

In Re:

*SEC 2015-04 PSNH,D/B/A EVERSOURCE ENERGY
APPLICATION FOR CERTIFICATE OF SITE & FACILITY*

*ADJUDICATIVE HEARING - DAY 9 AFTERNOON ONLY
October 15, 2018*

*SUSAN J. ROBIDAS, N.H. LCR
30 James Pollock Drive
Manchester, New Hampshire 03102
(603) 540-2083
shortrptr@comcast.net*

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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

October 15, 2018 - 1:35 p.m. DAY 9
49 Donovan Street Afternoon Session ONLY
Concord, New Hampshire

{Electronically filed with SEC 10/23/18}

IN RE: SEC DOCKET NO. 2015-04
Application of Public Service
Company of New Hampshire, d/b/a
Eversource Energy, for a
Certificate of Site and
Facility.
(Adjudicative Hearing)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

- Patricia Weathersby Public Member
(Presiding Officer)
- David Shulock, Esq. Public Utilities Commission
- Elizabeth Muzzey, Dir. Div. of Historic Resources
- Charles Schmidt, Admin. Dept. of Transportation
- Christopher Way, Dep. Dir. Div. of Economic Dev.
- Michael Fitzgerald, Dir. Dept. of Env. Services
- Susan Duprey Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel for SEC
Iryna Dore, Esq.
(Brennan, Lenahan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Susan J. Robidas, LCR No. 44

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3 WITNESS: DAVID RAPHAEL
4

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P R O C E E D I N G S
(Resumed at 1:35 p.m.)

PRESIDING OFFICER WEATHERSBY: Good
afternoon. Attorney Brown, you may start your
questions.

CROSS-EXAMINATION

BY MS. BROWN:

Q. Good afternoon, Mr. Raphael. My name is
Marcia Brown, and I represent Donna Heald in
this matter. I'm also a spokesperson for the
Durham Residents Group. And I wanted to
clarify a couple questions. Waiting for my
exhibit to load up.

You were previously asked some questions
on the vantage points of Exhibit 186. Do you
have a display in front of you?

A. Yes, I do.

Q. All right. So let me enlarge. This is
electronic Page 4 of Exhibit 186. And there
was some question about the base photo and
the date. And you had testified on
cross-examination with Attorney Ludtke that
the picture for the simulation came from
August, but I --

1 A. Yes, I misspoke about that. I realized it
2 was, yeah, not in August. That was -- I got
3 confused with when we filed the testimony
4 versus when we -- yeah. So I'm not good
5 sometimes with dates. I apologize for that.

6 Q. So, just to clarify for the Committee, the
7 base photograph on Page 4 of Exhibit 186,
8 which has a date of June 29, 2017, and a time
9 of 1:27 p.m., is accurate?

10 A. Yes, I believe so.

11 Q. And with respect to the timing of the tide,
12 you testified that you thought the low tide
13 or mean low tide was about noon-ish; is that
14 correct?

15 A. Yeah. Again, I mean, I wouldn't fall on my
16 sword on that. I'd have to go back and look
17 at my notes and timing, to be honest with
18 you. But I know whatever time it might have
19 been when I arrived there, it was very much
20 low tide.

21 Q. Okay. If I could help you refresh, perhaps.
22 Under cross-examination with Attorney Ludtke,
23 you had mentioned -- or maybe it was with
24 Attorney Patch -- that you had referred to

1 tide charts. Do you recall that?

2 A. I'm sorry. Did I what?

3 Q. That you had referred to tide charts; is that
4 correct?

5 A. I actually -- I took -- I didn't refer to the
6 tide chart. I went online to find out high
7 tide, low tide times. I can't even remember
8 the web site I used. And then I talked with
9 somebody, I believe at Normandeau, to kind of
10 confirm timing for that day.

11 Q. So would you agree that, since you're
12 familiar with the tide charts, that the Dover
13 Point tide station is the closest to the
14 Project?

15 A. Yes.

16 Q. Okay. And using your June 29th, 2017 date,
17 and I'm going to scroll through -- I have
18 here NOAA tide predictions. Is that accurate
19 what I'm describing --

20 A. Yes.

21 Q. -- and showing you?

22 A. Yes.

23 Q. And this is for Dover Point, 2017?

24 A. Yes.

1 Q. And then I'm scrolling down to the June 29th
2 tides.

3 A. Yes.

4 Q. And so what is the low tide on -- or what is
5 the timing of the low tide on the 29th?

6 A. Looks like 10:04 a.m. No. I'm reading 3:43
7 a.m.

8 Q. I'm reading on June 29th, 11:37 a.m. Is that
9 accurate?

10 A. Say that again?

11 Q. 11:37 a.m.

12 A. Yes. I guess I was in the wrong 29.

13 Q. So your recollection of about noontime, this
14 reference on the NOAA chart would be about
15 consistent with that; correct?

16 A. Yes.

17 Q. Now, are you familiar with the numbers 7.3
18 and 6.9, what those represent? Are those the
19 tide heights?

20 A. I believe so, yes.

21 Q. Okay. And it's fair to say, is it, that some
22 tides may be 6.7 feet, some will be 7.3, and
23 some will be 8.1 feet and change?

24 A. Yes, tides can be variable.

1 Q. All right. So on June 29th, then, the tide
2 was measuring in the morning a 7.3-foot
3 differential; is that accurate?

4 A. Yes.

5 Q. Okay. And a tide that has a differential of
6 8 feet would expose more mud flat than a
7 6-foot tide; is that accurate?

8 A. Yes.

9 Q. I believe you already testified that you
10 didn't have a quantification of the extent of
11 mud flat; is that right?

12 A. Not specifically, no.

13 Q. So you don't then know what the mud flat
14 exposure would be, the difference between a
15 6-foot or 8-foot tide -- let me rephrase that
16 question.

17 A. Again, I used the mean, you know, the
18 diagrams that I relied on, the engineering
19 plans that I relied on, you know, used the
20 MLLW mark as a basis, understanding that
21 tides can -- low tides can be below that or
22 above that.

23 Q. Okay. So going back to the base photo, then,
24 are you saying that from this photo taken at

1 1:27 p.m., that you adjusted that to back it
2 into the mean low and the low watermark?

3 A. No. The simulation simply represents where
4 the water level was at the time that I took
5 the photograph.

6 Q. Okay. So the simulations are then based at a
7 tide on June 29th, 2017 at 1:27 p.m. then; is
8 that correct?

9 A. Correct.

10 Q. Okay. Now, another clarification about the
11 tinting. I just want to make note that on
12 Page 6 of 10 of Exhibit 186, this note says
13 that the mattresses are without any color
14 tinting; is that correct?

15 A. Yes.

16 Q. And then on this Page 7 of 10, it states that
17 the mattresses are with color tinting; is
18 that correct?

19 A. Yes. I realized during the break that we had
20 actually prepared and submitted this
21 simulation. And I had forgotten that,
22 frankly.

23 Q. Okay. So my clarification, then, is the
24 notations that you have put on this exhibit,

1 where they say that there is tinting and
2 there is no tinting, are accurate; is that
3 correct?

4 A. I believe so, yes.

5 Q. Now, with your testimony as an expert witness
6 in general, have you ever participated in a
7 utility project as an expert where you found
8 that there was an unreasonable visual impact
9 created by the installation of the utility
10 project?

11 A. Yes.

12 Q. And what, if you recall, what project was
13 that?

14 A. Well, in Vermont, where I've done a number of
15 projects related to transmission under the
16 employ of the Vermont Department of Public
17 Service, for the Northwest Reliability
18 Project I found that in several locations the
19 Project would have an undue adverse effect,
20 or "impact" as it's referred to in the
21 Vermont statute, on the aesthetics and scenic
22 beauty of the area primarily because the
23 Applicant had failed to take reasonable and
24 available mitigation steps to reduce the

1 impact of the Project. So there's a
2 different process in Vermont, where the
3 mitigation process is actually factored into
4 whether or not you can determine a project
5 has an undue adverse impact, which would be
6 certainly comparable to an unreasonable
7 adverse effect on scenic beauty in New
8 Hampshire. But the determination in this
9 case statutorily includes a criterion that
10 asks whether a client -- an Applicant has
11 taken, again, reasonable or generally
12 available mitigating steps to reduce the
13 impact of a project. If there are reasonable
14 steps that can be taken, then it's up to the
15 Applicant to employ those steps. If they had
16 not employed those steps, then the Project
17 could be found to have an undue adverse
18 effect.

19 Q. And what year was that?

20 A. Oh, a number of years. I mean, I've worked
21 on projects for the Vermont Department of
22 Public Service since the mid 1990s, and I am
23 still in their employ as we speak.

24 Q. I'd like to turn to planting plans. And

1 LandWorks created a planting plan for Ms.
2 Heald's property; is that correct?

3 A. For whose property?

4 Q. Ms. Donna Heald.

5 A. Yes, I believe so.

6 Q. You said "believe so." Do I need to show
7 you --

8 A. I think a staff member of mine did that
9 before I took over the landscape plan
10 preparation.

11 Q. Okay. And would you be surprised -- or I
12 guess affirming that the recommendation on
13 Ms. Heald's property was to plant 3- and
14 5-foot trees?

15 A. No.

16 Q. Okay. So I want to go back to a picture that
17 I will state for the record was taken from
18 the corner of Ms. Heald's house. And this is
19 Exhibit 1, electronic Page 45 of 46. And let
20 me just enlarge this for you so you can see.

21 Do you discern the orange tape that's
22 strung among the trees?

23 A. Yes. I can see that, yes.

24 Q. Let me back out so you get a fuller picture.

1 So I'll make an offer that that is the edge
2 of the easement as we know it for the power
3 line.

4 So with that, if the easement was
5 cleared to that line, and the planting plan
6 of trees of 3- to 5-foot trees were used as
7 screening for this location, do you have an
8 estimate of the number of years it will take
9 for the screening to hide that hundred-foot
10 pole that's proposed here?

11 A. Well, two things. One, it would depend on
12 the plant materials being used because they
13 would have different growth rates. And then
14 I would have to assess the viewing location
15 relative to the structure. For example, if
16 you were 6-foot -- if you had a 6-foot plant
17 and you were standing right next to it and
18 you were 5 feet, it could potentially block
19 the view of the structure. If you're
20 obviously far back from that or perhaps up on
21 a porch, it obviously would not necessarily
22 block that structure in the immediate --
23 immediately when it was installed.

24 Q. So let me explain this hypothetical a little

1 bit further then. It's our understanding
2 that a pole could be relocated to behind this
3 little knoll. And we understand from the
4 record that the pole's about a hundred feet.
5 And would this being -- using the view from
6 this vantage point, do you have any estimate
7 of how many years it's going to take for the
8 screening to be effective at screening the
9 pole?

10 A. Well, again, it depends from the vantage
11 point. I mean, again, depending on where
12 you're standing, it could be effective
13 relatively quickly, and again, depending on
14 the plant material choice. Or if you're
15 standing in a different location and much
16 further back, then --

17 Q. My hypothetical was for this vantage point.

18 A. For this vantage point. Again, I mean, it
19 might only take a couple of years, depending
20 on if it was a pine. Again, I'd have to look
21 at the planting plan. There were some
22 planting plans done initially by another
23 member of my staff that I did not participate
24 in that was done with her. And I think she,

1 presumably Mrs. Heald -- I don't recollect
2 for sure. So I'd have to look at the
3 planting plan and the location and understand
4 the topography in between. But, again, if
5 you're standing right next to this, it may
6 only be a few years, depending on the plant
7 selected.

8 Q. Yes. And the hypothetical was from this
9 vantage point rather than standing closer.

10 Is it true, then, that shade may
11 adversely impact the growth of trees?

12 A. Sure. I mean, it depends on the trees. Some
13 trees like shade, grow well in the shade,
14 others not as well. And it depends how much
15 shade and where the orientation of the sun
16 is, of course.

17 MS. BROWN: That's it. Thank you.

18 PRESIDING OFFICER WEATHERSBY: Ms.
19 Mackie for the Durham Historic Association.

20 CROSS-EXAMINATION

21 BY MS. MACKIE:

22 Q. Hello. My name is Janet Mackie from the
23 Durham Historic Association, and I have a few
24 questions.

1 First of all, in your selection of
2 scenic sites in Durham, and within 10 miles
3 of the transmission line in Durham and
4 Newington, I was wondering why you didn't
5 include the view from the Route 95 bridge?

6 A. That's not a scenic resource.

7 Q. No, but it looks at a scenic resource, at the
8 estuary.

9 A. We're charged with creating simulations from
10 the scenic resource, you know, to the project
11 view, which typically the project's not
12 located in a scenic resource. So we're
13 really looking at what is the visual effect
14 to the scenic resource.

15 Q. So you don't consider the place where the
16 line runs to be scenic at all as a whole?

17 A. I'm sorry. I don't understand the question.

18 Q. In other words, you can look over a valley,
19 or in this case it is a valley, and you look
20 over the water and you look over the land and
21 it's scenic. But you didn't consider that to
22 be scenic?

23 A. Well, I mean, as I've said many times, many
24 parts of New England, and Northern New

1 England in particular, are scenic in a
2 general sense. But we're asked, you know, to
3 evaluate the nature of the scenic resource
4 and whether the Project is going to, you
5 know, have an effect on the experience of the
6 user of that scenic resource or from the
7 vantage point that the scenic resource would
8 be seen from.

9 Q. Then why did you do the view from Scammell
10 Bridge?

11 A. We did add some representative photos and
12 simulations, and certainly we are looking in
13 that regard at a scenic resource. And we
14 were assessing whether from the longest
15 distance view how visible the lines might be.
16 And it was, I think, a point of information
17 to understand, you know, the breadth of the
18 Project, you know, and its visual presence in
19 the landscape.

20 Q. And what's the elevation of the Scammell
21 Bridge that the view would be from?

22 A. I'm not sure. I don't --

23 Q. Maybe 20 feet?

24 A. What's that?

1 Q. Maybe about 20 feet above sea level?

2 A. Very possible.

3 Q. Well, that's why I'm asking about the big
4 bridge over the Piscataqua River, because
5 from 95 you're way, way high above and you
6 can see the whole estuary.

7 A. Sure. But it is a -- remember, it's a view
8 in motion. So it's very limited. And you
9 have to be looking directly in the direction
10 of the Project and knowing what it looks like
11 to pick it out. So that's an important
12 consideration from that view in particular.

13 Q. It is a beautiful view. You can see Mount
14 Pawtuckaway. I mean, to my mind, that's a
15 very important scenic view. Also --

16 PRESIDING OFFICER WEATHERSBY: Ms.
17 Mackie, please don't testify.

18 MS. MACKIE: Yes.

19 BY MS. MACKIE:

20 Q. Is it correct, also, you took the same
21 rationale? You didn't include the Little Bay
22 Bridge that goes over the Piscataqua between
23 Newington and Dover?

24 A. Again, that's not a scenic resource.

1 Q. Even though it's a scenic view like the
2 Scammell Bridge.

3 A. There's a difference between a scenic view
4 that you or other people might consider as a
5 scenic view and a designated or identified
6 scenic view which we are charged to evaluate.
7 And that's, you know, explained in the
8 methodology how we identify scenic resources,
9 and it's based on the actual definition of
10 what a scenic resource is in the SEC rules.

11 Q. Okay. What about, did you consider Hicks
12 Hill in Madbury and the public trails on that
13 hill?

14 A. We may have. I'd have to go back and look at
15 our documentation.

16 Q. I can't find it in your list.

17 A. In the original list of all the scenic
18 resources, I'd have to check why that didn't
19 appear. So...

20 Q. Would you agree it might be a scenic resource
21 if it's 335 feet above sea level, has, you
22 know, benches that faces the transmission
23 line and it's only less than a mile from the
24 transmission line?

1 A. Well, I'm surprised that wasn't identified.
2 So I'd want to go check and determine whether
3 we had in fact perhaps identified it under a
4 different name. If it's --

5 Q. It's also called Moharimet's Hill.

6 A. But if --

7 Q. It's called Moharimet's Hill or Hicks Hill in
8 Madbury.

9 A. Again, I'd have to go back and look at my
10 report to determine whether we had that in
11 our inventory and what the determination was.

12 Q. I noticed on Appendix No. 32, Page 40, you
13 have a map of timber clear-cuts and
14 agricultural land. I was wondering what's
15 the source of that data. It's on Page 46 of
16 167.

17 A. I don't seem to have it in what I have before
18 me. I'd have to --

19 Q. It's in Appendix 32.

20 A. Yeah, I don't know why I'm not seeing it.

21 Q. On Page 46 of --

22 A. Yeah, I don't seem to have it in front of me.

23 Q. It would be Page 40 on the actual document.

24 A. Let me see. Okay. Oh, okay. I'm sorry.

1 Thank you. Yes, I mean, that's certainly
2 part of just our review of the Project
3 context.

4 Q. No. I asked what's the source of the data
5 that goes into the map.

6 A. It probably would be from the New Hampshire
7 GRANIT database for GIS information. And
8 obviously we didn't seem to list that here.

9 Q. From what information?

10 A. I think it's derived from the New Hampshire
11 system, geographic information system, which
12 is a database that typically has these types
13 of data sets in them. So my guess is that's
14 where its source was. I could look through
15 this and get back to you and certainly
16 confirm its location. But that's my sense,
17 that this type of map would have come from
18 the state's geographic information database.

19 Q. Did you know it does not include UNH Forestry
20 Department clear-cuts that go along the
21 transmission line?

22 A. Well, it's possible that there's a date on
23 this that preceded those clear-cuts, or the
24 clear cuts were maybe not picked up or

1 cataloged for this map. I don't know the
2 reason why they're not on there. And it may
3 be that the clear cuts that are smaller than
4 a certain size weren't picked up. I don't
5 know the reason why it's not on there.

6 Q. Okay. I also had a question on Page 42 of
7 167 of the same exhibit. It's probably six
8 pages earlier on the hard copy. So that
9 would be around Page 30.

10 A. What is it? What's the map title?

11 Q. It's not a map.

12 A. Oh, I'm sorry.

13 Q. It's a statement you make. You make the
14 statement that the number of months that
15 leaves are not on the trees are typically
16 five months.

17 A. On Page 30?

18 Q. Thirty-something. I said 42 of 67
19 electronically, so it would be Page 36.

20 A. Oh, okay. I'm sorry.

21 Q. Anyway, the point is do you think --

22 A. Yes.

23 Q. -- that's an accurate statement?

24 A. I see that. I'm sorry. Forgive me.

1 Q. Are you saying that we have no leaves on the
2 trees for only five months here?

3 A. Well, I say it's typical. You know, October
4 to April, May, you know, the leaf-out is
5 earlier --

6 Q. Well, right now it's mid-October, right, and
7 the leaves come back in mid-May. So that's
8 seven months, isn't it?

9 A. Well, there's still leaves on the trees right
10 now here.

11 Q. They're falling off quickly. So that's more
12 like --

13 A. But they're not bare --

14 (Court Reporter interrupts.)

15 Q. I'm questioning the accuracy of the
16 statement. Would you agree that maybe it's
17 more like 6-1/2 to 7 months?

18 A. No. No, not at all. Leaves are still on the
19 trees right now. And typically leaf-out
20 starts, in this part of the New England,
21 leaf-out starts April to May. And by the end
22 of May it's fully leafed-out. But, you know,
23 I'm talking about the period when there are
24 no leaves on the trees. Right now, most

1 trees around here are fully foliated.
2 They're turning colors. But they are
3 starting to get bare in places up high and in
4 the swamp areas. But I said "typical." So
5 sometimes it could be longer, sometimes it
6 could be shorter.

