards
22 set forth by other states and see if there's
23 anything that they're doing that is of interest.
24 I personally really like the New York State DEC

1 methodology, and it still informs my work. It's
2 very clear. And so I think it is looking at
3 what other states have found and determining
4 what would be useful in this location.

5 Q So, obviously, there's been a lot of discussion
6 on your rating forms for your panels. Has the
7 form been peer reviewed before you used it?

8 A I had peers look at it, but it didn't go through
9 a formal process, no.

10 Q So you didn't do like a trial test with it or
11 something like that?

12 A No, I did not.

13 Q Is it possible to have a high visual impact in
14 your opinion and not have an unreasonable
15 impact? Our rules use the word unreasonable, I
16 think.

17 A So if you're saying there's a high visual impact
18 for a site like for a sensitive resource, but it
19 doesn't trigger a study area, unreasonable, yes.
20 I think that that's, there's a range of results
21 that can happen which is why it's important to
22 look at the collective.

23 Q Thank you. Not too long ago you mentioned some
24 concern with or I think you used the word

1 troubling, I think perhaps, regarding wind
2 projects in mountainous areas. Did I
3 characterize that right?

4 A It has, it is an interesting observation I have
5 made over time with wind in the New England
6 states.

7 Q So is it your opinion it's harder for a wind
8 project to be reasonable compared to
9 unreasonable in a mountainous area?

10 A No. What I would say is I think it's harder for
11 the project to feel integrated because you're
12 dealing with ridgetop condition, and I think
13 that by its very nature makes them much more
14 exposed, and they don't tend to blend in because
15 they're always up top versus a rolling terrain
16 or something different. So while I think wind
17 can happen in mountainous regions, they do have
18 a certain level of complexity and maybe a little
19 more challenge to have them feel integrated or
20 part of a land use type.

21 Q I think it was in Mr. Raphael's testimony, he
22 implied, if I remember correctly, that you
23 didn't have a lot of time to do your study. Is
24 that a fair assessment? Perhaps not as much as

1 you would like to? Was that a fair assessment?

2 A What I would say is that we all love more time.
3 We all love more. But the truth is, more time
4 would not have changed the outcome of the study.

5 Q That was my next question. Would you have done
6 anything different if you had more time?

7 A Well, if I had time and money I would have
8 ballooned. I absolutely would have ballooned
9 this site.

10 Q Thank you. Again, correct me if I'm wrong, I
11 seem to remember earlier on so it was the last
12 day of testimony, not today, you suggested that
13 the project could keep White Birch Point from
14 becoming an historic resource. Did I hear that
15 correctly?

16 A My sense is that because when we look at
17 historic district, and, again, I'm not an expert
18 on historic district approval, but when they
19 take into account the setting of a district,
20 having a modern intrusion would be a factor that
21 would likely be considered during that
22 eligibility because it changes the -- this was a
23 camp scenario with these homes that enjoyed this
24 beautiful -- like what I love about Antrim is

1 that it is the getaway from the lakes district.
2 It's the getaway from the White Mountains area.
3 This is a beautiful gem of a place that offers
4 all these recreational resources in that
5 wonderful way that New England has.

6 So here was a community that had a
7 collective, enjoyed their camps, had their
8 families, and it is forever changed by a modern
9 intervention. And I think you would have to
10 consider that in making it a district.

11 Q I think that's all I have. Thank you. Does the
12 Counsel for the Committee have anything?

13 **BY MS. DORE:**

14 Q So first I want to actually address some of the
15 exhibits. I noticed a little bit of
16 inconsistency so we can look at that to make
17 sure we are on the same page. Can you pull
18 Exhibit Applicant's 55 and Applicant's 68?

19 A 58 or 68?

20 Q 68.

21 A Okay.

22 Q And if you look at Viewpoint 47, and if you go
23 into, on Exhibit Applicant 55, the visual impact
24 is moderate, and Exhibit 68, it shows that

1 average is low. So can you clarify whether it's
2 moderate or low?

3 A This is for 47?

4 Q That is correct.

5 A So looking at Applicant 68 and Applicant 55 for
6 number 47, Loverens Mill Cedar Swamp, I see 7.7
7 which is low, 12.2 which is moderate, 12.3 which
8 is high moderate. And your question is?

9 Q The average. It says that it's low, and when I
10 look at your visual impact on Applicant 55, it
11 shows that it's moderate.