7 Q. Well, would it be fair to say that all the
8 leaves are off by the end of October and
9 they're all out again by the end of May?

10 A. It depends on the year. But by the end of
11 May they're out, and usually sometime in
12 early November they're gone.

13 Q. Would you disagree with the statement that
14 the leaves are off the trees for six months
15 of the year?

16 A. Not completely, necessarily. Depends where
17 you are.

18 Q. Okay. Now, in your prefiled statement on the
19 last page, 17 of 17, you're talking about the
20 buried segment of the line that goes through
21 Durham. And you say that this particular
22 mitigation measure is an effective step to
23 reduce, if not eliminate, any adverse visual
24 effects in this particular location.

1 And my question is: Do you think there
2 was anything scenic about that location that
3 would have suffered an adverse effect if they
4 hadn't been buried?

5 A. Could you -- I missed the phrase. Forgive
6 me. I missed -- what page are you on so I
7 know what you're referring to?

8 Q. It's the last page of your prefiled.

9 A. Oh, okay. One sec. Forgive me.

10 (Witness reviews document.)

11 A. Exhibit 17?

12 Q. Whatever number your original prefiled
13 testimony is.

14 (Witness reviews document.)

15 A. So what is your question again? Forgive me.

16 Q. Well, you say that this burying the line was
17 a mitigation measure that was an effective
18 step to reduce, if not eliminate, any adverse
19 visual effects in this particular location.

20 And my question is: Since you do scenic
21 evaluation assessments, whether you thought
22 the line across Main Street at UNH in Durham
23 between a 10-acre parking lot and a 30-acre
24 football stadium would have been an adverse

1 effect to the scenic view there.

2 A. I believe that the above-ground option could
3 have co-existed with the existing utility
4 corridor. But I think it's safe to say that
5 undergrounding it is, you know, a better
6 solution because it certainly eliminates the
7 structures and their visibility in that area.

8 Q. Would you agree with the statement that that
9 particular section of the easement through
10 Durham is at least scenic?

11 A. Well, yes and no. And we had a lot
12 discussion about this because, you know, we
13 recognize that the University of New
14 Hampshire campus in and of itself would not
15 necessarily be considered or designated as a
16 scenic resource. But it has a very high
17 cultural value. It has a large population of
18 people coming and going. It's an important
19 asset and place in the state of New
20 Hampshire.

21 So I guess the overall conclusion would
22 be, any efforts -- and Eversource I think
23 took a number of them -- to improve, you
24 know, or reduce the visual effect of this

1 project and the new structures would be
2 warranted.

3 Q. So it wasn't really a scenic decision.

4 A. Well, again, well, I think it was an
5 aesthetic consideration.

6 Q. So is there a difference between aesthetics
7 and cultural and scenic or --

8 A. Yes. And I think we used -- you know, scenic
9 in this case is really connected to the
10 understanding and identification of specific
11 scenic resources and whether they've been
12 identified by the public or by a town plan as
13 scenic.

14 Aesthetics refers to sort of the overall
15 sense that an individual might have of a view
16 from any one location, whether it's scenic or
17 highly scenic or pleasant.

18 Q. Well, that leads me to my next question. You
19 have no before and after photo simulations of
20 our two scenic roads that are affected in
21 Durham, the Durham Point Road and Bennett
22 Road. Can you explain why not?

23 A. Why we haven't --

24 Q. Why didn't you do that?

1 A. Visual simulations there? We didn't do
2 visual simulations for every single scenic
3 resource.

4 Q. Well, as I understand your modeling, you
5 start off with both Bennett Road and Durham
6 Point Road on the "possible" list, and then
7 you gave them three points for cultural value
8 because the town voted them "scenic." But
9 then you gave them a "low" scenic rating
10 because it didn't appeal to your aesthetics.
11 And then because of that, they both just drop
12 off the list and they don't get evaluated for
13 the width of the easement or the height of
14 the poles or anything. And how is that
15 realistic?

16 A. Well, first of all, we did not make a
17 determination because it didn't appeal to our
18 aesthetic. We made a determination based on
19 the methodology that I kind of walked through
20 already in which we identify certain
21 qualities that would determine whether a
22 project rises to a level of having a moderate
23 to high or high visual sensitivity. And the
24 methodology explains how and why we get to

1 that conclusion, and then we move on from
2 there. And the places that -- you know, the
3 nine resources that we evaluated in detail
4 came through that analysis with a moderate to
5 a high and/or high potential level of visual
6 sensitivity. And I believe that from a
7 number of those vantage points of those
8 scenic resources, we didn't provide
9 simulation. So we don't provide simulations
10 of every single scenic resource. That would
11 be, you know, cost-prohibitive and
12 time-prohibitive.

13 Q. Don't you think it's unreasonable that the
14 state has a scenic roads program and scenic
15 roads protection statutes, and the town
16 people think it's scenic, that you only give
17 it points for cultural? I mean, if the town
18 people think it's scenic, why would the
19 Bureau of Land Management or U.S. Forest
20 Service standards make any difference?

21 A. Again, we're asked to make distinctions
22 between scenic quality, between low and high.
23 And while -- as I explained earlier,
24 Newington, you know, roads that local people

1 consider scenic, you know, certainly I would
2 not argue with that consideration or that
3 sentiment. But we compare that road with
4 other scenic roads in the area and the region
5 and generally speaking to ascertain how
6 scenic it is. And obviously, in our
7 evaluation, we found that it lacks certain
8 qualities that a higher-level scenic resource
9 would typically have. And that again is
10 explained in the methodology. We have a
11 little graph and graphic that sort of
12 hopefully demonstrates that, as to the
13 degrees of, you know, scenic and visual
14 sensitivity.

15 Q. I just don't understand the methodology and
16 how that can be applied to a local situation.

17 PRESIDING OFFICER WEATHERSBY: Ms.
18 Mackie, ask a question and --

19 BY MS. MACKIE:

20 Q. I mean, is there any other explanations you
21 can give me that supports your determination
22 that a scenic road is not adequately scenic
23 to be considered a scenic road?

24 MR. NEEDLEMAN: Objection. That was

1 not the testimony. And I think there is an
2 extensive explanation in the materials before
3 the Committee to answer that question.

4 PRESIDING OFFICER WEATHERSBY:

5 Sustain the objection.

6 BY MS. MACKIE:

7 Q. Now, we also have Newmarket Road, which this
8 is a state cultural byway -- a state scenic
9 and cultural byway. Are you saying the same
10 methodology used applies to that, where it's
11 considered a scenic byway at the state level?

12 A. Again, we evaluate every scenic resource with
13 the same methodology. And depending on the
14 characteristics of the road and the vantage
15 points and its relationship to other scenic
16 resources of a similar nature, we arrive at
17 the level of visual sensitivity before we
18 evaluate it for viewer effect and --

19 Q. That's why you didn't do an after picture, a
20 before and after picture with a simulation?

21 A. Well, again, as I said a moment ago, first of
22 all, we don't do visual simulations from
23 every scenic resource. And secondly,
24 typically we would do them for those that do

1 have a high, moderate to high, or high visual
2 sensitivity. And even at that, depending on
3 the number, we might not simulate all of
4 them. Again, I don't believe there's any
5 requirements in the rules for the exact
6 number of visual simulations to provide. But
7 I think we've made a good-faith effort and a
8 comprehensive approach to providing as many
9 simulations so that the Committee and the
10 public has a sense of what this project is
11 going to look like from any number of vantage
12 points.

13 Q. Now, on your Appendix 32, you have the Sweet
14 Trail listed as a "potential scenic trail."
15 And you say there is no visibility from the
16 Sweet Trail.

17 (Witness reviews document.)

18 PRESIDING OFFICER WEATHERSBY: Is
19 there a question there?

20 BY MS. MACKIE:

21 Q. My question is: How did you determine there
22 is no visibility of the lines from this trail
23 when the trail is something like 5 miles
24 long? What point did you use on the trail?

1 A. Well, again, we rely on the aerial
2 photography. We rely on the viewshed
3 mapping. And then, if there is a question of
4 potential visibility, we would typically do
5 one of two things, which is to conduct,
6 again, using software, a line-of-sight view
7 from one or more locations to test
8 visibility, or conduct a site visit to
9 ascertain visibility.

10 Q. Well, did you know that 0.15 --

11 MS. DUPREY: Excuse me. Madam Chair.
12 Excuse me. I believe that the questioner is
13 limited before our Committee to historic
14 matters. And I'm not clear on what these
15 questions -- how they relate to historic
16 matters.

17 MS. MACKIE: Which question?

18 PRESIDING OFFICER WEATHERSBY: I
19 think Ms. Duprey's --

20 MS. DUPREY: The entire series of
21 these questions.

22 PRESIDING OFFICER WEATHERSBY: You're
23 allowed to intervene -- the Durham Historic
24 Association was allowed to intervene --

1 MS. MACKIE: Well, I'm asking about
2 the Sweet Trail because it goes through a very
3 historic, old farming area of Durham.

4 MS. DUPREY: Then I think the
5 questioner should ask about that specific
6 piece. And all these other questions that are
7 relating to roads and overpasses and whatnot,
8 there's been no identification of the historic
9 nature of the questioner's --

10 MS. MACKIE: Oh, I'm sorry. Both
11 roads I asked about are in historic districts.

12 MS. DUPREY: Okay.

13 PRESIDING OFFICER WEATHERSBY: So you
14 may proceed, again, as long as they have to do
15 with historic sites and --

16 BY MS. MACKIE:

17 Q. Do you know that where the Sweet Trail
18 intersects Longmarsh Road, which is 0.15
19 miles from Pole No. 80, that the Sweet Trail
20 is 60 feet above sea level at that point?
21 And did you know that 0.15 miles to the
22 north, Pole 80 is 175 feet above sea level?
23 And I can't imagine why that couldn't be seen
24 from the trail, for example.

1 A. Well, I can't comment on that. That's your
2 opinion.

3 Q. Well, it's only a few hundred feet, and it's
4 a huge change in elevation.

5 A. But there could be intervening trees. There
6 could be intervening elements. I don't --

7 Q. But it's more than 100 feet difference.

8 MS. DUPREY: The witness is
9 testifying --

10 MR. NEEDLEMAN: Objection.

11 MS. DUPREY: The questioner is
12 testifying --

13 MS. MACKIE: It's a question. I'm
14 asking how could that be.

15 PRESIDING OFFICER WEATHERSBY: Ms.
16 Mackie, he answered.

17 MS. MACKIE: He doesn't know.

18 PRESIDING OFFICER WEATHERSBY: He
19 answered your question.

20 MS. MACKIE: All right.

21 BY MS. MACKIE:

22 Q. I'd also like to know for town land, which is
23 the old Langmaid Farm, and it's called
24 Longmarsh Preserve. And you had Longmarsh

1 Preserve on your initial list. But again you
2 say it's not scenic because it's not called
3 scenic. And I'm just wondering. It says on
4 the town web site, "It offers great views of
5 marshes, open water, rocky outcrops, mature
6 oak, pine forests and lots of wildlife." So
7 doesn't "great views" rise to the level of
8 "scenic"?

9 A. I don't know where I said it was not scenic.
10 Could you point me to that, where that was
11 listed that it was --

12 Q. Oh, yes. It says on your Table 6, which is
13 on -- let's see. Well, anyways, on your
14 Table 6, it's No. 24 --

15 A. Yes.

16 Q. -- and it says, Description: No local scenic
17 designation, rating low.

18 A. I'd have to go back and look at the
19 documentation that lead to that. But it may
20 have not been preserved primarily for scenic
21 values. It may have been preserved or
22 protected for wildlife and other ecological
23 values, and scenic values was secondary. And
24 there may be internal views.

1 Again, but this is really -- yeah, I
2 mean, I think that's probably why I would
3 have to go back and check the language we
4 relied on to come to that conclusion. But
5 typically we look for a formal statement, a
6 designation that this is considered primarily
7 a scenic resource; it's been protected or
8 preserved for its scenic values versus for
9 its agricultural, historic or wildlife
10 values.

11 Q. Well, I have to ask you then. How does that
12 square with the SEC's Site 102.45, "scenic
13 resources" means -- and then it says scenic
14 trails -- I mean recreational trails, parks
15 and areas bought with public funds?

16 A. Again, if they have a scenic purpose. Many
17 conservation areas are not necessarily
18 conserved because they have scenic views.
19 They may have open space values. They may
20 have agricultural or historic values, as I
21 said, or wildlife values, or as a buffer for
22 development. And so the scenic aspect while
23 there may not have been the primary or
24 specific reason that the property was

1 preserved, designated or used.

2 Q. Okay. Because once it's rated low like that,
3 it drops off the list completely.

4 A. Correct.

5 Q. And the same thing happened with East Foss
6 Farm. Well, you have a view called West Foss
7 Farm, but I think you mean East Foss Farm,
8 the one under the lines; right?

9 A. Well, no, it doesn't -- I mean, if there's a
10 high scenic rating that combines with that
11 sensitivity, that can elevate that resource
12 and then it has further review. So this is
13 one of two steps in the first part of the
14 methodology that arrives at whether a
15 project, you know, has a certain level of
16 scenic quality that would then be -- would
17 warrant further review.

18 Q. Right. I was asking you about those two
19 because they're both historic and they're
20 both scenic. And they both dropped off the
21 list because of the fact they didn't
22 advertise themselves as "scenic"; is that
23 right?

24 A. Well, I think it was a combination of the

1 cultural designation. Then I have to go look
2 at the visual designation as well to see why
3 it dropped off.

4 Q. Aren't there two different categories?
5 There's cultural and then there's scenic;
6 right?

7 A. Yes, yes.

8 Q. And even if it's cultural and scenic low, you
9 come up moderate and it drops off the list;
10 right?

11 A. Correct.

12 Q. Okay. Let's talk about Wagon Hill Farm,
13 which is a historic farm which made the cut
14 of the 30. Now I want to ask a question.

15 You have an Inventory and Evaluation
16 chart on Page 62 -- and these are the
17 different qualities that are used to score
18 the last 30 that made the cut. And I want to
19 specifically ask you about the Water
20 category --

21 A. Okay.

22 Q. -- which says if it's clear and clean, still
23 or cascading white water, any of which are a
24 dominant factor in the landscape, they get

1 the highest score of five; right?

2 A. Hmm-hmm.

3 Q. If it's flowing or still, but not dominant in
4 the landscape, it gets a three; right?

5 A. Correct.

6 Q. Otherwise it gets a zero.

7 A. Correct.

8 Q. Now, Wagon Hill Farm was graded a three. Can
9 you explain why?

10 A. I'd have to go back and look at my notes and
11 review it. I can't tell you off the top of
12 my head. I would have to depend on the
13 analysis. I can't recollect the
14 determination on that.

15 Q. Well, Wagon Hill Farm on the Oyster River
16 where it meets Little Bay, wouldn't that make
17 the water resource a fairly dominant part of
18 the landscape?

19 A. Well, I think we gave it a three. So we
20 recognized that it was a part of the
21 landscape. But I think it depends on where
22 that water is relative to the overall
23 property and how central that water is to the
24 experience of the property.

1 Q. And is there -- what category would you fit
2 tidal water into here?

3 A. I'm sorry. What category?

4 Q. Which category would tidal water fit into?

5 A. It falls under Water.

6 Q. Under clear and clean and cascading, or
7 flowing or still, but not dominant?

8 A. I mean --

9 Q. There doesn't seem to be a category for tidal
10 water. That's why my question is --

11 A. Well, I think we're looking at the water
12 certainly for its qualities and then its
13 presence as part of the landscape. So those
14 were certainly a point of departure. You
15 know, if the water was the dominant reason
16 and central feature of that landscape, then
17 it might have gotten a higher rating. But I
18 believe the dominant feature of the farm is
19 the farm and the landscape of the farm as
20 opposed to the shoreline.

21 Q. My next question is about the photo
22 simulation you did at Wagon Hill Farm. It's
23 on Page 138 and 139 of 167.

24 A. Bear with me for a second.

1 PRESIDING OFFICER WEATHERSBY: Ms.
2 Mackie, 142 is not 167. Oh, I see. It was
3 137 --

4 MR. ASLIN: This is Exhibit 52.

5 PRESIDING OFFICER WEATHERSBY: Fifty-
6 two? Thank you.

7 BY MS. MACKIE:

8 Q. Now, according to the specs on here, your
9 camera was at 66 feet above sea level, which
10 means it was at the wagon on the hill, which
11 is the principal viewpoint on that particular
12 farm. You were looking to the southwest, and
13 you were looking for Pole No. 81; correct?

14 (Witness reviews document.)

15 A. Yes.

16 Q. And if you look at the next two pages, which
17 are the before and after with the photo
18 simulation, there's nothing showing at all;
19 correct?

20 A. I'm sorry. I haven't been able to find my
21 copy here. I've got so many simulations in
22 here. Give me a moment perhaps to find it.

23 (Witness reviews document.)

24 A. We point out where that visible structure is

1 located in the landscape, but you really
2 can't see it because of the backgrounding of
3 the vegetation. That's what the visual
4 simulation yielded, that when you put that
5 structure in, because it doesn't exceed the
6 height of the background vegetation, it is
7 visually sort of compatible, or at least not
8 rendered -- it doesn't stand out because it's
9 backgrounded and absorbed visually by the
10 surrounding landscape.

11 Q. So there's no arrow in the picture pointing
12 to where it's supposed to be, is there?

13 A. Yes, there is. Yes, there is. At the top of
14 the picture there's an arrow.

15 Q. I couldn't see that. But anyway, you can't
16 see whatever it is.

17 My next question is why did you choose
18 that pole?

19 A. Because that would be the visible pole that
20 you would potentially see from this site.

21 Q. So from Wagon Hill you sort of look to the
22 southwest and you see basically where the
23 eastern, the part coming east turns to go
24 south, or right around that corner; is that

1 correct?

2 A. Yes.

3 Q. Pole 81 is back east about four poles back
4 towards Sandy Brook from that corner. Right
5 there. Why would you choose a pole that's
6 back from the closest place?

7 A. We didn't choose the pole. We simulated what
8 would be visible from that vantage point.

9 Q. Well, there are poles that are closer to the
10 Wagon Hill Farm that are taller. Why didn't
11 you use those?

12 A. That are not visible because of the
13 vegetation. You know, again, if you
14 understand how simulations are created,
15 they're put into a three-dimensional model,
16 and they're placed via coordinates on that
17 model. And then the photography and tree
18 heights are sync'd with the CAD 3D model and
19 overlaying. And based on certainly tree
20 heights in the area, as well as the interface
21 of the CAD environment with the simulation
22 environment, which is typically done using
23 both SketchUp and Photoshop, or 3D modeling
24 tools, it tells us what you can and can't

1 see. We don't make it up. We don't select a
2 pole to show or not to show. It's what the
3 simulation provides. And the simulation
4 methodology that we use has been accepted in
5 every court of law and proceeding that I've
6 ever been in as the correct and accepted
7 professional method for simulation.

8 Q. Well, all the other viewshed renderings I've
9 ever seen are always done from one spot, like
10 you do here. You're looking southwest. The
11 only viewshed illustration that you have in
12 your testimony are Exhibits 1 and 2 --

13 MS. DUPREY: The questioner is
14 testifying.

15 BY MS. MACKIE:

16 Q. My question is: Why didn't you do a viewshed
17 exhibit from here, you know, a separate one?
18 You have one combined viewshed exhibit for
19 all nine scenic things, and it's
20 unintelligible because you can't tell from
21 what --

22 PRESIDING OFFICER WEATHERSBY: Ms.
23 Mackie, your question is why didn't he do a
24 simulation from a specific location.

1 MS. MACKIE: Right.

2 PRESIDING OFFICER WEATHERSBY: And
3 that location is? What is the location?

4 MS. MACKIE: Wagon Hill Farm, for
5 example.

6 BY MS. MACKIE:

7 Q. Why didn't you do a specific --

8 PRESIDING OFFICER WEATHERSBY: Didn't
9 he testify, and we see in reviewing the photo
10 simulation, he did do one from Wagon --

11 MS. MACKIE: No, I'm not talking
12 about a photo simulation. I'm talking a
13 viewshed illustration.

14 A. The viewshed mapping that we provide is for
15 the whole project. We use that as a point of
16 departure for then testing visibility on a
17 site-by-site basis. We went to Wagon Hill
18 Farm, and we modeled it with the data we were
19 provided, which is pretty accurate. And this
20 simulation represents what you will see from
21 Wagon Hill Farm from that particular vantage
22 point.

23 Q. It says that you used 40-foot trees; correct?

24 A. Correct.

1 Q. Okay. So if I understand it, you took the
2 picture at an elevation of 66 feet above sea
3 level --

4 A. No, we used 40-foot trees, excuse me, for the
5 viewshed analysis, just to make it -- for the
6 mapping of the viewshed. We didn't use
7 40-foot trees for this. We used the actual
8 photograph with the actual trees and their
9 actual heights. We didn't change the
10 photograph to --

11 Q. No, but to do this --

12 (Court Reporter interrupts.)

13 A. We didn't use the 40-foot height for the
14 visual simulation. We used the 40-foot
15 height as a conservative estimate for tree
16 heights in the project viewshed to map
17 potential visibilities. And I say
18 "conservative," because in many locations
19 there are trees that are higher and certainly
20 some places where trees are lower. But
21 that's an accepted height for visual
22 simulations, which are different than the
23 viewsheds. We don't -- we use the real
24 photograph. And as I said, we drape that

1 photograph in a CAD environment over an
2 accurate 3D model of the topography and
3 contours. We place the structure at its
4 accurate height at scale into the simulation,
5 and then we place the photograph over it. We
6 test the photograph for its synchronicity
7 with the underlying topography. And they're
8 always in sync because we're doing the
9 modeling from that particular vantage point.
10 And that's the simulation that results from
11 that step-by-step process to try and
12 accurately simulate what you'll see from that
13 vantage point at Wagon Hill Farm.

14 Q. Well, for Pole 81 you have on your specs
15 there that it's 93 feet tall; right?

16 A. Correct.

17 Q. And what's the elevation above sea level that
18 that pole sits on?

19 A. Again, I would have to go out and actually
20 measure the trees right next to it. But in
21 the simulation, it accurately places the pole
22 heights within the context of the real photo.
23 So you're seeing what that's going to look
24 like from that vantage point.

1 Q. I'm having a problem understanding how you
2 get your simulated pole because -- my
3 question is: You're standing at 66 feet
4 above sea level. The combined height of the
5 pole and the ground that it rests on is
6 175 feet. So how can it possibly be behind
7 trees?

8 A. Again, it depends on the topography, the
9 relative height of the view, the relative
10 height of the trees in front of it and behind
11 it that visually accommodate the structure.
12 The simulation doesn't lie. I'm not going to
13 say the simulation is necessarily exact. But
14 I will say that we have gone back on many
15 instances and checked our simulations with
16 the actual constructed project, and we are
17 always not surprised, but pleased to note
18 that we are right on usually. The only thing
19 that changes might be obviously atmosphere
20 and color and how things look on any given
21 day.

22 But we model the structure accurately
23 from the information provided us by the
24 engineers at Eversource, and we put that into

1 a CAD, a computer-aided design environment,
2 at scale. So what you see is as accurate as
3 possible a representation of that view from
4 that location.

5 Q. Well, I took the same drawings from
6 Eversource, and this is what I come up
7 with --

8 PRESIDING OFFICER WEATHERSBY: Ms.
9 Mackie, this is not your time to testify.

10 BY MS. MACKIE:

11 Q. Well, I'm trying to ask a question about how
12 come these combined pole heights above sea
13 level at the base of the pole are obviously
14 going to be above the tree line --

15 PRESIDING OFFICER WEATHERSBY: Ms.
16 Mackie --

17 Q. -- and yet you're not showing it.

18 PRESIDING OFFICER WEATHERSBY: Ms.
19 Mackie, he already explained his whole
20 methodology of how that could be in response to
21 your last question. Please move on to your
22 next.

23 MS. MACKIE: I'm sorry. I just keep
24 asking questions because I can't believe it.

1 PRESIDING OFFICER WEATHERSBY: I know
2 that you don't like his answer, and I
3 understand that. But by asking it more and
4 more times, you're not going to get a different
5 response.

6 MS. MACKIE: Evidently.

7 BY MS. MACKIE:

8 Q. Do you know that the average height of the
9 bases of all the transmission poles --

10 PRESIDING OFFICER WEATHERSBY: Ms.
11 Mackie --

12 Q. -- in Durham is 70 feet?

13 PRESIDING OFFICER WEATHERSBY: You're
14 testifying again. Please ask him a question.

15 MS. MACKIE: I am.

16 BY MS. MACKIE:

17 Q. Do you know that the average base of the
18 transmission line poles in Durham is 70 feet
19 above sea level?

20 A. I would have to take your word for that.
21 Every location is different. And just again
22 to reaffirm, we used GPS data. Our camera
23 records our latitude, our longitude, our
24 elevation when the picture is taken, so that

1 it can be properly placed within the context
2 of the photograph.

3 And I understand what your problem is.
4 You're relating, you know, the structure to
5 the sea level elevation right next to the
6 structure. But what happens over the
7 distance of a view is that you have
8 intervening topography. You have trees that
9 are closer to you that may not be as high as
10 the pole but certainly are high enough to
11 block them. So you have to understand you're
12 seeing a foreshortened view, and there's a
13 lot of other elements and vegetation between
14 your vantage point and the actual pole
15 location. Hopefully that helps you
16 understand why it's different than just
17 taking the height of the structure and the
18 height of a tree right next to it.

19 Q. Well, I looked at LIDAR and I still have a
20 question.

21 A. Please.

22 Q. And would you agree that from the vantage
23 point on the hill at Wagon Hill, it's an open
24 field all the way to the river?

1 A. Certainly.

2 Q. I mean, certainly lower elevation than what
3 you're looking at.

4 A. Yeah.

5 Q. And then you go across the river and then you
6 go to this pole?

7 A. Again, as I said, there's intervening
8 vegetation between your view, the roll of the
9 hill below you and then where the pole is --

10 Q. Well, let me ask you a different question
11 then. Since the average height of the
12 transmission poles in Durham is 88 feet,
13 would you say that that's generally above or
14 below the tree line in Durham?

15 A. In some places it's at the tree line and in
16 some places it's above the tree line
17 probably.

18 MS. MACKIE: Thank you. No further
19 questions.

20 PRESIDING OFFICER WEATHERSBY: Ms.
21 Frink.

22 CROSS-EXAMINATION

23 BY MS. FRINK:

24 Q. Good afternoon, Mr. Raphael. My name is

1 Helen Frink, and I represent the Darius Frink
2 Farm that you see here. I'm going to ask you
3 first, do you have Attachment D to your
4 supplemental prefiled testimony of July 27th?

5 A. I probably do. Yes, I do, right here.

6 Q. I'm looking at the top of Page 2, and I'd
7 like to ask you if you could read the first
8 two sentences where you describe Nimble Hill
9 Road.

10 (Witness reviews document.)

11 A. I'm sorry. You're at Attachment D, not B.
12 Yes?

13 Q. I'm sorry. Attachment D, Page 2, the top of
14 the page you describe Nimble Hill Road.

15 A. Sorry.

16 (Witness reviews document.)

17 A. You want me to -- what would you like me to
18 do?

19 Q. Top two sentences begins, "Nimble Hill Road
20 is a main street..."

21 A. "Nimble Hill Road is a 'main street' for the
22 town of Newington, and as such has several
23 town properties and facilities along it and
24 is characterized by a sense of open, mowed

1 areas, intermittent tree lines, as well as
2 low-density residential uses. It is typical
3 of many rural and suburban roads in this
4 region and does not have any identified
5 vantage points, scenic resources (aside from
6 the Darius Frink Farm) or unusual or
7 compelling landscapes along its length."

8 Q. Thank you. I'd like to note that it's Darius
9 Frink Farm.

10 I'm going to show you now the visual
11 simulation that you prepared and ask a few
12 questions.

13 A. Sure.

14 Q. Mr. Raphael, this represents the existing
15 conditions.

16 A. Yes.

17 Q. And I'm going to go on now to the next page.

18 A. I see that.

19 Q. I believe that you stated that in July --
20 this is part of your July 27th testimony.
21 Excuse me. And you stated that you revised
22 this visual simulation to reflect the change
23 in the design of the rise of structure on the
24 Darius Frink Farm; is that correct?

1 A. Yes.

2 Q. And what is the date when you did this new
3 visual simulation?

4 A. It says the date on the drawing, which I
5 can't read. I have to look it up here.

6 Q. On the side it says April of 2017.

7 A. Yes.

8 Q. Is that likely to be correct?

9 A. It may be referencing the date of the
10 picture, when the picture was taken. It may
11 be that the simulation was added afterwards
12 and we did not perhaps change the date of the
13 simulation. As I said earlier, I'm not good
14 on the dates and the sequence. We revised
15 any number of simulations in this project at
16 different points.

17 Q. Perhaps I could help. If I went back to
18 Page 1, I think it says that the existing
19 conditions were photographed in 2015, and
20 then at some point after that you came back
21 and changed the design of this tower, this
22 transition structure. Does that seem likely?
23 Do you remember doing it twice?

24 A. I'm sorry?

1 Q. Do you remember doing the visual simulation
2 twice?

3 A. We did several visual simulations here, yes.

4 Q. Can you confirm for me that there was a
5 change in the design of this monopole
6 transition structure and that's why you did
7 the simulation a second time?

8 A. Yes, I believe previous there was a
9 three-pole structure.

10 Q. Yes, that agrees with the information that I
11 have.

12 So, at some point Eversource provided
13 you an image or a photo of the new monopole
14 transition tower; is that correct?

15 A. Well, we would have been provided with
16 several things: The actual structure
17 dimensions and characteristics, and then an
18 example of the type of structure that it
19 would be and look like, and we based our
20 modeling on that information.

21 Q. This transition structure is shown here from
22 quite a distance. Would you have been
23 provided with an image that showed it a
24 little more close up?

1 A. Well, I mean, we could zoom in to give you a
2 sense of, you know, what it would look like
3 closer up, or we could have gone into the
4 middle of the field and used a photograph
5 from there to provide a closer view. But
6 typically we don't go onto private property
7 to do that kind of work unless we're asked or
8 have permission.

9 Q. I guess I need some help understanding the
10 visual simulation process. In the visual
11 simulation process, when you changed -- when
12 you were asked to change your simulation to
13 show the new design, would you have needed to
14 go onto the property again, or would you have
15 used an existing photograph and inserted the
16 new design into that?

17 A. You wouldn't necessarily need to go onto the
18 property. What you accounted for would
19 probably be right. We could have used that
20 existing photograph and then based the new
21 simulation on that original photograph.

22 Q. In your work with this new photograph, did
23 you have any information about the dimensions
24 of this structure?

1 A. Yes. It would have been provided in the
2 model or the data we received from Eversource
3 to model it.

4 Q. And excuse me, but I read earlier on the
5 first page here, which we could go back and
6 look, that it's 75 feet tall. Does that seem
7 right to you?

8 A. Yes.

9 Q. It looks like it has a T structure at the
10 top, like a T bar?

11 A. Yes.

12 Q. How wide might that be?

13 A. Again, I'd have to go back to the engineering
14 drawings to confirm the width as shown. I
15 couldn't say offhand from this view what that
16 width is.

17 Q. And have you any way of knowing whether there
18 was any sort of lighting on it? This is
19 pretty close to the Pease runway.

20 A. If there's any lighting on the structure
21 itself?

22 Q. Yes, like on that T bar.

23 A. Yeah, I wouldn't know. I mean, typically,
24 again, depending on proximity and the

1 particular location, you don't typically
2 light things under a hundred feet.

3 Q. I see.

4 A. But again, I wouldn't say that with
5 certainty.

6 Q. I'm going to show you now a different image
7 of a transition structure and ask you: Does
8 this match -- excuse me. I hope that's large
9 enough so you can see.

10 A. Sure.

11 Q. Does this match the transition structure
12 monopole in your visual simulation, or is
13 this different?

14 A. This is different.

15 Q. And this is the image that was provided to
16 the landowners. But it's not what you were
17 given; is that correct?

18 A. It's not what we ultimately modeled. I think
19 this might have been one potential version.
20 But there are a number of different designs
21 for transition structures, of which this
22 obviously would be one. And the one
23 presented in the simulation would be another.

24 Q. And now I'm going to show you a third

1 possibility. Would you look at the top
2 right-hand diagram. I'm going to see if I
3 can enlarge it so you can see a little
4 better.

5 A. I can see that.

6 Q. And this shows the proposed structure,
7 Structure No. 109, which is to be located on
8 the Frink Farm. Does this match the design
9 in your visual simulation?

10 A. No.

11 Q. And does it match the design that I showed
12 you earlier that the landowners received from
13 Eversource?

14 A. No, it's different, slightly different than
15 that one as well.

16 Q. And while we're here, take a look at the
17 trees that are adjacent to this monopole
18 transition structure. What kind of trees
19 would you call those? Deciduous? Evergreen?

20 A. Well, I think it's symbolizing a typical
21 evergreen type of tree. I think they're
22 just -- I wouldn't say that those were
23 presented for, you know, an accurate
24 rendition of the trees that were there, but

1 just as a scale relationship to show that the
2 trees adjacent to the corridor are roughly
3 that size and scale, but not necessarily the
4 exact same trees.

5 Q. Good. And if the structure that we see is
6 about 75 feet tall, the diagram would
7 indicate that the trees are about the same
8 height?

9 A. Certainly in the diagram, yes.

10 Q. I'm now moving down a little. And I'm not
11 sure if you can see down here where my mouse
12 is. But down along the property line to a
13 place where you see F107/109, and 109 is the
14 what matches the structure that we've just
15 been talking about.

16 A. I see that, yes.

17 Q. Thank you. That represents the location of
18 the transition structure that you showed in
19 your visual simulation and adjacent to an
20 existing pole that I'd liked to show.

21 Mr. Raphael, I'm going to need a little
22 help interpreting here. For identification
23 purposes, this is a photo of the pole that is
24 nearest where the transition structure will

1 be located. If I'm looking at a pole that's
2 35 to 40 feet high here, how high would you
3 estimate that the trees are surrounding it?

4 A. You know, it's very hard to do that from the
5 photograph. I don't know. I would have to,
6 again, go out and look at the actual location
7 because I think the picture can be deceiving.
8 That looks like a fairly tall tree. You
9 know, I would guess that is 60 to 70 feet
10 tall, potentially --

11 Q. Let me --

12 A. -- just judging from its girth and the trunk
13 and its height. Again, I don't know from
14 this picture and that particular tree.
15 Again, you're much closer to the pole in the
16 picture. So the tree is some distance in the
17 background, so it's not going to appear in
18 exact scale relationship with the pole.

19 Q. Thank you.

20 Does this help to indicate any better
21 the height of the trees in relation to the
22 height of the pole? Let me go and see if I
23 have any better images. Does that help you
24 estimate the height of the trees?

1 A. Not really. I think the one before was a
2 little better maybe. You could sort of
3 see -- yeah, that one. You can see in that
4 photograph the trees behind it, particularly
5 to the right, are more than topping out at
6 probably twice the height of that pole, which
7 I believe is probably 35 to 40 feet.

8 Q. And here we have the height of the trees
9 closer to the height of the pole. Would you
10 still say that the trees are that much higher
11 than the pole, or are we closer to the 35,
12 40 feet?

13 A. Well, again, I don't know about that specific
14 tree, so it's very hard to tell. But it's
15 clearly -- again, because you're so close to
16 the pole, the pole appears larger in
17 relationship to the tree behind it.

18 Q. I see. I guess would you please repeat what
19 you said last, the last sentence?

20 A. Because the photograph is taken close to the
21 pole, the pole appears larger in relationship
22 to the tree behind it than it otherwise might
23 be.

24 Q. I see. So the pole appears taller in

1 relationship to the trees behind it than it
2 really would be.

3 A. Or the tree conversely appears shorter --

4 Q. Okay.

5 A. -- than it actually would be based on, again,
6 the foreshortening of the photograph and the
7 proximity to the pole.

8 Q. I'm going to go back now to your --

9 MS. DORE: Ms. Frink, may I stop you
10 for a second?

11 MS. FRINK: Hmm-hmm.

12 MS. DORE: Just for the record, the
13 last photograph was your Exhibit No. 28,
14 Page 2 --

15 MS. FRINK: Yes, it is.

16 MS. DORE: -- and the pictures of
17 other poles was your Exhibit No. 8; yes?

18 MS. FRINK: Would you please repeat
19 the question?

20 MS. DORE: We had a number of
21 pictures of different poles where you tried to
22 show the different perspective, and that was
23 your Exhibit No. 8; yes?

24 MS. FRINK: Exhibit No. 8 is the

1 revised environmental map with the diagram at
2 the top that shows the pole.

3 MS. DORE: Would you please identify
4 the pictures, the various pictures? That was
5 all in Exhibit 28?

6 MS. FRINK: And your question again?

7 MS. DORE: Exhibit 28 --

8 MS. FRINK: This is Exhibit 28.

9 MS. DORE: Thank you.

10 MS. FRINK: Is that all you need to
11 know? And these are actual photographs. I
12 took the photographs on October 12th. Is that
13 clear enough?

14 MS. DORE: Yes.

15 MS. FRINK: Thank you.

16 BY MS. FRINK:

17 Q. Mr. Raphael, I'm going to return for a moment
18 to your visual simulation, if I may.

19 A. Sure.

20 Q. This is Page 3 of you visual simulation. And
21 behind this transition tower that we see, the
22 poles behind are H-frame poles. Do you know
23 how tall those are?

24 A. You know, I don't, off the top of my head,

1 know the actual height of those poles.

2 Q. I believe that they are 65 feet high. I
3 think it says that on Page 1.

4 A. Okay.

5 Q. Is that acceptable to you?

6 A. Sure.

7 Q. And from what vantage point or what
8 observation point did you take this photo?
9 If this were an actual photograph, where
10 would you have been standing?