12 A I'm not following where you're seeing the
13 moderate.

14 Q If you look on visual impact, the last column on
15 Table 6. Corresponding entry for visual impact
16 on line 47. Says it's moderate. Can I show
17 you?

18 A Yes, I don't think I have the right chart that
19 you're looking at so that would be helpful. I
20 have 68 and 55.

21 Q Yes. If you look at Applicant 55, Table 6?

22 A Excuse me. I'm on Table 5. I apologize.

23 Q It's okay.

24 A I made an error.

1 Q Is it moderate or low? Can you just tell us?

2 A So it would be moderate.

3 Q Okay. And can you look at 74 as well? It shows
4 it's moderate on Exhibit 68 and low on 55.

5 A Yes, that was an error.

6 Q Is it moderate or low?

7 A It would be moderate.

8 Q So if we change it to moderate, how would it
9 change the bottom number calculation? Will it
10 in any manner?

11 A I'm sorry. Say that again?

12 Q If that number is low and not, if it's not
13 moderate right now and it's not low, I believe
14 you testified in calculating the average you
15 took all lows and you took all highs so if we
16 change those two numbers from low to moderate
17 and moderate to low, will it change your bottom
18 number in any manner?

19 A No, because this is, inherently, in the future I
20 will stick to numbers versus using the letters
21 because it created some problem. So because
22 everything is numerically averaged, the high and
23 low being taken without would not change the
24 result because it's a numerical-based versus

1 letter-based.

2 Q And if we go back to sensitivity level analysis,
3 and you testified that you based that five or
4 less and then 15-16 then 16 or more because of
5 the precedent in your field? So how common it
6 is to base this sensitivity on this scale? How
7 common is it done?

8 A In this exact formation? This is mine.

9 Q Well, if we talk about not exact formation but
10 if we're talking about ascertaining the
11 sensitivity level, impact of any project in the
12 sensitivity level, would you say that to scale
13 five or less as low common in practice or no?

14 A I would say that because every expert has their
15 own ranking it's hard for me to comment to what
16 others are doing. My goal was to use a system
17 that was in keeping with the numbers shown
18 within our charts, but a lot of times the
19 ranking isn't, it's factored so it's hard to
20 know what their breakdowns are.

21 Q Okay. I guess the followup question, the
22 Applicant filed some exhibits where they
23 characterize it as equal breakdown between the
24 points, and, I guess, have you ever seen that

1 done, your field of expertise?

2 A I haven't.

3 Q Okay. And we heard the testimony that while
4 ranking the special areas the panel had
5 information about adjacent sensitive resources
6 but they actually did not have information about
7 whether the project would be visible from these
8 sensitive resources, and I just want to hear
9 your opinion how hard that would be for them.
10 Does it matter?

11 A I think what I mentioned -- it's a great
12 question -- and what I mentioned was that on the
13 form they had the list of what was an adjacency
14 and then some of those sites repeat because
15 they're sites they're rating, and so that
16 inherently lets them know that's there's that
17 proximity or that that place has a view.

18 I think what is important to take away from
19 that, and it's what I always felt was missing
20 when I did rating was I didn't understand what
21 else was in the neighborhood, so to speak, and I
22 wanted to have a sense of what could be found,
23 what were other places people were visiting, and
24 so personally, and I know the rater, Jocelyn, I

1 worked with, she liked also knowing what was in
2 the vicinity. It's less about whether or not
3 those all have visibility but more who's coming
4 and what are they doing in this place and what
5 are the offerings available to individuals. So
6 that's why we listed what was adjacent.

7 Q I guess the followup question would be, what
8 information did the panel have about who's
9 coming in the area? What kind of views is
10 particular resources? Because my understanding
11 is that you actually went there but the other
12 panel members didn't. So what did they rely on
13 in order to determine their fact on for
14 recreational use as opposed to commuting?

15 A So their assessment of who might be in the site
16 or using the site came from the photographs from
17 the simulations and looking at the sensitive
18 site resource map in those tools, but there was
19 not a description of the site per se that would
20 say this user, this number, this type.

21 Q So by looking at the pictures, they could decide
22 as to how that particular resource would be used
23 and determine that?