11 A. Well, it is an actual photograph, and we were
12 standing on Nimble Hill Road. Again, we
13 actually use the actual photograph of the
14 existing conditions and then we bring it into
15 the simulation process. We don't change the
16 photograph other than to simulate the
17 corridor and the structure within it.

18 Q. I'm going to go back one page. And this is
19 the existing conditions. So here we see the
20 actual photograph; is that correct?

21 A. Yes.

22 Q. This is existing conditions.

23 A. Yes.

24 Q. Once again, this is your visual simulation.

1 And how wide is the width of the right-of-way
2 that we see here?

3 A. In the existing conditions?

4 Q. Yeah. I believe it's 100 feet, but I would
5 like you to confirm that, please.

6 A. Again, I don't -- what did you say you
7 thought the width --

8 Q. I believe it's 100 feet.

9 A. Well, the actual, I believe, width is 100
10 feet, yes.

11 Q. Thank you. So your visual simulation
12 represents the view from the edge of Nimble
13 Hill Road; is that correct?

14 A. Yes.

15 Q. And did you also do a visual simulation of
16 how this structure would appear to people
17 working in the fields closer up?

18 A. No, we didn't because, again, we typically do
19 simulations from public vantage points.

20 Q. And I assume that there's no vantage point
21 shown from the view of this transition
22 structure or tower from closer to the house.

23 A. No. Again, you know, unless we're asked or
24 have permission or there's, you know, a

1 directive to do that, the bulk of our visual
2 simulations are done from public vantage
3 points.

4 Q. Did I understand correctly from your earlier
5 testimony that you also have a background in
6 landscape architecture?

7 A. Yes, I'm a licensed landscaper.

8 Q. And based on the visual simulation that you
9 provided and familiarity with this site, do
10 you believe that this transition tower will
11 be concealed by vegetation?

12 A. No, I don't think it will be concealed by
13 vegetation. It won't be hidden in that
14 sense, in this particular view. But, again,
15 depending on your vantage point -- you know,
16 let me go back here.

17 If you're, let's say in the vicinity of
18 the farmhouse, that view would be, you know,
19 off to the left in the widest part of your
20 view. I mean, the broadest view a human eye
21 can take into with blurring on the side is
22 about 120 degrees. So, you know, the primary
23 cone of vision that you can focus on is about
24 45 degrees. So it would be probably just

1 that transition structure might be visible
2 from different vantage points because of that
3 from the farm property.

4 Q. But in any case, did I understand you
5 correctly to say that you believe it will not
6 be concealed by vegetation?

7 A. It won't be concealed as much as it will be
8 accommodated, to some extent, in that it
9 doesn't -- at least from the vantage point
10 that we're showing and from other vantage
11 points at that distance, the scale of the
12 structures do not, you know, exceed,
13 generally speaking, the higher tops of the
14 whole canopy there as you can see from the
15 visual simulation. Certainly as you get
16 closer, you know, you will see this
17 potentially. The closer you get, the higher
18 it's going to look to you in person. That's
19 certainly true. But I wouldn't use the word
20 "concealed" as much as that the tree line and
21 certainly the corridor as it proceeds through
22 the tree line will certainly conceal the
23 remainder of the corridor from all but the
24 head-on vantage point that the simulation

1 shows. The structure itself will -- you
2 know, it's right at the edge of the tree
3 line. So from some points it will be nicely
4 backgrounded. If you're looking again
5 straight down the corridor, it will not, to
6 the extent that again you see in the
7 simulation. So the fit there is certainly
8 better than if, A, the structure was taller
9 and, B, if the structure was further out in
10 the field.

11 Q. Thank you, Mr. Raphael. No further
12 questions.

13 A. You're welcome.

14 PRESIDING OFFICER WEATHERSBY:

15 Attorney Aslin.

16 MR. ASLIN: Thank you, Madam Chair.

17 CROSS-EXAMINATION

18 BY MR. ASLIN:

19 Q. Good afternoon, Mr. Raphael. How are you?

20 A. Good afternoon. I'm fine. Yourself?

21 Q. Well, thank you. For the record, my name's
22 Chris Aslin. I'm designated as Counsel for
23 the Public in these proceedings. I want to
24 pick up on a few questions about your

1 methodology to start.

2 This methodology is one you've used
3 before in your career?

4 A. Yes.

5 Q. And is it fair to say this is something that
6 you or your firm developed?

7 A. Yes. It's a combination of a long evolution
8 of visual analysis methodology.

9 Q. Thank you.

10 And for this particular project, do I
11 understand correctly that for the
12 identification process, you identified all
13 scenic resources within a 3-mile radius of
14 the corridor? And then -- so for the 3-mile
15 radius it was all -- the scenic resources
16 were identified; is that right?

17 A. Correct.

18 Q. And then outside of that, going from 3 to
19 10 miles out, you only looked at scenic
20 resources that were within the area of
21 potential visibility; is that correct?

22 A. Correct.

23 Q. So you had -- and why is there a distinction
24 between the two when the total study area is

1 10 miles?

2 A. Well, with transmission structures in
3 particular, when you get out beyond 3 miles,
4 the presence, visibility and scale of
5 transition structures diminish with distance.

6 Q. Were you adding something, or is that --

7 A. No. I mean, again, you know, again, as we
8 would in -- we wouldn't go through the
9 process necessarily of identifying every
10 single resource. You know, that would be a
11 20-mile corridor over the 12-plus-mile length
12 of the Project. So, being responsive, we
13 wanted to identify those scenic resources
14 that we knew would have visibility to be able
15 to account for that distance and to, you
16 know, respond to the rules in that regard.

17 Q. Okay. Thank you.

18 To paraphrase, I guess, beyond 3 miles
19 it's unlikely -- well, not unlikely, but you
20 didn't want to waste time with things that
21 probably were not visible.

22 A. Well, I mean, I guess I wouldn't say waste
23 time. But I just think we wanted to focus on
24 those resources that we knew would have

1 visibility and did need to be accounted for
2 with regard to that visibility.

3 Q. Thank you.

4 With regard to the various categories of
5 resources that you looked at as potential
6 scenic resources, one of those categories is
7 historic sites; is that correct?

8 A. Well, we would only look at a historic site
9 if that historic site had a distinct scenic
10 or visual component to it, if the resource
11 was clearly oriented to a view and its
12 "raison d'être" is because of the view rather
13 than, you know, it's a historic resource
14 because it has architectural value. So
15 there's this distinction in particular.

16 Q. Sure. I understand that. I don't want to
17 try and trick you. But the rules in Site
18 102.45(e) states "historic sites that possess
19 a scenic quality." Is that what you're
20 getting at?

21 A. Yes.

22 Q. So, not a historic site that is historic just
23 because it's old, but that has some scenic
24 quality.

1 A. Right.

2 Q. But with regard to historic sites, in terms
3 of your analysis, is it correct that you only
4 looked at historic sites that were listed in
5 the national registry or the state registry
6 of historic places?

7 A. Yes. We would not have any other means
8 necessarily, unless we were alerted to an
9 eligible listing that would have had that
10 potential. There would be no means to
11 determine whether there was a scenic
12 component to an unlisted resource.

13 Q. And through the course of the proceedings or
14 the runup to the proceedings, did you work
15 with the Applicant's historic resources
16 expert to determine if there were any
17 eligible resources that had been identified?

18 A. Yes. My staff worked back and forth with the
19 historic experts.

20 Q. And I didn't see that any of the eligible
21 resources identified by the historic expert
22 were included in your analysis.

23 A. No, they were not. We left that up to her.

24 Q. Okay. So you did not --

1 A. No.

2 Q. -- perform any analysis of those eligible
3 sites.

4 A. Not that I can recollect.

5 Q. Okay. Thank you.

6 You have in your report, on Page 10,
7 electronic Page 16, and it's Applicant's
8 Exhibit 51, a list of some of the types of
9 resources that you included in your
10 identification process; is that fair?

11 A. Correct.

12 Q. Okay. I wanted to ask you about
13 state-conserved lands with a specific public
14 use or scenic resource component. That was
15 one of the categories you looked at?

16 A. Correct.

17 Q. In looking for state-conserved lands, did you
18 consider the funding source for all
19 conservation easements within the Project
20 area?

21 A. I don't think specifically, no. We were
22 just -- I mean, we did look at state or other
23 conserved lands. We didn't limit it to just
24 state conservation areas. I think if there

1 were other conserved lands that had a public
2 use or public access, that would fall into
3 that category.

4 Q. Okay. So I guess I'll ask a different way.

5 Did you look at conserved lands that may
6 be not owned or held by the state but that
7 were purchased using state funds or federal
8 funds?

9 A. Yes, I would imagine we did if they were
10 listed in data banks or, you know,
11 information that we had available to us
12 publicly. Yes, we would have.

13 Q. Okay. And so if a -- let's say a town held a
14 conservation easement, and it was purchased
15 using state funds that have a purpose of
16 scenic or natural resources as part of their
17 funding mechanism. Would that affect your
18 designation of the cultural designation for
19 that resource in your analysis?

20 A. Well, I mean, it just -- we would want to
21 look at the cultural designation in light of
22 its qualities. And, you know, again, we have
23 the criteria in the methodology that
24 describes how we rate cultural value. And

1 it, you know, considers a couple of elements
2 of the resource to determine how valued that
3 resource might be, you know, culturally to
4 local, state or, you know, national
5 populations.

6 Q. Okay. And partly what I'm getting at is the
7 definition of "scenic resources" includes
8 Subpart D, again Site 102.45. But Subpart D
9 says, "recreational trails, parks or areas
10 established, protected or maintained in whole
11 or in part with public funds." Are you
12 familiar with that part of the rule?

13 A. Yes.

14 Q. And I think you testified earlier in regard
15 to trails, that in following with that
16 category, it would only qualify in your
17 analysis if it had some scenic quality or
18 scenic purpose to it.

19 A. I think that's correct.

20 Q. And I'm curious. In the rule, I don't see
21 any reference with regard to this subpart to
22 a scenic purpose. It just relates to
23 publicly funded.

24 A. Right. But then we do have to plug in, in

1 evaluating its sensitivity and its
2 importance, you know, how it was designated
3 and how it's used, how it's considered, you
4 know, locally, regionally or statewide.

5 Q. Yes. And that would go to the cultural
6 designation; is that right?

7 A. Yes.

8 Q. So if it's designated either with public
9 funding or some other way, it could get a
10 higher cultural designation. But I thought
11 you testified earlier that you wouldn't even
12 consider a trail as a scenic resource if it
13 didn't have some scenic purpose in the
14 designation. Maybe I misunderstood.

15 A. Well, I mean, again, if you're walking on a
16 wildlife trail and it's, you know, within the
17 woods and there are no views, then that would
18 not be something that would end up probably
19 being evaluated because there would be no
20 visual effect from the Project. So that
21 would be one way in which a trail might not
22 be, you know, elevated to further review.
23 Not all trails are created equal. Some serve
24 different purposes. You know, as I mentioned

1 the Great Bay Wildlife Trail, from all
2 accounts, is more focused on the wildlife
3 viewing, which is, again, as I said,
4 certainly part of the scenery. But the
5 primary purpose is for its ecological value
6 and wildlife viewing. And I think the scenic
7 drama is probably secondary.

8 Q. And under your methodology, where would that
9 distinction come out? I mean, would that be
10 something that's a cultural designation piece
11 of --

12 A. I think it probably would be realized or at
13 least reviewed within the context of both the
14 cultural designation and scenic quality. And
15 on the converse, if a trail was not
16 necessarily highlighted for its scenic
17 purpose or was part of a conserved area for
18 another purpose, but that it rose to a level
19 of having a high scenic value or dramatic
20 views, then its scenic quality rating would,
21 you know, be higher, and the chances are then
22 it would be evaluated further.

23 Q. Okay. And under the Scenic Quality portion
24 of your analysis, that's really looking at

1 the scenery from the resource; is that right?

2 A. Yes, experience in the resource at the
3 scenery, and to the extent in which the
4 Project as proposed relates to that scenery
5 and that view.

6 Q. And there's not a part of the scenic quality
7 review itself that looks at the purpose of
8 the scenic resource or the purpose of the
9 view; is that right?

10 A. Well, I think that it's implicit that, you
11 know, if there's a vantage point that's been
12 identified as having a long, distant view or
13 is a viewing point, again, unless it's
14 primarily designated for, you know, some
15 particular resource that was not
16 scenic-related, it would certainly be
17 acknowledged and evaluated further.

18 Q. No, I understand that. But under Scenic
19 Quality, you're looking at, I think, six or
20 seven subcategories; correct?

21 A. Right.

22 Q. And none of those subcategories deal with the
23 intent of the viewer or --

24 A. No, that's true, that's true.

1 Q. It's intrinsic to the view itself.

2 A. Right.

3 Q. One other question in terms of these resource
4 areas. You have a category of Non-Motorized
5 Trails.

6 A. Yes.

7 Q. I think at both the state and local level?

8 A. Yes.

9 Q. Did your analysis consider ATV or snowmobile
10 trails as potential scenic resources?

11 A. I think if they were co-located or part of,
12 you know, a designated scenic area or scenic
13 resource, yes. But if not, probably no. I
14 mean, it's more a recreational resource than
15 a scenic resource.

16 Q. But a non-motorized trail in a state park is
17 part of your list. And I guess my confusion
18 is why wouldn't a snowmobile trail in a state
19 park have equal value or at least be worth
20 looking at, and actually might qualify
21 identifying it whether it has a scenic
22 quality or not?

23 A. I mean, I am sure that some of the scenic
24 resources we may have evaluated in state

1 parks or other locations would have
2 snowmobile trails or ATV trails there that
3 wouldn't necessarily come under the review
4 because of their presence. So it would
5 probably be covered in that regard.

6 Q. Okay. Thank you.

7 So with regard to the viewshed mapping,
8 if I understand correctly, you start with the
9 bare earth condition in your model, and then
10 you add in the land cover data; is that
11 correct?

12 A. Yes.

13 Q. And for any forested cover, that was a set
14 40-foot height for trees?

15 A. Yes.

16 Q. And is that assumed to be an opaque 40-foot?

17 A. For the most part, yes.

18 Q. And without regard to whether the trees are
19 evergreen or deciduous or leaf-off
20 conditions?

21 A. No. And that's a good question. You know,
22 we found that even in leaf-off conditions,
23 that once you get to 50 or 100 feet of even
24 deciduous forest in the winter, there's a

1 pretty effective screening capability. And
2 the Forest Service has done studies to that
3 effect.

4 Q. Okay. So, essentially they're still fairly
5 opaque, leaf off.

6 A. Yes. And then when we get to the
7 site-specific level, then we can assess what
8 degree of opacity exists and certainly, you
9 know, base our analysis on that.

10 Q. Okay. Thank you.

11 And I believe it states somewhere on
12 Page 14 here of your report, which is
13 electronic Page 20, that you did incorporate
14 actual tree heights when you had that data.

15 A. Yes, on certainly site-specific locations.

16 Q. And I guess my question is: Was that
17 incorporated into the viewshed mapping or
18 into the 3D modeling?

19 A. 3D modeling.

20 Q. So the viewshed mapping was just 40 feet?

21 A. Yes.

22 Q. All right. Thank you.

23 And I think you testified earlier that
24 while at 40 feet you would be deem it to be

1 conservative, there are some areas where the
2 trees are shorter than 40 feet; is that
3 right?

4 A. Yeah, and that's why I think 40 feet is a
5 good balance.

6 Q. Okay. Now, with regard to the method you
7 used, you started with I believe 181 scenic
8 resources that you had identified --

9 A. Correct.

10 Q. -- within the study area. And then using the
11 viewshed mapping, 151 of those were
12 eliminated as not having potential
13 visibility?

14 A. Correct. But there were some, I think in the
15 footnotes, that we tested to be sure, either
16 in the office or in the field as needs be.
17 Footnotes I think in that list sort of
18 identify those which were reviewed in that
19 regard.

20 Q. Okay. But you ended up having 30 scenic
21 resources that you analyzed using your full
22 methodology.

23 A. That's correct. Yes.

24 Q. Okay. And the methodology that you employed

1 has essentially a three-tiered approach,
2 where you start with an overall visual
3 sensitivity analysis, and then if the
4 resource passes that level, it goes on to a
5 visual effect analysis, and then if it passes
6 that level, it goes to an effect on viewer
7 analysis? Is that the summary?

8 A. That's correct. Yes.

9 Q. Okay. And in that first step, the visual
10 sensitivity has two prongs, a cultural
11 designation and a scenic quality; is that
12 right?

13 A. Yes.

14 Q. And each of those is rated on a low, moderate
15 or high scale?

16 A. Yes.

17 Q. And then the two categories are combined
18 together to have a low to high range. But
19 now there's intermediate, low moderate, and
20 moderate high?

21 A. Yes.

22 Q. And in order to progress past that first
23 stage of analysis, you need to have a
24 moderate high or a high rating; is that

1 right?

2 A. That's right.

3 Q. So in order to do that, you have to have at
4 least one of the two subcategories rated
5 high?

6 A. That's right.

7 Q. And if you have a low rating for either
8 category, you will not progress.

9 A. Typically not, unless for some reason that's
10 overruled, which occasionally it could be,
11 based on other sources of information or, you
12 know, as I said -- for example, UNH initially
13 would not be necessarily considered a scenic
14 resource, but we treat it as though it was.
15 So there are some exceptions to the rule.
16 But this is the general, and specific, I
17 should say, process that we follow.

18 Q. Okay. And I think what you're getting at is
19 at the identification level you added back in
20 some resources that may not have qualified on
21 the surface, but then once they're identified
22 they went through your model.

23 A. That's right.

24 Q. Okay. And then this chart on Page 63 and 64

1 of your report, which is electronic Pages 69
2 and 70, and it's Applicant's Exhibit 51,
3 shows the ratings for those two categories
4 and then the overall sensitivity rating for
5 each rating; is that right?

6 A. Right. Yes, it is.

7 Q. So resources like Little Bay, which is Item
8 5, were deemed moderate for both
9 subcategories and therefore moderate overall
10 and did not move forward?

11 A. Right.

12 Q. And the same thing was true for Newington
13 Historic Center District -- I said that
14 backwards -- the Newington Center Historic
15 District which had, in this case, a high
16 cultural designation, but a low scenic
17 quality rating?

18 A. Yes.

19 Q. And so that also didn't move forward.

20 A. Correct.

21 Q. At the end of your analysis for this first
22 stage, only nine resources moved forward; is
23 that correct?

24 A. That's right.

1 Q. And then the second level of review is the
2 Visual Effect category, and there are three
3 subcategories; is that right?

4 A. Yes.

5 Q. And then again, this is rated a little
6 differently. There's some points awarded for
7 each one rather than a high, medium, low?

8 A. Yes.

9 Q. And the three subcategories are: Scale and
10 Spatial Presence, Prominence, and
11 Compatibility?

12 A. That's correct.

13 Q. And am I correct that you essentially --
14 well, let's... you have a chart -- or you
15 have a series of score sheets for these
16 categories that start on Page 81 of your
17 report, which is electronic Page 87. And
18 just scrolling through those, it appeared to
19 me that of the nine resources here, they
20 mostly scored zeros on most categories.

21 A. Right.

22 Q. Do you have an explanation for why they are
23 such low ratings or low scores for these
24 resources?

1 A. Because the presence of the structure, the
2 visibility of the structure and the scale of
3 the structure has to be noticeable, has to
4 be -- has to kind of meet the visual effect
5 ratings in order to, you know, rise to -- I
6 mean to move to the next level. So, you
7 know, again, we base it on these criteria.
8 And one of the interesting things about this
9 project is that, you know, from a distance,
10 almost beyond a mile or mile and a half, the
11 relative scale of the structure, you know,
12 the visibility of any clearings for the
13 structure, the number of structures that are
14 visible within that scale and within that
15 view were not such that they rose to a level
16 of even being noticeable unless you were
17 looking for them. I think in some of the
18 simulations, certainly one or two we've
19 reviewed, point that out. I mean, if that's
20 the case, then there's going to be little, if
21 any, viewer effect. That's why we wouldn't
22 go that next step.

23 Q. Would it be fair to say that for this
24 project, if the Project doesn't cross through

1 or very, very close to a scenic resource, it
2 was going to get a nominal score in this
3 section?

4 A. I mean, again, it depends on what the view
5 looks like from that scenic resource, whether
6 it's, you know, near or far. I mean,
7 depending on the angle of the view, how
8 visible the clearing could be, that would,
9 you know, be different. I mean, one of the
10 mitigating factors certainly, you know,
11 despite some conversation about elevation, is
12 that this is mostly in the coastal plain and
13 that it's a fairly level landscape where, you
14 know, the presence of transmission structures
15 are not as noticeable as they might be in a
16 more hilly landscape where you can see
17 corridors going up hillsides and, you know,
18 skylining and things of that nature.

19 Q. So at the end of this second part of your
20 analysis, only Little Bay Road moved forward;
21 is that correct?

22 A. I believe so, yes.

23 Q. And then you amended your report later on
24 after the undergrounding of the Project

1 through the Frink Farm area and Hannah Lane
2 area; is that correct?

3 A. Yes.

4 Q. And I guess also the movement of the
5 transition structure near Gundalow Landing.

6 A. Yes.

7 Q. And in your addendum, you found -- you
8 revised the rating for Little Bay Road down
9 to low; is that correct?

10 A. Yes.

11 Q. And that's in the Applicant's Exhibit 95 at
12 Page 8.

13 So, based on that, none of the resources
14 made it past the second stage of your
15 analysis?

16 A. That's right.

17 Q. Okay. In the third stage, you get at some of
18 the factors that really have to do with the
19 interaction with the viewer; is that right?

20 A. Yes. Although, again, you know, in the
21 previous one we've just been discussing,
22 visual effect, you know, the scale and
23 spacial presence, prominence, compatibility,
24 it's all based on viewing characteristics and

1 an analysis that we conduct within those
2 characteristics. So all throughout this we
3 are really thinking about the viewer and what
4 the viewer sees.

5 In the last stage, obviously, then we
6 get to the point of really assessing what is
7 this going to mean to the activity and the
8 use of the resource for that viewer.

9 Q. Okay. But for the last section of your
10 analysis, it's determining the effect on the
11 viewer. And you have four subcategories; is
12 that right?

13 A. Yes.

14 Q. Those are Activity, Extent of Use, Duration
15 of View, and Remoteness?

16 A. Correct.

17 Q. In this portion of your analysis, the scoring
18 is again low, medium and high for each of
19 those categories?

20 A. Yes.

21 Q. And I think you have down here a Footnote 134
22 on Page 89 of your report, which is
23 electronic Page 95 of Applicant's Exhibit 51,
24 that explains how the points are combined

1 between these categories?

2 A. Yes.

3 Q. And so in order to score high, you need to
4 have 12 points, which represents the highest
5 score on all four components; is that right?

6 A. Yes.

7 Q. And to get a moderate high, you need to get
8 10 or 11 points. And that would require a
9 high score on at least two of the four
10 components?

11 A. That sounds right.

12 Q. Okay. And it struck me, one of the
13 components is this concept of remoteness.
14 Let me find the right page here. And so
15 remoteness, if I understand it correctly
16 there, it's a measure of the lack of kind of
17 human impact on the environment in that area
18 or landscape. Is that a fair summary?

19 A. It's the extent of human development and
20 human alteration of that landscape, or human
21 presence.

22 Q. And you have five kind of subratings for
23 remoteness; is that right?

24 A. Yes.

1 Q. Let's see if I can find... and in order to
2 score high in remoteness, you need to be in
3 the primitive rating, characterized as
4 "primitive"?

5 A. Yeah.

6 Q. Are there any locations in the state of New
7 Hampshire that you would deem "primitive"
8 under your rating system?

9 A. Certainly. There are areas that,
10 particularly in the northern part of the
11 state, that are not highly developed, have a
12 more natural aspect without extensive, you
13 know, alteration and structures, things of
14 that nature. So, yeah, I mean, I think areas
15 around the White Mountains, portions of the
16 White Mountains that are wilderness areas in
17 the White Mountains and, you know, less
18 developed areas in the northern counties
19 certainly have stretches of -- you know,
20 there aren't truly pristine environments, but
21 certainly much less developed, more, again,
22 natural-appearing.

23 Q. Okay. I found what I was -- the reference in
24 your report. It's on Page 28, which is

1 electronic Page 24, where you describe the
2 subcategories of remoteness. For primitive,
3 it says, among other things, that the area is
4 2 to 3 miles from maintained roads, railroads
5 or trails designated for motorized or
6 mechanized use.

7 A. Yes. And, again, this classification is not
8 ours. You'll note there is a footnote. This
9 comes from sort of the work of a number of
10 people in relation to what's called the
11 "recreational opportunity spectrum." That is
12 a tool used by the U.S. Forest Service for
13 management purposes. So this is a
14 classification system that we relied on and
15 did not invent ourselves.

16 Q. Understood. But to score high in remoteness,
17 you need to be primitive. And that requires
18 an area with little or no development and
19 little or no motorized or mechanized use,
20 roadways, et cetera.

21 A. Yeah. I mean, I think where you see this
22 come into play more so, frankly, are in
23 places, you know, in the far northern reaches
24 of New England. Maine has great expanses of

1 landscapes like that where wind projects and
2 transition lines are often located. In fact,
3 I'm aware of one in Maine right now that is
4 going through that type of an area. And
5 that's where this classification would
6 certainly come into play.

7 Q. And for one of your other subcategories under
8 Effect on the Viewer, you have a category of
9 Extent of Use; is that correct?

10 A. Yes.

11 Q. And that is looking at how much people go to
12 that location and utilize it. Is that fair?

13 A. Duration of View is really -- Extent of Use
14 is -- yes, that's right -- what's the use
15 level and... yeah, among other things.

16 Q. We can look at the specifics on the prior
17 page. This is Page 27 of your report,
18 electronic Page 33. You have a low, medium
19 and high, or moderate high designation for
20 Extent of Use. And in order to score high,
21 you have to have quick, obvious and easy
22 access, multiple boat launches, campsites,
23 maintained facilities, large number of
24 people, motorized or mechanized use. So a

1 fairly high-use area in order to score high
2 in Extent of Use; correct?

3 A. Right. But again, this doesn't necessarily
4 imply that all of those things have to be
5 present. It could be one that's, you know --
6 it could be just access is quick, obvious and
7 easy, and therefore it's clear either from
8 observations or data that it has a high use,
9 a high level of activity.

10 Q. And so the reason for my questions here is it
11 seems the Extent of Use and Remoteness
12 categories are kind of two sides of the coin
13 to some extent. You can't have a primitive
14 area that has a high extent of use because
15 there are not all these facilities and access
16 points. And some of the same components,
17 such as motorized or mechanized use receive
18 the opposite weighting in these two
19 subcategories. Would you agree with that?

20 A. Yes and no. I mean, again, I'll just use the
21 main example. There's some very remote lakes
22 in central Maine, northern Maine, that have a
23 highly developed boat launch area that gets a
24 lot of use for fishing, hunting, and

1 recreation. But once you're off on the lake
2 or, you know, traveling beyond that boat
3 launch, it is totally undeveloped. I mean,
4 there's no evidence of human activity. And
5 so these aren't necessarily always
6 incompatible.

7 Q. So it would be theoretically possible to
8 score high in both components?

9 A. Possibly, yes. I mean, think of perhaps a
10 very popular section -- I mean, take -- it's
11 probably not applicable. But, you know,
12 Katahdin is in a very undeveloped,
13 non-motorized, but, you know, readily
14 accessible state park. Very, very popular.
15 Can't even get a campsite there. But it has
16 a high level of use.

17 Q. Well, the park does. Katahdin may not
18 itself.

19 A. Katahdin -- if you've been to Katahdin on
20 certain days, you will know it does.

21 Q. Right. But in terms of your analysis here,
22 the mountain itself does not have parking
23 areas, maintained facilities, motorized or
24 mechanized use.

1 A. Right. But, you know, any given day, all the
2 areas around the park of Katahdin could be
3 fully occupied. And past those points
4 there's no development, but there's a high
5 level of use because there's a large number
6 of hikers.

7 Q. Okay. Fair enough.

8 You've referenced Maine a few times as
9 having more remote high-use areas. Are there
10 any in New Hampshire that you can think of
11 that might be able to score well in both of
12 these categories at the same time?

13 A. I'd have to think about that. I can't...
14 nothing bubbles up right off. I'm sure I
15 could scour my memory experience and think of
16 one or two.

17 You know, again, I've been in the White
18 Mountains and the Pemigewasset Wilderness
19 and run into, you know, high numbers of
20 hikers on a typical fall hiking day. As I'm
21 sure you know, the parking lots get
22 overflowed. But once you're in the wildness,
23 you're in the wilderness. So that would be a
24 remote area with a high level of use,

1 potentially.

2 Q. Okay. But again, it doesn't have motorized
3 or mechanized use or --

4 A. That's right.

5 Q. -- or facilities.

6 A. That's right.

7 Q. So maybe moderate as opposed to high --

8 A. That's possible.

9 Q. -- for extended view?

10 With regard to your overall approach,
11 the rules for the SEC require -- and I'm
12 looking at Site 301.5, Subpart (b)(6). I can
13 put it up on the Elmo if that's helpful.

14 MR. ASLIN: Dawn, want to switch me
15 over?

16 BY MR. ASLIN:

17 Q. So this is the rule on the Effects of the
18 Aesthetics, for the things you need to
19 include in the Application. Are you familiar
20 with this rule?

21 A. Yes.

22 Q. And Part 6 -- or (b)(6) requires a
23 characterization of the potential visual
24 impacts of the proposed facility on

1 identified scenic resources as high, medium
2 or low, based on consideration of the
3 following factors. I skipped a little in the
4 middle, but did I read that correctly?

5 A. Yes.

6 Q. Okay. And then there's a list of seven
7 factors that are considered.

8 A. Yes.

9 Q. Now, based on your testimony earlier, I would
10 assume that your answer is yes. But does
11 your methodology look at each of those
12 factors?

13 A. Yes. I mean, even if we don't take one of
14 those 30 resources or 9 resources to the full
15 level of our analysis, we also, as we do the
16 lead-up through this step-by-step process,
17 you know, we consider all of these types of
18 things. And, you know, we may not codify
19 them with regard to the ones that emerge for
20 every one, but it's certainly -- these are
21 touch points for our analysis.

22 Q. But with regard to your methodology, certain
23 components that get more specifically at
24 these subcategories may fall in the later

1 stages of your methodology; is that a fair
2 statement?

3 A. Yup.

4 Q. And not all the resources get through the
5 gauntlet to those later stages.

6 A. Not a full analysis, but an analysis has been
7 undertaken.

8 Q. And do I understand your interpretation of
9 this rule to be that only the scenic
10 resources that you deemed to be visible or
11 potentially visible need to have this kind of
12 analysis?

13 A. Yes.

14 Q. Okay. Now, in your report, after going
15 through the analysis and finding that none of
16 the 30 resources met the criteria for kind of
17 significant effect, you then went on and took
18 a second or further look at four resources;
19 is that right?

20 A. Yes.

21 Q. And those were Little Bay Road, the Little
22 Bay Shore transition structures, the Great
23 Bay National Wildlife Refuge and Main Street
24 in Durham, or the UNH campus?

1 A. Yes.

2 Q. Why did you feel it was necessary to return
3 to those four scenic resources if they didn't
4 meet the criteria of your methodology?

5 A. You know, as I said earlier, we follow the
6 methodology obviously for the most part. But
7 there are exceptions to the methodology
8 certainly. And we recognize that those
9 resources had, you know, a higher degree of
10 interest and concern and warranted another
11 review.

12 Q. And the result of that review, was it -- did
13 it sort of corroborate your methodology that
14 said it would not be a significant impact?

15 A. Yes.

16 Q. In your supplemental testimony, which is
17 Applicant's Exhibit 42, you had a critique of
18 Mr. Lawrence, who's Counsel for the Public's
19 aesthetics expert; is that correct?

20 A. Yes.

21 Q. So, on Page 5 of your supplemental testimony,
22 which is electronic Page 6 of Applicant's
23 Exhibit 142, you state that 11 of the 13
24 locations identified by Mr. Lawrence do not

1 meet the definition of a "scenic resource."

2 Do you see that?

3 A. Yes.

4 Q. Okay. And are you familiar -- well, let me
5 put it up, be a little easier.

6 The 13 scenic resources that are
7 referenced there, are these listed here in
8 Mr. Lawrence's report? Do you recognize
9 those?

10 A. Yes.

11 MR. ASLIN: Okay. And just for the
12 record, that's Counsel for the Public's Exhibit
13 4A, and it's electronic Page 14. It's Page 9
14 of Mr. Lawrence's report. There's a list of A
15 through M, the various resources.

16 BY MR. ASLIN:

17 Q. Am I correct that the two that you do feel
18 are scenic resources were the Route 108
19 crossing -- no. I'm sorry. That's not one
20 of the ones you deemed; is that correct? I
21 want to ask you which two you deemed to be
22 scenic resources.

23 A. Well, I think it was the UNH Main Street
24 because we accommodated that in our scenic

1 resource review, and I believe it was Durham
2 Point Road.

3 Q. Okay. And so the other ones -- let's take
4 Route 108, where I was going. You're aware
5 that 108 is a state-designated scenic byway;
6 right?

7 A. Yes. Maybe that was the one. Maybe I
8 misspoke. I couldn't remember. There was
9 one scenic road in this list that I...

10 Q. So maybe that was one of the ones that you
11 felt was a scenic resource?

12 A. That's probably right.

13 Q. Now, you included in your analysis the UNH
14 campus; is that correct?

15 A. I'm sorry. Yes, we did.

16 Q. Okay. And Mr. Lawrence included a number of
17 locations within the UNH campus. But you
18 seem to feel those are not scenic resources.
19 Could you explain the distinction between
20 your review of the campus as a whole and
21 Mr. Lawrence's review of portions of the
22 campus.

23 A. Sure. So I think the essence of the scenic
24 area, or the area with a large number of

1 people and a certain expectation with regard
2 to the experience of the campus is in the
3 campus core. You know, the location, the
4 other locations that were of concern to
5 Mr. Lawrence -- and I'm not certainly
6 questioning his concern. He has a right to
7 those concerns. And he identified them, and
8 we certainly responded to that. But, you
9 know, some of them were views from parking
10 lots, I think in the apartment complex and,
11 you know, weren't scenic in of themselves,
12 did not have scenic views, were outside of
13 the core part of the campus. I think that's
14 perhaps the distinction. I mean, you
15 certainly could argue that if you're
16 considering the campus as a whole, then these
17 would fall into that potential review and
18 analysis. And I think we certainly, as I
19 said a moment ago, took that at face value
20 and went back and certainly reviewed
21 Mr. Lawrence's analysis and his
22 recommendations, and I think as you know,
23 we've made an effort to address them.

24 Q. Yes. I appreciate that.

1 So I did find the reference to the 2 of
2 the 13 that you did think were scenic
3 resources, and that's here on Page 5 of your
4 testimony, Line 5.

5 A. Okay.

6 Q. You said aside from Fox Point Road and Durham
7 Point Road --

8 A. Okay. So I must have missed one that --

9 Q. So you would agree that 108 is a scenic
10 resource.

11 A. Yeah.

12 Q. I think 1 of 30 you referred to.

13 A. Yeah.

14 Q. And then on the UNH campus, you were talking
15 about the parking lot area as one you would
16 disagree with. The other two that
17 Mr. Lawrence identified in UNH -- well, the
18 other three were Main Street, which you did
19 look at, and then the Gregg Hall vicinity --
20 do you recall where Gregg Hall is?

21 A. Yes.

22 Q. Is it correct that one of your visual
23 simulations is looking across from the campus
24 onto Gregg Hall?

1 A. Yes.

2 Q. Okay. But you don't think that that is
3 part --

4 A. Well, again, if you --

5 (Court Reporter interrupts.)

6 Q. -- of a scenic resource?

7 A. I guess you could if we were going to, you
8 know, consider the campus as a whole, then
9 that would fall within that. I think, you
10 know, we did that simulation certainly to
11 understand what the Project would look like
12 from that vantage point on the campus. But,
13 you know, Gregg Hall is, again, immediately
14 adjacent to, you know, the existing rail and
15 utility corridor. It's just up the road from
16 the physical plant area. It's not probably
17 the most aesthetically pleasing portion of
18 the campus. The architecture is, you know,
19 high quality. But the scenery I would not
20 say is -- you know, it's typical of that
21 portion of the campus, so...

22 Q. Okay. Thank you.

23 You also had a criticism on Page 6 of
24 your testimony regarding the identification

1 of key observation points. Do you see that,
2 starting on Line 21 of your testimony?

3 A. Right.

4 Q. Make that a little bigger.

5 And you seem to be stating here that a
6 key observation point needs to be also a
7 scenic resource. Is that your understanding
8 under the rules?

9 A. No. I think, you know, as the last sentence
10 in my answer states, that key observation
11 points are typically selected because they're
12 designated viewpoints or locations that are
13 public areas designed for viewing and
14 frequented by the public for recreation or
15 cultural activities that have a scenic or
16 visual component. So a key observation point
17 could be on point literally. That could be
18 an overlook or pull-off from a scenic road,
19 for example, or on an unscenic road that
20 could rise to a level of having certain
21 scenic values, or a view of the Project that
22 was prominent and therefore would be a key
23 observation point.

24 I do not typically consider road

1 crossings key observation points because
2 people typically do not stop at those
3 crossings to observe the crossings. They
4 usually walk, bike or drive by them, and they
5 don't usually attract people to stop and look
6 at them. And that's the distinction I was
7 making.

8 Q. So the distinction is more about the
9 viewpoint aspect rather than scenic resource
10 aspect.

11 A. Well, yes. Both the viewing point and
12 whether the view itself is of something
13 scenic. And again, a key observation point,
14 I mean, well, the view of the road crossing
15 from that road would not be considered a
16 place that people would congregate to view
17 the transmission corridor. That's how I
18 interpreted it, and that's how I evaluated
19 those crossings. I mean, again, unless the
20 crossing is somehow interconnected with a
21 pull-off or a place where you can really
22 observe, I would not necessarily see it as a
23 key observation point. That doesn't mean the
24 road crossing might not be aesthetically

1 sensitive or require mitigation, if that were
2 appropriate or necessary.

3 Q. So, for example, if it's a designated scenic
4 road of some kind, you might not say that the
5 right-of-way crossing is a key observation
6 point, but there's still something to be
7 assessed at that location.