24 A I think that by looking at the, for example, the

1 simulation at Gregg Lake, you could determine
2 that there is a bath house, pavilion, active use
3 and that would speak to who's there. The
4 overlook from Bald Mountain you have less
5 visible -- there's no built structure happening.
6 So one could assume that who's visiting are
7 local or visiting recreationalists who want the
8 quiet and the beauty of that view. And so
9 because the panelists are all landscape
10 architects and we deal a lot with user activity
11 programming of places for different uses, it's
12 not a leap to understand what the offerings of a
13 place are by looking at an image of it.

14 Q Thank you. That explains that. It is my
15 understanding that the panel actually accounted
16 for the movement of the blades and thought that
17 that should be addressed, and the question is
18 that the photo simulations do not represent the
19 movement of the blade so how, I'm just curious
20 how did the panel members account for the
21 movement when they couldn't see the movement.

22 A So I think what you're asking about is the
23 bisected blades when you have a rotor that is
24 cut by terrain or some impediment and you can

1 make an assumption. Because all of these panel
2 members have seen wind farms in different
3 states, they understand the quality of a
4 bisected blade. Doing the movement simulations
5 are great, they're quite cumbersome to design,
6 they take a lot of time, and so those experts
7 bring their history of seeing wind in different
8 locations to that commentary.

9 Q Okay. And we heard about the worst case
10 scenario. I do not think that I actually heard
11 the answer as to how often would we be able to
12 see the worst case scenario.

13 A That's a great followup, and I think what I was
14 expressing about worst case is it's variable to
15 each viewpoint. So the worst case from Highland
16 Lake is different than the worst case from
17 Willard Pond because it's about the view. Where
18 is the greatest level of exposure where I see
19 the project. So worst case is based upon that
20 view and how much of the project that you can
21 see and sometimes it might only be two turbines
22 and other places it's nine, but both of them are
23 the worst-case view from a difference resource
24 because you could be on Highland Lake and you

1 could maybe move and only have one turbine
2 instead of two with the two partials. So it
3 depends. You're trying to find that place that
4 has the most exposure to the project.

5 Q Okay. The last question I believe there was
6 some kind of discussion between difference
7 between mitigation and minimization and what is
8 your opinion, what is the difference between
9 mitigation and minimization.

10 A So the conversation about mitigation is
11 important, and what I feel is that there are
12 multiple terms that are all about mitigating the
13 project. So it's hard to, I don't have the
14 ability to create exact categories for what is
15 one and what isn't one. I feel like they're all
16 part of mitigation versus it being an individual
17 strata.

18 Q So it's included in mitigation package? It's
19 your opinion. I just want to know.

20 A Minimization versus, so minimization is, that
21 could be a lowering of height. That to me is
22 part of mitigation. It's a holistic approach.

23 Q I understand. Thank you.

24 PRESIDING OFFICER SCOTT: Anybody else

1 before we move on? So Ms. Maloney, I assume
2 you're going to have redirect.

3 MS. MALONEY: Yes.

4 PRESIDING OFFICER SCOTT: How much do you
5 have? I think we're going to break for lunch
6 now.

7 MS. MALONEY: Yes, I think we better break
8 for lunch, too. I have a little bit.

9 PRESIDING OFFICER SCOTT: We'll definitely
10 break for lunch either way. I just wanted to
11 get an idea. So once we're done with redirect,
12 we'll go to Ms. Linowes. You get to bat
13 cleanup, I guess, so to speak. Also I would ask
14 during the lunch break, it's my intention to be
15 finished today, one way or another. We have to
16 agree on striking the exhibits so if people want
17 to look through that and think about that, lunch
18 would be a good time to do that. I understand
19 that Mr. Ward is going to ask to add an exhibit
20 so I'll suggest that lunchtime may be a good
21 time to talk about that amongst the parties.

22 MR. WARD: I think that we can handle the
23 issue we discussed much simpler provided that
24 Mr. Needleman and Mr. Richardson will allow me

1 to ask Ms. Linowes questions that require no
2 more expertise in arithmetic or statistics than
3 Mr. Needleman has amply demonstrated.

4 PRESIDING OFFICER SCOTT: I'll let you
5 discuss that during lunch then. So we'll take a
6 45-minute lunch. We will meet promptly at 1:45.
7 Thank you.

8 (Lunch recess taken at 1:00
9 p.m. and concludes the **Day 13**
10 **Morning Session**. The hearing
11 continues under separate cover
12 in the transcript noted as **Day**
13 **13 Afternoon Session ONLY**.)