8 A. Certainly.

9 Q. Okay. Thank you.

10 I wanted to just wrap up with one
11 clarifying question about a couple of your
12 photo simulations.

13 A. Sure.

14 Q. I understand from prior testimony by the
15 construction panel, and I think it's
16 specified in some of the revised engineering
17 documents, that some of the structures on the
18 UNH campus are proposed to be galvanized
19 steel as opposed to weatherized steel. Are
20 you familiar with that?

21 A. Yes.

22 Q. And I can show you all the maps, but I think
23 you can skip to it. What I'm showing you is
24 part of Applicant's Exhibit 52, and it's

1 Exhibit 7, which is the simulation of kind of
2 the UNH campus area.

3 Are you -- would you agree that the pole
4 that's shown here in front of Gregg Hall is
5 one of the poles that's proposed to be
6 galvanized steel now?

7 A. That may be possible. I don't know that
8 certainly. I do know there were some
9 proposals to consider the galvanized option.

10 Q. We can clarify that quickly I think if you
11 have your magnifying glass. This is Page 6
12 of Applicant's Exhibit 149 and --

13 A. I see that they are listed as galvanized.

14 Q. Okay.

15 A. That may have been adjusted from the time we
16 originally made the simulations, that we did
17 not change the simulations.

18 Q. So I just wanted to clarify that.

19 A. Thank you.

20 Q. This one in Exhibit 7 of Applicant's
21 Exhibit 52 I believe is going to be
22 galvanized. So this simulation hasn't been
23 updated. And then similarly, the Main Street
24 crossing --

1 A. I think, yeah.

2 Q. -- the first two or three poles here, I think
3 it's the first, the transition structure and
4 the first two poles going up the road, the
5 right-of-way, are also proposed now to be
6 galvanized. Do you accept that? And this
7 photo simulation has not been updated. And
8 this is Applicant's Exhibit 96, Exhibit 8A of
9 the Proposed Conditions.

10 Okay. Thank you. I have no further
11 questions.

12 A. Thank you.

13 PRESIDING OFFICER WEATHERSBY: We're
14 going to take a very short break, be back just
15 after four when we'll take some questions from
16 the Committee.

17 (Recess was taken at 3:54 p.m.

18 and the hearing resumed at 4:07 p.m.)

19 PRESIDING OFFICER WEATHERSBY: Okay.
20 We'll get started with questions from the
21 Committee. Ms. Duprey.

22 MS. DUPREY: Thank you, Madam Chair.

23 INTERROGATORIES BY SEC MEMBERS AND COUNSEL:

24 BY MS. DUPREY:

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. Susan Duprey, public member. I want to talk
4 about Little Bay for a few minutes and the
5 mattresses there, the concrete mattresses.
6 I'm trying to get a sense of the scale here.

7 My recollection is that the width of the
8 mattresses is going to be about 24 feet. And
9 I'm wondering if you have any notion of what
10 the length of that channel of Little Bay is.
11 Are we talking about 1,000 feet long, 2,000
12 feet long? Any notion what it is?

13 A. You mean the width of the channel --

14 Q. No, the length.

15 A. The length of the channel.

16 Q. Hmm-hmm.

17 A. I'd have to look at a map. But it's probably
18 a couple of miles --

19 Q. Okay. So we're talking --

20 A. -- from one end of Little Bay to the next I
21 would imagine.

22 Q. So a boater going down the Little Bay channel
23 will go by 24 feet in length of mattresses
24 while going down a mile or two of channel?

1 A. Yes.

2 Q. Okay. That helps me. Thank you.

3 My next question is: Are you aware of
4 whether any individual will be able to see
5 the concrete mattresses from their home, or
6 is that not something you would know?

7 A. Well, I can't say with certainty. But
8 certainly based on the site visits and then
9 the SEC trips that we took to those
10 locations, most of the homes are up on a
11 little bluff above the water itself. So
12 whether there's actually visibility from the
13 home, I couldn't say with certainty because I
14 have not been in any of the homes. But I did
15 look at that, and certainly there will be a
16 couple of homes on the Newington side that
17 probably, if they walk out in their yard to
18 the edge of their property over the shoreline
19 and looked down, they would probably be able
20 to see the installation.

21 Q. Okay. But that's different from what the
22 view might be from their home, inside.

23 A. Yes.

24 Q. Okay. Thank you.

1 My last question about that aspect of
2 things is: I think that you had said, and I
3 believe from looking at the exhibits, that
4 there are no photo simulations of the
5 concrete mattresses on the Newington side.
6 And I was just wondering why.

7 A. Well, I think, you know, we felt that the
8 Newington side -- there's several reasons.
9 One is that, first of all, we felt the
10 Newington -- the Durham side would be
11 representative to give us a sense of what
12 they might look like on a shoreline. There's
13 probably more inherent visibility of the
14 Newington -- of the Durham side, rather,
15 because of the shoreline configuration. The
16 concrete mattresses on the Newington side are
17 tucked in a little, a very small sort of,
18 wouldn't call it a bay, but there's a little
19 point around which the concrete mattresses
20 will be located. So as you are traveling,
21 you know, from north to south, you would not
22 see the concrete mattresses at all until
23 you're past them. So there's less inherent
24 visibility of those mattresses from the

1 water. And it really wasn't until late that
2 we thought maybe it might be useful, but we
3 just didn't have the time to do it.

4 Q. So if I understand you, am I correct in
5 saying that you took the worst case of the
6 two?

7 A. I think so, yes, in terms of potential
8 visibility and number of viewers that would
9 see it.

10 Q. Okay. And is it your estimation that from
11 the Frink home, that they would be able to
12 see the transition structure?

13 A. Well, again, I've not been at the home.

14 Q. Right.

15 A. I think it's possible, yes.

16 Q. Do you mean the whole structure? The top of
17 it? Or what do you mean?

18 A. Again, without being on site, I wouldn't want
19 to say with certainty. There will be some
20 intervening vegetation. We certainly
21 proposed some landscaping in the field on a
22 preliminary basis. But regardless of that,
23 the visibility will be lessened somewhat by
24 the backgrounding and presence of the

1 surrounding vegetation. So it's not going
2 to, I don't believe, really stick out and be
3 untoward in terms of its view. But it is --
4 and then also the use of the weathering steel
5 will help reduce its visual presence. I
6 think taken together, while it will be a
7 change, when you look at it in reference to
8 the net gain of the undergrounding for the
9 rest, if not the entire of the remainder of
10 the property, and the view of that meadow now
11 being free of utility structures, I think it
12 is a definite net gain visually.

13 Q. So I guess I had thought that that transition
14 structure was inside of the tree line on both
15 sides.

16 A. It is. It's right on the edge. So, again,
17 only having seen it from the road, you know,
18 as I said, I don't think it's going to be
19 highly visible. But I wouldn't want to say
20 that it won't be able to be seen from the
21 property to some extent. From the home, I
22 can't tell you. I don't know. The windows,
23 looking out the windows, you might have to
24 crane your neck or stick your head out the

1 window to try and see it. But again, I can't
2 say for certain.

3 Q. Have you had a chance to read Mr. Lawrence's
4 report?

5 A. Yes.

6 Q. His prefiled testimony?

7 A. Yes.

8 Q. And you are aware, I assume, that he was
9 critical of your methodology, describing it
10 as "overly complicated," it says, standards
11 or whatever?

12 A. Yeah, I don't recall that specifically,
13 but... yes. I mean, he -- yeah. I mean, I
14 guess he didn't -- he did not employ a
15 methodology, per se, himself. So I don't
16 know whether -- a specific methodology. So I
17 don't know where that was coming from. But a
18 difference of opinion, difference of an
19 approach.

20 Q. Okay. I'm curious as to whether in the
21 industry, whether there's a best practices
22 type of approach. Is your approach similar
23 to approaches of other people? Is this
24 something created out of whole cloth? I

1 think you said it was based on BLM and some
2 other standards. Tell us a bit so we have
3 some context of how you derived this
4 methodology.

5 A. So this methodology is derived from, dare I
6 say, you know, over 40 years of experience
7 with actual transmission structures and
8 aesthetics. My graduate program, when I was
9 studying, had a real focus on aesthetics. In
10 fact, the landscape architecture program at
11 Harvard was a progenitor of the GIS system of
12 evaluating landscape change. And we were
13 schooled in this type of analyses, in terms
14 of weighing different factors and evaluating
15 visual vulnerability and sensitivity.
16 Subsequent to that, the schooling and
17 experience over the years has allowed me to
18 understand different ways of looking at
19 visual analysis. So the Forest Service, the
20 Bureau of Land Management, even the National
21 Park Service, all employ visual analysis
22 techniques. And slowly but surely, we've
23 winnowed those techniques down to this
24 methodology which has been used, for example,

1 here in New Hampshire for the Antrim Wind
2 Project. This was the same methodology we
3 employed to perform the visual analysis for
4 that project. This is an analysis that I
5 think has been accepted and, you know,
6 regarded as a standard and accepted practice
7 in Maine.

8 I'm now working for the State of Maine
9 on visual consulting for them for reviewing
10 projects. And I think there is a certain --
11 I think if you were to put, you know, several
12 different visual experts in a room and look
13 at this, I think they would all agree. You
14 know, maybe the details they might do
15 differently, but the methodology is fairly
16 well established, fairly widely adopted. And
17 to that extent, I've been asked to write an
18 article about it for my professional
19 magazine. So I think it has been well
20 received, and we feel it's a robust
21 methodology. I wouldn't sit here and tell
22 you that any methodology is perfect. But I
23 think we have tried very hard to, you know,
24 create a comprehensive and as objective as

1 possible means of working through the
2 analysis of scenic resources and the Project
3 effects on those scenic resources.

4 Q. You say you had a chance to look at
5 Mr. Lawrence's report?

6 A. Yes.

7 Q. And he obviously comes to a different
8 conclusion than you do. And I'm curious as
9 to your opinion as to that report.

10 A. Well, I mean, in one sense he definitely
11 agreed with me, that he did not find that the
12 Project in and of itself rose to the level of
13 being an unreasonable adverse effect from the
14 visual analysis necessarily and, you know,
15 focused more on some areas that he felt were
16 worthy of further review that perhaps we did
17 not consider for that purpose. Since that
18 time, we've worked with Mr. Lawrence and
19 Counsel for the Public to address those
20 satisfactorily, I would hope, to accommodate
21 those interests. But as I said, you know, he
22 sort of basically focused more on road
23 crossings and a few other views or vantage
24 points that I did not necessarily consider

1 "scenic resources" by virtue of the
2 definition.

3 MS. DUPREY: Thank you.

4 PRESIDING OFFICER WEATHERSBY: Mr.
5 Schmidt.

6 QUESTIONS BY MR. SCHMIDT:

7 Q. Yeah, I've just got a few questions regarding
8 your comment on the phasing of the
9 sensitivity of the scenic resources, the
10 cultural and the scenic. Did you also review
11 any of those findings with any local
12 organizations, commissions or anything, or
13 are these all from more or less an
14 arm's-length, your evaluation?

15 A. Yeah, I mean, we certainly, when there are
16 opportunities to understand what the official
17 position of the community might be, you know,
18 either through planning documents or similar
19 types of sources, you know, we certainly
20 respect and acknowledge and accommodate that.
21 But it's challenging to go out and work
22 specifically with the officials. We sort of
23 have to keep this more or less at arm's
24 length and conduct a review independently

1 from any outside influences, whether -- you
2 know, obviously we're working on behalf of
3 the Applicant. But before I take a job, I
4 have to make sure that what I'm going analyze
5 and the conclusions that I reach will support
6 the Project, you know, not that I personally
7 support or oppose any project that I work on.
8 So with that in mind, we still try to be
9 objective and conduct the analysis within the
10 parameters of the methodology and, again, the
11 accepted practice that we as professionals
12 use. And that does not typically involve a
13 lot of outreach or anecdotal, you know,
14 review with individuals.

15 Q. And then you alluded to the fact that if
16 there was a trail, or something to that
17 effect, purchased with public funds that
18 would designate it as a cultural resource or
19 scenic resource, the funding source itself
20 wouldn't necessarily throw it into the
21 category of your evaluation, that it would
22 depend on locations, et cetera.

23 Did you actually have people walk any of
24 those? I heard reference to a 5-mile trail.

1 What I'm wondering is if there were areas
2 along that trail that may have visual
3 impacts. Were those analyzed at all?

4 A. Yes. Members of my staff walked certain
5 trails. They walked in the UNH woods, you
6 know, adjacent to the right-of-way and the
7 trail system there. You know, it's a
8 beautiful thing when you get asked to walk
9 the Appalachian Trail or paddle out in Little
10 Bay. So we do our best to go on site and
11 really undertake a representative analysis on
12 the ground of any resource that we think
13 might rise to the level of having an impact
14 on it or being sensitive.

15 Q. So you feel by that, that you would have
16 identified any locations, any viewing areas
17 along the route?

18 A. Absolutely.

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

20 PRESIDING OFFICER WEATHERSBY: Mr.
21 Fitzgerald.

22 QUESTIONS BY FITZGERALD:

23 Q. Good afternoon. Mike Fitzgerald. I'm the
24 assistant director of the Department of

1 Environmental Services, Air Resources
2 Division.

3 First, I believe in either your prefiled
4 testimony or your report, a discussion of the
5 methodology, I saw reference to what you
6 termed as the "average viewer." I don't have
7 the specific reference there. But could you
8 differentiate for me, say, the average viewer
9 who might be going to a scenic location and
10 then going home as opposed to someone who is
11 experiencing, you know, a significant change
12 in aesthetics that is directly related to
13 them, such as, for instance, the Frink Farm,
14 and has to, you know, view that daily, all
15 day. How do you take into consideration that
16 difference? And does your methodology allow
17 for some type of consideration of that type
18 of exposure, for lack of a better term?

19 A. Appreciate that question. It's always, you
20 know, a good one to ask and a challenging one
21 to respond to in general terms. But I would
22 say the following: We do have to make a
23 distinction between the average viewer and
24 the interested viewer, or someone who has,

1 shall we say, a stake in whether the Project
2 is built or not. Let me use my own personal
3 example, if I may.

4 I live on a designated state and
5 international resource. I live on something
6 called the "Lake Champlain Bikeway." It is a
7 very, very popular route. And I live across
8 from a farm, a large-scale farm with a lot of
9 crop, truck traffic, tractor traffic and so
10 forth. Just this past year, I have a wooded
11 area across from my property, and about 40
12 acres were clear-cut. And it was pretty
13 shocking to me as a person, and to my wife.
14 All of a sudden we were exposed to north
15 winds we didn't have before. And we were
16 pretty unhappy. However, we had guests who
17 came and rode the bikeway and visited with
18 us, and they thought the view that that
19 clear-cut opened up was spectacular, because
20 now if you walk to the end of our driveway,
21 you can see the high peaks of the
22 Adirondacks. You can see, you know, a
23 hundred-mile view. I wouldn't have
24 necessarily wanted that. I would have

1 opposed that if I had a say in it. I am not
2 a disinterested viewer.

3 In Vermont, under the review of a
4 project like this, we are asked to consider
5 whether the change affected by a proposed
6 project would be shocking or offensive to the
7 average viewer. So the "average viewer" is
8 an accepted standard in visual analysis
9 because it represents a disinterested viewer
10 who would give us I think a more accurate
11 response to a change in the environment and
12 be able to respond to that change in a
13 positive or negative fashion. Having said
14 that, I would never discount or disrespect
15 the view and the change that an abutter to a
16 project like this may or may not experience.
17 And it is something that I am respectful of
18 and sensitive to. But if we were to poll,
19 you know, most people, they probably wouldn't
20 want any change whatsoever. They like things
21 the way they are, so change is very difficult
22 for them to accommodate. We have to take
23 that into account.

24 And finally, I would say, though, in

1 some circumstances it becomes very clear,
2 where a neighborhood is so dramatically
3 affected or so substantially affected by a
4 project, whether it's a scenic resource or
5 not, it requires the review and attention of
6 the Applicants and the experts. And I can
7 certainly, you know, cite some instances, and
8 I certainly understand the concerns in both
9 Newington and Durham, and take those into
10 account in the evaluation. Did they rise to
11 level of my saying the changes would be
12 unreasonable? No. But it certainly would
13 probably result in a change that they would
14 notice and for some would not be happy about.

15 But I will also add, finally, that one
16 thing that's interesting about us as people I
17 think in general is that we do adapt. And
18 I'm not trying to say this as a -- you know,
19 to patronize anybody or to dismiss the
20 potential impacts to neighbors or
21 neighborhoods. But over time, people tend to
22 adapt to change.

23 We had, again, another major project in
24 Vermont that I was part of, that was one of

1 the most controversial and longstanding cases
2 before the Public Utilities Commission. It's
3 called the Northwest Reliability Project.
4 And there was all kinds of challenges,
5 concerns, worries. And I actually worked for
6 the state on the review of that project and
7 had concerns as well. One of the striking
8 things I found was, after the project was
9 built, no one complained about it. They very
10 quickly understood the change in the
11 landscape and accepted it and, you know,
12 managed to accommodate it in a more or less
13 acceptable fashion.

14 Q. Thank you. With regards to Mr. Lawrence's
15 testimony and report, did I understand you to
16 say that you have been having discussions
17 either with him or with the Counsel for the
18 Public to sort of resolve some of the issues
19 raised, and do we expect -- what would be the
20 product of those discussions?

21 A. Well, I'd certainly respectfully ask
22 Eversource to speak to that in an official
23 sense. But I would say that we have been
24 working to develop mitigation plans for all

1 of the sites as appropriate and as possible
2 that Mr. Lawrence identified both out of
3 respect to his work, the advocacy of the
4 Counsel for the Public, and the neighborhoods
5 within which these areas that he identified
6 are located.

7 Q. So would you expect that that would result in
8 some sort of a document or information being
9 shared with the Committee that would
10 memorialize those discussions?

11 A. I'll let counsel speak to that.

12 MR. NEEDLEMAN: If I may?

13 PRESIDING OFFICER WEATHERSBY: Yes.
14 Please.

15 MR. NEEDLEMAN: Yes. Those were
16 submitted as Exhibits 193 and 194. And
17 portions of those relate to aesthetic
18 conditions that have been proposed by the
19 Applicant and Counsel for the Public to resolve
20 these kinds of issues.

21 MR. FITZGERALD: Okay. Thank you.

22 BY MR. FITZGERALD:

23 Q. And that answer may make this question moot.
24 I haven't reviewed those in particular.

1 But Mr. Lawrence's prefiled testimony,
2 CFP Exhibit 4, electronic Page 4, lines --
3 let's see here. Starting on line -- I'm
4 sorry. Mr. Lawrence states that he found 13
5 areas. And the way I believe he described
6 them was they did not rise to the -- based
7 on -- let's see. On electronic Page 3, Line
8 4, Based on my review of the Project, site
9 visits and my expertise, my opinion is that
10 the Project as proposed will have significant
11 adverse visual impacts in 13 locations along
12 the Project. And he states elsewhere in his
13 testimony that these don't necessarily rise
14 to the criteria of the SEC rules, but he says
15 they should be considered anyway.

16 What is your -- or what has been your
17 response to that assertion, that your
18 methodology didn't necessarily identify sites
19 that, while they didn't rise to the criteria
20 of the scenic resource, they should be
21 evaluated by the Commission as a result of
22 looking at the Project as a whole?

23 A. Well, as he said, and you quoted him, he
24 agreed they did not meet necessarily the

1 definition of a scenic resource. I don't
2 know. All of them did -- not all of them.
3 Most of them did not meet the definition of
4 "scenic resource." So, you know, statutorily
5 he's right, and we would not necessarily have
6 reviewed those locations through our
7 methodology. We were certainly aware of
8 every single one of them. And while, you
9 know, I may have a difference of opinion of
10 how best to mitigate those kinds of areas, or
11 road crossings in particular, because they
12 are very challenging to mitigate effectively,
13 I think that with the willing parties working
14 together every opportunity, if he brings that
15 up and there's a concern that should be
16 addressed in this particular docket, then I
17 don't have a problem working collaboratively
18 with Mr. Lawrence and Counsel for the Public
19 to prepare mitigation plans for those areas.

20 Q. Okay. On Page 5 of that same document,
21 Line 4, he states -- he's asked, In your
22 opinion, did the Applicant's assessment
23 provide the SEC with all the information
24 required under SEC rules?

1 And he says, No. While Mr. Raphael
2 produced a detailed visual assessment report
3 for the Applicant, his overly complicated
4 methodology appears to under-represent scenic
5 resources and to minimize visual impacts. So
6 he seems -- and in the paragraph above that
7 he references that he believes that the
8 Committee -- he says the Committee should
9 look at all visual impacts of the entire
10 project.

11 Are you able to reconcile that point
12 with him, in terms of what the Committee
13 rules state and what is required for a visual
14 assessment and what he thinks it should be?

15 A. You know, I think you could analyze every
16 linear foot of this project, for sure. Is
17 that reasonable or possible? Probably not.
18 And I think there's a reason why in Maine,
19 Vermont, New Hampshire, New York, all those
20 states and all the Commissions, that you are
21 equivalent with relying on rules that have
22 specific definitions of what is to be
23 evaluated and what is not to be evaluated.
24 And there's a good reason for that. You

1 know, having said that, would I ever object
2 to an opportunity to make a project as
3 amenable as possible? No. And when, you
4 know, Mr. Lawrence brought these issues up at
5 first, you know, I certainly responded, you
6 know, because of the criticism, because I
7 didn't agree with his assessment of our
8 methodology. And I would tell Mr. Lawrence
9 this to his face because I know Mike. We're
10 friends. We've gone way back. You know,
11 Mike, if he were sitting right here next to
12 me, I would say he does not have the breadth
13 of experience in these types of projects that
14 I have had over the years, No. 1. And No. 2,
15 from my experience working with him, both
16 collaboratively and on opposite sides of the
17 table, he, rightfully so, takes a very
18 passionate approach. You know, when you're a
19 landscape architect, it's hard not to look at
20 every and consider every opportunity to make
21 a project better. And I think that's where
22 he was coming from. And once I recognized
23 that, I certainly wouldn't reject an
24 opportunity to address some additional

1 locations that he felt needed to be reviewed
2 and eventually addressed, you know, through
3 mitigation measures.

4 Q. So would you stick with the assessment that I
5 think I heard from you, that your report
6 assesses the visual impacts of the Project in
7 accordance with the rules, but that his
8 report raises other issues that may, while
9 they may be not specifically required by the
10 rules, they -- you agree and the Company is
11 willing to try to address those?

12 A. Yes.

13 Q. Is that fair to characterize that?

14 A. Yes.

15 Q. Okay. In Exhibit 51, which I believe is --
16 Applicant's Exhibit 51, which is your report,
17 on Page 110, electronic Page 110, you have a
18 couple paragraphs addressing the Durham UNH
19 campus. And I won't read the entire thing.
20 But the gist of it seems to be that there's a
21 lot of buildup in this area, particularly in
22 the area of the train station. It says
23 things like existing conditions of the visual
24 elements in this area of the campus include a

1 number of surrounding elements that are
2 vertical in nature. It's already well
3 established with University infrastructure,
4 providing a sense that portions are part of
5 the University's more utilitarian and
6 functional areas, not focal points and
7 gathering areas, thus it is not expected --
8 unexpected to see utility structures, albeit
9 some higher than those present today. But I
10 believe you make the statement that it's sort
11 of -- it should be anticipated that a utility
12 structure -- a utility corridor or area
13 should -- we should just accept that it
14 should change, it will change over time? And
15 how does that -- and I guess for a specific
16 example, I don't know if we can bring this
17 up. But in Exhibit 51 -- 52, if you look at
18 the pictures -- let me get here.

19 On electronic Page 19 and Page 20, and
20 if you can just sort of toggle back and forth
21 between those two. It's hard the way that
22 does that. Yeah, when I do it, it just
23 appears. I don't get that -- but I would say
24 that, you know, from a casual viewer, or in

1 my view, that the imposition of poles down
2 that track at a much higher level seem to
3 actually draw the eye. And it seems to me
4 that your characterization in the report is,
5 well, this is an area that has structures
6 already. There's a lot of vertical
7 structures. It's infrastructure, et cetera.
8 But this is from the bridge at the train
9 station, which is sort of a focal point of
10 the campus point. Certainly the athletic
11 complex, the field house, there's a
12 tremendous amount of traffic in this area.
13 That seems to me to just be a pretty
14 significant change. So could you explain
15 your -- a little better to me your
16 understanding -- your reasoning for why you
17 don't think this is a significant change, why
18 you don't think there's a significant impact?

19 A. Well, I mean, I think, first of all, I
20 wouldn't discount the fact that somebody like
21 yourself might regard it as a significant
22 change. But two things: One is when I put
23 it again in the context of the setting, you
24 know, yes, I see a historic train station.

1 And that's what draws my eye. That's my
2 interest in the view. But then I see a huge
3 parking lot. I see railroad tracks. I see,
4 you know, utility poles that, from this view,
5 actually, you know, again, we were talking
6 about this earlier this afternoon, look
7 higher and certainly more prominent in the
8 view on the left-hand side of the picture. I
9 see, you know, essentially a long roof line
10 in the distance. I see a lot of stuff in
11 there. And I think over time the weathering
12 steel poles will sort of fade a bit, in terms
13 of their initial prominence and drawing the
14 eye. And I have to look at a project within
15 its context. If none of the other structures
16 and utility elements were present, then I
17 would agree with you that that would be a
18 significant change, without question. But it
19 is definitely a change, and it's definitely
20 not necessarily better or worse.

21 In my thinking, it's -- there are pluses
22 and minuses. One is, yes, we're looking at
23 this view, but we're also eliminating
24 infrastructure and structures close in to the

1 main crossing and where people mostly
2 congregate and go back and forth. So, again,
3 that's a positive when you see this. And it
4 just -- you know, overall, you have to look
5 at the expectation that, again, with the
6 corridor, you know, as we discussed a little
7 bit earlier, probably co-location in most
8 instances, maybe not all, is the lesser of
9 two evils if you're thinking of change in the
10 landscape and having to establish a whole new
11 corridor with new impacts that didn't exist
12 there before.

13 So I feel it is reasonable to upgrade.
14 You know, a utility has a certain degree of
15 right, I suppose, and responsibility to
16 maintain the integrity and the volume of
17 power that is demanded in the region. And so
18 where are they going to do that? And
19 probably in the scheme of things, doing that
20 within an established corridor where they've
21 already cut the right-of-way, they always
22 have the right to use it and maintain it,
23 certainly factors into the consideration of
24 that location.

1 So, while I would, as I said, you know,
2 not argue with you about your impression
3 certainly, when I look at this within the
4 context of the things that I evaluate and the
5 step-by-step process I look to in terms of
6 scale, prominence, compatibility, those
7 things we've talked about, while you might
8 consider it an adverse change, it certainly
9 in my mind does not rise to the level of
10 being unreasonable.

11 Q. Okay.

12 A. I hope that answers your questions to the
13 best of my ability.

14 Q. You answered it. I'm just an average guy,
15 anyway, so...

16 Last I would just like to clarify. I
17 think there's been some questioning with
18 regards to your criteria for what were listed
19 in your report as "state conservation areas."
20 And as I read it, I think I understand that
21 term to mean conservation areas that have
22 been established in the state of New
23 Hampshire, not necessarily established by the
24 state.

1 A. That's right.

2 Q. Okay. So you're addressing, no matter what
3 the funding source, whether it was
4 established by the town or by the Nature
5 Conservancy or whatever they were --

6 A. Considered.

7 Q. They were considered.

8 A. That's right.

9 Q. Okay. Thank you very much. That's all I
10 have.

11 PRESIDING OFFICER WEATHERSBY:

12 Director Muzzey.

13 QUESTIONS BY DIR. MUZZEY:

14 Q. Thank you. If we could turn to Applicant
15 Exhibit 142, your supplemental prefiled
16 testimony, something that we discussed
17 earlier in the afternoon on Page 32,
18 electronic Page 32.

19 The first paragraph again talks about
20 Nimble Hill Road, the main street for the
21 town of Newington, and then reasons why it
22 may not be considered historic -- excuse
23 me -- scenic. In the second sentence,
24 doesn't have identified vantage points, no

1 scenic resources outside of the Frink Farm,
2 or unusual or compelling landscapes, et
3 cetera.

4 Focusing in on the Frink Farm as a
5 scenic resource, can you explain what makes
6 the Frink Farm a scenic resource?

7 A. Well, I think just primarily it's primarily a
8 historic resource with some scenic attributes
9 because of the open field and the
10 undeveloped, you know, agricultural -- well,
11 I shouldn't say undeveloped -- the
12 agricultural landscape around it. And I
13 would certainly recognize that, you know,
14 there's a local appreciation of that
15 particular scenery, if you will. And so I
16 think there is certainly a scenic component.
17 I don't think that's the primary quality to
18 that landscape. It's more of a historic
19 farmhouse and agrarian landscape. And to the
20 extent that's scenic --

21 Q. And so if we do a quick check on the rules --
22 let's see. Where did I put the rules?
23 Historic sites that possess a scenic quality
24 are considered a scenic resource. So the

1 Frink Farm would be an example of that?

2 A. Yes.

3 Q. Great. Okay. So how did your team then look
4 at the other historic sites that were
5 identified for this project? You mentioned
6 your team worked with the historic resources
7 specialists. How were they evaluated for
8 their scenic qualities?

9 A. We only worked on ones that we knew were
10 provided to us as being -- as having a scenic
11 component to them. We did not, you know,
12 analyze historic resources in and of
13 themselves unless there was, you know, a
14 scenic vantage point or some scenic quality
15 associated with that.

16 Q. So as the scenic experts for this project,
17 wouldn't that fall on your shoulders to
18 analyze places for their scenic qualities?

19 A. Yes, and we certainly did. We looked at the
20 Pickering Farm and we looked at the Frink
21 Farm, obviously. We considered the historic
22 district and the structures in the historic
23 district. Drove to the end of Nimble Hill
24 Road, for example, and saw some of the

1 outstanding historic buildings there. But
2 none of those had any visibility of the
3 Project, so there was no need for any further
4 analysis, for example, of those elements
5 within a potential scenic or connected to a
6 potential scenic resource.

7 Q. Right. I'm just looking at the list of
8 historic resources that have been identified
9 for this project. There are places that seem
10 to me do overlap with visibility, but yet I
11 don't see them on your scenic resource list.
12 There are four individual historic properties
13 and seven historic districts, and only the
14 Newington Center Historic District is on your
15 initial list of potential scenic resources
16 that later gets winnowed throughout your
17 methodology. And so I'm wondering if they
18 had been evaluated by your team for their
19 scenic values, how would that have changed
20 your initial list that then gets winnowed?

21 A. Again, I think, you know, the answer is that
22 the primary task of evaluating, you know, any
23 visual effect on historic resources was given
24 to the historic preservation experts. And

1 our focus was more on the, you know, the
2 scenic resources, again, with the exception
3 where a scenic resource related -- I mean a
4 historic resource related to a scenic
5 resource -- i.e., being on a scenic road,
6 adjacent to a scenic road, or one that, you
7 know, might have a view that required, you
8 know, an analysis to that extent. But we did
9 not, nor were we asked to, review all of the
10 historic resources.

11 Q. Okay. So you're saying that the Frink Farm
12 has both scenic and historical values?

13 A. Yes. But again, the scenic value is
14 secondary.

15 Q. So we also have the Alfred Pickering Farm
16 also on Nimble Hill Road.

17 A. Yes, and we reviewed that.

18 Q. Similar landscapes. Would that also have
19 scenic and historical value?

20 A. I believe so, yes.

21 Q. So does that appear on your list of
22 130-odd --

23 A. Yes.

24 Q. And given that it is on a locally designated

1 scenic road, does that somehow improve the
2 status of Nimble Hill Road as a resource,
3 despite not being mentioned anywhere in your
4 report?

5 A. What wasn't mentioned anywhere in my report?

6 Q. The Alfred Pickering Farm.

7 A. We did a visual simulation of it. But again,
8 that farm was -- I mean, it has some scenic
9 quality, but it did not rise to the level of,
10 you know, a scenic asset, per se, that, you
11 know, warranted our review in that way.

12 Q. I guess I'm just having trouble understanding
13 this "rising to the value" phrase and how
14 does one historic farm "rise" but the other
15 historic farm does not?

16 A. It depends on its landscape, its presence in
17 sort of the overall landscape of the town.
18 You know, the Frink Farm I guess has a
19 broader and wider viewpoint from two
20 different roads, which, you know, being
21 adjacent to Nimble Hill Road, you know, I
22 guess it had a view across that field that
23 rose to a level of concern because the line
24 was coming right through it. The Pickering

1 Farm has a line in the background and is not
2 a publicly accessible location either. And
3 that would also put that out of our category
4 of review on that basis as well.

5 Q. So when you say "Pickering Farm," do you mean
6 the Alfred Pickering Farm or the Pickering
7 Road Farm?

8 A. I don't know the distinction between the two.

9 Q. Now, there's also been discussion of, I
10 believe, places such as Bennett Road, Durham
11 Point Road also being locally designated
12 roads. They are also within historic
13 districts. How did that contribute to the
14 qualities of their scenic quality?

15 A. Well, I mean, they're two separate elements.
16 One, they're historic, you know, and have
17 historic values, and the other is that it's a
18 designated scenic road. So we would evaluate
19 it for its scenic qualities or look at it in
20 that context.

21 Q. If we look at Applicant Exhibit 51, you begin
22 with the list of 130-odd potential scenic
23 places, scenic resources -- I'm trying to get
24 to that list. If anyone knows where that

1 list is before I can get there, please let me
2 know.

3 MR. ASLIN: It starts on Page 45,
4 electronic Page 51 I think.

5 DIR. MUZZEY: Great. Thank you.

6 (Witness reviews document.)

7 Q. It's Table 2. Are you there?

8 A. Yup.

9 Q. Oh, great. So we begin with natural
10 resources. And the only one listed is the
11 Newington Center Historic District under
12 National Historic Sites. All of the other
13 ones are not -- the other historic resources
14 that may or may not have scenic value are not
15 listed here. Can you -- it just doesn't seem
16 to me like that scenic evaluation happened
17 for all of those other historic properties in
18 the Project area.

19 A. Yeah. That's because, again, the bulk of the
20 historic resources were evaluated by another
21 consultant for the Project. We were not
22 charged with evaluating historic resources.

23 Q. Oh, I'm fully aware of that, although in New
24 Hampshire's rules, historic sites with scenic

1 qualities fall under a broader category.
2 They also fall under the broader category of
3 scenic resources. So, thinking of the
4 diagram, there's a little bit of overlap
5 where we have a property that has two
6 different sets of values. So I'm just
7 wondering why that did not occur here.

8 A. What's that? Well, I think it's because the
9 other historic districts either, A, did not
10 have any scenic values in and of themselves
11 in terms of relating to the Project and the
12 Project's effect, or they didn't have
13 visibility.

14 Q. All right. Just to change topics, the
15 definition of "scenic resources" in New
16 Hampshire also includes "towns and village
17 centers that possess a scenic quality."
18 Could you describe how you address that
19 aspect of a scenic resource in your
20 evaluation.

21 A. Yes. We looked at Durham Village Center. We
22 looked at Newington Village District. We
23 looked at Portsmouth to determine whether
24 there was, you know, scenic qualities or

1 project visibility. And, you know, obviously
2 we did spend time relative to the Newington
3 Village area, you know, to evaluate how the
4 Project might affect that because there was
5 project visibility. And so to that extent,
6 they were looked at and reviewed as part of
7 the overall project. But they may not, you
8 know, for reasons I'd have to review on a
9 case-by-case basis, either not require any
10 review because of the lack of visibility or
11 were being reviewed for either historic or
12 visual effects by the historic preservation
13 consultant.

14 Q. Let's see. If we skip ahead in your
15 methodology of determining the effect on the
16 viewer, remoteness is one of four things that
17 you look at.

18 A. Excuse me?

19 Q. Remoteness.

20 A. Yes.

21 Q. And on Page 34 of Exhibit 51, there's various
22 levels and descriptions of what "remoteness"
23 is, but the highest scoring areas are two to
24 three miles from any type of paved road or

1 built environment. And I'm just wondering --
2 with this type of project area, two areas
3 that have been fairly densely built for some
4 time, that would almost be an automatic fail
5 for a resource in that category, despite
6 being considered a scenic resource. Do you
7 ever adjust those categories, including
8 remoteness, based on what the prevailing
9 scenic resource is in a project area?

10 A. Well, I mean, no. We have to -- I suppose
11 that's an interesting thought. But I guess
12 it is included in all visual analyses to
13 reflect the difference between urban and
14 suburban development and scenic effects in
15 those kinds of context versus scenic
16 effects -- I mean visual effects in areas
17 that are less developed. So it is certainly
18 one criterion that is standard insofar as,
19 you know, urban and developed areas typically
20 can accommodate visual change much more
21 amenably than remote areas where no such
22 development or intrusions exist currently.

23 Q. Also taking a look at how "scenic quality"
24 and "scenic resources" are defined in the New

1 Hampshire rules, I'm reminded of, you know,
2 you talked about how you do things in Vermont
3 with this concept of the "disinterested
4 viewer" and would the disinterested viewer be
5 shocked by something. Here in New Hampshire,
6 "scenic quality" is defined as it means "a
7 reasonable person's perception of the
8 intrinsic beauty of the land form, features,
9 human additions or alterations to the area."
10 So it seems in New Hampshire we have the
11 "reasonable person" who's determining scenic
12 quality.

13 So, getting back to Mr. Fitzgerald's
14 questions about the property owner versus the
15 average person, how do you fit "reasonable
16 person" into that with the New Hampshire
17 rules?

18 A. I mean, again, we'd have to go into the
19 semantics of the difference between "average"
20 and "reasonable." But I think, you know,
21 "reasonable" would mean that someone doesn't
22 have a preconceived notion, isn't obviously
23 or directly affected by the Project. Because
24 I don't know, you know, how reasonable

1 somebody can be when it's going to directly
2 affect their sense of well being or what have
3 you, you know, their resistance to change.
4 So you really -- you know, and that's why a
5 lot of times you would do surveys about
6 visual preferences and so forth and so on.
7 You really want to try to get an unbiased
8 sense of what's this going to mean to the
9 public as opposed to the property owner.

10 And, you know, again, as I mentioned
11 earlier, obviously if an area or neighborhood
12 rises to the level of being unusually and
13 substantially impacted, then you would
14 certainly want to address that and
15 accommodate that. But, you know, I think if
16 you ask anybody, you know, do you want a
17 power line next to your house, or do you
18 want, you know, 40 acres clear cut right next
19 door to you where you've lived, you know, 30
20 years with a beautiful forest, they would
21 probably say no. Therefore, do we rely on a
22 person who has a built-in stake in whether a
23 project is being built or not? And I think
24 if we did, most projects would not be built.

1 So we have to stand back and balance sort of
2 the need, the good, the public impression
3 with the private, you know, concerns in that
4 regard.

5 Q. So in your example of the 40 acres across the
6 street from you, from your home being cut,
7 would you have considered yourself to be a
8 reasonable person in that situation?

9 A. No. Unh-unh. No, sir -- no, ma'am.

10 Q. Well, that's very honest.

11 A. I was pretty -- we were pretty upset.

12 PRESIDING OFFICER WEATHERSBY:

13 Director Muzzey, may I ask a follow-up
14 question?

15 DIR. MUZZEY: Certainly.

16 QUESTIONS BY PRESIDING OFFICER WEATHERSBY:

17 Q. So I was struggling with the same concept of
18 the typical viewer and how to determine
19 what's "typical." You know, people riding
20 your bike path may be, you know, trying to
21 train for a time trial or they may be out to
22 smell the roses.

23 So you mentioned the user surveys. Am I
24 correct that no user surveys were done in

1 connection with this project?

2 A. I'm sorry. Done for this project?

3 Q. This project.

4 A. No, we did not do them for this project.

5 Q. And did you have any kind collaboration or
6 evaluations between colleagues of what would
7 you think would be the user here? Or was it
8 just you decided -- how did you come to
9 determine what the typical viewer was, other
10 than your four criteria?

11 A. I mean, I think you -- depending on the
12 resource, you know, the typical viewer would
13 be, in Little Bay, would be the folks who
14 come to Little Bay and do not live right next
15 to the Project to use that resource and fish
16 or boat or paddle and, again, without a
17 direct interest or potential impact from the
18 Project. That might be, you know, a
19 reasonable person who has nothing to gain or
20 lose if the Project is built, per se. Then
21 you can gauge from that what would be a
22 reaction from that typical user. And you put
23 yourself in their shoes as to whether this
24 would rise to a level of being something that

1 would, A, cause them not to want to come back
2 or, B, you know, substantially undermine
3 their experience of that resource.

4 Q. But, for example, for Little Bay, you may
5 have people there who come to fish, and their
6 focus is the water and hopefully the fish
7 they're going to catch. But you also may
8 have someone taking the Gundalow trip who's
9 there not only to learn about the gundalow
10 but to see the bay. And so people are there
11 for different reasons. A lot of pleasure
12 boats just go up to experience the bay. So
13 it's hard to know what a typical user is
14 because there's so many different types of
15 users of many of the resources. So I
16 don't --

17 A. So you've got a needle that goes this way,
18 and you've got to try to sort of get it down
19 to the middle, if you will, and sort of
20 ascertain what that is.

21 Q. Sorry to interrupt. But did you ascertain
22 that, or did you have -- was there like a
23 discussion and you reached a consensus? How
24 was that determined?

1 A. Well, we looked for, again, any examples that
2 would help us understand how important or how
3 noticeable currently the facility might be,
4 or whether or not, you know, they articulate
5 in a description of Little Bay, as I cited
6 for Great Bay, what rises to the top as being
7 the primary interest or concern of those
8 users. And you do your best to estimate that
9 or understand that. And we do in our office
10 use the breadth of our experience in all of
11 these projects to kind of get at that as best
12 as we can.

13 MS. DUPREY: Could I follow up on
14 yours?

15 PRESIDING OFFICER WEATHERSBY: Go
16 ahead.

17 MR. FITZGERALD: I have a follow-up
18 also.

19 BY MS. DUPREY:

20 Q. We were just at a public hearing the other
21 night, Thursday night, a few days ago, with a
22 room filled with people who did not live next
23 door to where the Project is going to go
24 underground across Little Bay. But like you

1 said, they're users of the bay, or they live
2 in the surrounding towns. And to a person,
3 they were opposed to this on the basis, some
4 on the mattresses, some on the views of the
5 poles, others admittedly relating to
6 environmental factors. So I was a little
7 surprised to hear you talk, you know, about
8 what a reasonable person was, I think, being
9 a person who uses it, because as I said, we
10 had a roomful of those people, and they were
11 pretty adamant about this not happening.

12 MR. FITZGERALD: Could I expand on
13 that question just a little bit, too?

14 PRESIDING OFFICER WEATHERSBY: Mr.
15 Fitzgerald.

16 BY MR. FITZGERALD:

17 Q. If you would, with respect to that question,
18 is any citizen in the towns of Durham or
19 Newington, could they be -- would they be
20 considered "disinterested" in your view?

21 A. Absolutely. You know, again at a hearing
22 like you mentioned, you know, you got a group
23 of people who obviously have already made up
24 their mind or have an interest in or are

1 monitoring it. Is there any gauge of the
2 number of people who aren't upset or don't
3 have an interest or don't think it's, you
4 know, a major problem? How do we balance
5 those who come out who are angry, upset or
6 concerned with those who are not? Because
7 they don't come out. There's no reason for
8 them to. And this is a dilemma we face all
9 the time in planning. I mean, I've been in
10 situations where a very vocal few have
11 defeated a project that the broader
12 population has favored and supported in a
13 general sense.

14 So, agreed, it's a very tough thing to
15 get at. But we do our best from experience
16 over time to assess, you know, the difference
17 between the pre-project challenges and
18 concerns and then the post-project results
19 and reactions. And oftentimes they don't
20 balance out. The concerns are much higher
21 with the anticipation and not knowing what
22 it's going to look like, what it's going to
23 be. I mean, we're seeing representation of
24 concrete mattresses that look like they're

1 floating above the water. And when you see
2 that, you know, it gives the impression that
3 this is going to be horrific potentially, I
4 suppose, to some people. So people react
5 emotionally to these types of situations,
6 obviously.

7 We're trying to get to the person who's
8 not emotionally connected or emotionally
9 involved. We're trying to get a person that
10 we could bring from afar or from one stretch
11 of Newington who, you know, is disinterested
12 and plunk them down there and say, you know,
13 is this going to be a deal breaker for you?
14 Is this going to be something that will
15 change your life untowardly?

16 PRESIDING OFFICER WEATHERSBY:
17 Director Muzzey, I think we -- you were
18 questioning and we took off on you. So please
19 continue.

20 DIR. MUZZEY: No, that's great. I'm
21 glad others had similar questions. I just have
22 a couple more questions. Let me just find
23 them.

24 BY DIR. MUZZEY:

1 Q. So, looking at your simulations, some it's
2 very clear from the before shot to the
3 simulated shot that tree clearing is shown,
4 but not all of them. Did they -- I'm
5 assuming all of them accounted for tree
6 clearing and it's just not visible? Is that
7 accurate?

8 A. Yes.

9 Q. And how about any clearing that was done for
10 the construction of new access roads? Is
11 that shown in the simulated images?

12 A. If they would be visible in the simulation,
13 they would have been shown, yes.

14 Q. And we've heard that sometimes the access
15 roads will be restored to their previous
16 appearance, but sometimes not. In cases
17 where they're not, would those have been
18 shown on the simulated images?

19 A. If they were visible in the simulation, yes.
20 But I don't recall any.

21 Q. From the places you chose to do those views.

22 A. That's correct.

23 Q. And my final question again gets back to
24 Applicant Exhibit 142, on Pages 4 and 5.

1 There's some discussion of locally designated
2 roads and what do they look like, what are
3 their potential values. At the top of Page 5
4 there's some discussion again of Nimble Hill
5 Road. It's described as "a resource that has
6 some tree-lined sections, some visible stone
7 walls, but fairly common attributes." We
8 also know that Nimble Hill Road has at least
9 one farm with scenic values, if not more.

10 Elsewhere in this proceeding we've heard
11 that there's been a lot of local planning at
12 times, zoning, those types of local tools to
13 actually create that type of landscape. Even
14 at a statewide level there are certain
15 protections in place for stone walls. These
16 are all attributes that are valued in New
17 Hampshire.

18 So to say that a road such as Nimble
19 Hill Road, while being a locally designated
20 scenic road, isn't going to score high
21 because it's common, it almost seems like a
22 penalty that a community has worked to create
23 those types of roads, because they're common
24 and not special and particularly scenic

1 because there's a lot of them. How does the
2 fact that a community may be working on
3 creating those types of landscapes feed into
4 this common evaluation?

5 A. Well, again, I think as I said earlier, you
6 know, one community's scenic road is another
7 community's everyday route. And, you know, I
8 think there are many roads in New Hampshire
9 that probably look like Nimble Hill Road in
10 some respects but that are not designated
11 scenic. I understand that the community
12 values those roads and thus has identified
13 them. But without any -- I mean, it's great
14 to do that and recognize that and value the
15 scenic roads. But the town plan gave us no
16 guidance as to what qualities really factored
17 into that, other than they wanted to protect
18 stone walls and they wanted to limit
19 clearing. There's no real evaluation of the
20 visual quality along the road. There's no
21 identification or elevation of why that road
22 is scenic to them and what are its scenic
23 qualities, other than it's a rural road in a,
24 you know, a rural-seeming road in, you know,

1 in a townscape. We have to put that in the
2 context of other roads that are or are not
3 scenic.

4 You know, if you designate a byway -- or
5 I know in other communities they would go
6 through a process, a planning process that
7 would not automatically designate every Class
8 II road as scenic, but really select which of
9 those roads rose to the level of being highly
10 valued and appreciated for visual scenic
11 qualities and experiences above and beyond
12 what you normally would expect along, you
13 know, a suburban or exurban road of this
14 type.

15 So all I had was information that I
16 could rely on officially in the town plan and
17 in the designation of scenic roads and was
18 given no guidance beyond that as to why they
19 were designated scenic, other than they were
20 all Class II, and what values really went
21 into the definition of that road as "scenic."
22 You know, if you designate a byway, you've
23 got to go through a very comprehensive
24 evaluation of visual quality along sections

1 of the route and any number of other criteria
2 that would warrant a designation at the state
3 level of a "scenic road." In many
4 communities that I've done planning work
5 with, when you designate a scenic resource,
6 you go through a process of, you know,
7 establishing why it's scenic, what are the
8 qualities, and then really putting into place
9 what can and can't happen, you know, within
10 reason to that road.

11 And yes, we know we're going to retain
12 stone walls. And I think this project is
13 going restore any stone walls. So those will
14 stay. There may be a little more clearing in
15 the crossing of Nimble Hill Road, but not
16 dramatically so. And actually, through our
17 collaboration with the Counsel for the
18 Public, we're going to be doing some planting
19 plans there. So, other than that one road
20 crossing there at Nimble Hill Road, the rest
21 of the road will not have any visual effect
22 from this project. And so the bulk of that
23 scenic road will remain as is, and certainly
24 scenic in the eyes of the town. And by the

1 way, it was designated scenic with that
2 transmission corridor already in place. So I
3 think that was part of the --

4 Q. The effects of the Project weren't part of my
5 question. It's just the way that your
6 methodology was valuing certain resources
7 that others in the community may feel should
8 have ranked higher.

9 Just looking at Nimble Hill Road, or it
10 could be any of the other locally designated
11 roads either in Newington or Durham, if we
12 took one of those roads, placed it in a more
13 urban environment or outskirts of a more
14 urban area, project area for this type of
15 project -- say it was on the outskirts of
16 downtown Manchester, and it wasn't common
17 because we're in a urban area -- would that
18 have gotten a higher score in your
19 methodology in that type of scenario?

20 A. Possibly.

21 Q. So why is it now a penalty here? Because the
22 town has worked to create more of these in
23 this project --

24 A. It wasn't a penalty. I mean, I think your --

1 Q. But it seems like --

2 (Court Reporter interrupts.)

3 A. No, it was not considered a penalty. It was
4 a point of departure. I mean, I'm asked to
5 evaluate the road and compare it within a
6 broader context of scenery and scenic quality
7 and scenic value. And when I drive along
8 Nimble Hill Road and I see lawns and lawn
9 furniture and utility poles and some places
10 that are cut and a tree line that is varied
11 quality with weed trees in some places and
12 nicer trees in other, it's a pleasant road.
13 But does it rise to the level of being, you
14 know, highly scenic when I look at scenic
15 roads in other towns and other communities?
16 I could not come to that conclusion.

17 Q. Thank you. I don't have any other questions.

18 PRESIDING OFFICER WEATHERSBY: Mr.
19 Way.

20 QUESTIONS BY MR. WAY:

21 Q. Good evening. Christopher Way from Business
22 and Economic Affairs. And yes, it is
23 evening. A lot of my questions have already
24 been answered, but I do have a few with

1 regards to the concrete mattresses. And I
2 think, as Ms. Duprey mentioned, that came up
3 prominently the other night in the public
4 hearing. There was a lot of concerns, both
5 from a visual standpoint, but also
6 navigation, how people in the area might look
7 towards these.

8 I guess just a few general questions. I
9 was looking at your supplemental and the
10 picture that you had there of the photo
11 simulation that shows the mat. This is more
12 of an engineering question. But that photo
13 simulation, do you take into account that
14 these are articulating as well as has been
15 said in the construction, that they tend to
16 fold and bend a little bit?

17 A. Yes, and it's very hard to see from that
18 distance. That's why you can't really detect
19 that.

20 Q. But it does figure into your --

21 A. We were aware of that, yes.

22 Q. Okay. And you mentioned that you have not
23 had experience before with concrete
24 mattresses. Did I understand that correctly?

1 A. That's correct.

2 Q. But you were aware that they have been done
3 in other areas.

4 A. Yes.

5 Q. Have you actually seen them? Have you gone
6 to see any areas that may have had concrete
7 mattresses?

8 A. No, I have not.

9 Q. All right. Have you seen pictures or other
10 photo simulations --

11 A. Yes, I have.

12 Q. -- of those as well?

13 A. Yes.

14 Q. And those seem to support what you're
15 submitting to us?

16 A. Yes.

17 Q. As we say, we want to get this right.

18 A. Yes.

19 Q. In terms of the Newington side, you did not
20 take a photo simulation? You did not make a
21 photo simulation of the Newington side?

22 A. That's correct.

23 Q. I kind of understood what you were saying to
24 Ms. Duprey. And you said it was sort of a

1 worst case by taking the other side. But I
2 guess what I -- there's a couple takeaways
3 that I heard from you today, or this is one.
4 One cannot take a situation here and
5 necessarily apply it to a situation over
6 here, that each case is different. So that
7 made me pause. Then you also said that if
8 you, in thinking about it, you thought it
9 might have been a good idea, but you didn't
10 have the time to do that. And then the third
11 thing, while I'm thinking of it, because I
12 think you raised the issue as well, is that
13 there's photo simulations, as you say, out
14 there that illustrate floating mattresses, or
15 mattresses that may be probably higher than
16 the low tide in different photo simulations.

17 Tell me again why you decided not to do
18 that photo simulation on that side.

19 A. Well, again, in this case there are similar
20 conditions. And, you know, they're both
21 shoreline landscapes that have very
22 comparable visual conditions, in terms of the
23 shoreline and the mud flats and the like. So
24 I think at the end we felt that the one in

1 the Durham side was representative. Also,
2 we're charged, you know, to try and provide
3 visual simulations from resources where the
4 proposed project would have the highest
5 visibility. And the Durham side would have
6 the highest visibility. So we chose to do
7 the Durham side on that basis. I felt, and
8 we felt, that the information we had and the
9 work we've done and the simulation we've
10 provided was suitably representative that we
11 could understand that the visual quality and
12 potential effect would be, you know, very
13 similar on the Newington side.

14 And then finally, again, you know, I
15 feel pretty strongly that over time the
16 visual -- the visibility and the visual
17 effect of the concrete mattresses -- I can't
18 speak to the environmental or ecological
19 effect -- but the visual effect is going to
20 diminish. And that's because of two reasons.
21 One is if the concrete is tinted, that will
22 make it even more harder to see, and then
23 over time the effect of, again, sedimentation
24 and sea life growing on these mattresses,

1 which happens I am told pretty regularly on
2 all of these types of installations. Taken
3 together, the presence of those mattresses is
4 going to be noticeably diminished and less of
5 an effect for the users of the Little Bay.

6 Q. And I'm not really questioning that. I'm
7 questioning more why -- and I understand what
8 you're saying. I'm questioning more where we
9 took a -- we made a photo simulation of one
10 area and chose not to on something that
11 probably hasn't -- well, something that has
12 not been done before with only two points.
13 And then I'm also -- I think that the view
14 that you're going to be having of the
15 Newington side is going to be different than
16 it is on the Durham side. If you had to do
17 it all over again, given what you told us
18 about if you had more time, would you have
19 done the photo simulation?

20 A. You know, again, I think if I had to do it --
21 I mean, again, personally, I feel -- I don't
22 know how to quite say this. The whole visual
23 effect of the concrete mattresses has
24 probably been over-emphasized. And so I

1 certainly didn't expect that people would
2 zero on it to this extent. Probably, you
3 know, it wouldn't be a bad idea. But again,
4 we did dozens and dozens of simulations.
5 They are very expensive and time-consuming.
6 So I guess you have to select which ones do
7 you duplicate, which ones do you do to have
8 the broadest perspective of the Project as a
9 whole. That's not typically a decision for
10 me to make. But, you know, I suppose if we
11 had the time and money, we'd do a visual
12 simulation of every resource. But that's
13 never done and it's not realistic. So I'm
14 not sure. I can't answer your question
15 definitively or not.

16 Q. Fair enough.

17 MR. WAY: If I could, attorney -- if
18 I could just address a question to Attorney
19 Aslin.

20 One of your exhibits was brought up
21 a little bit earlier, and I think it was
22 Counsel for the Public Exhibit 17. This was
23 shore land at obviously very low tide. You
24 have a boat there resting on the sand. Can

1 you tell me what side of the bay that was on?

2 MR. ASLIN: My understanding, those
3 photos were taken from the Durham side.

4 MR. WAY: From the Durham side.

5 MR. ASLIN: Near the Miller, the
6 southern Millers home. So there's Millers to
7 the north and south of the Project corridor.
8 Vivian Miller side.

9 BY MR. WAY:

10 Q. I don't know if we need to necessarily show
11 it. I guess one of the questions I have, are
12 the intertidal conditions, the flatness, are
13 they comparable from the Durham side to the
14 Newington side?

15 A. Yeah. If anything, actually, I think the
16 Durham side has a little bit more angle and
17 pitch at the beginning of where the concrete
18 mattresses are going to be located.

19 Q. Okay. And you did -- like we said, you did
20 not submit a simulation for the Newington
21 side. Did you do one at your office, though,
22 or did you start one? Or did you --

23 A. We did start one, but we didn't finish it.
24 First of all, again, just didn't get to it.

1 I mean, we were thinking of it, but we didn't
2 get to it.

3 Q. But you started it for some reason.

4 A. Yeah, but we -- yeah.

5 Q. Okay. How far did you get on that?

6 A. Not far at all. We were just thinking about
7 it, and we took a stab at it. And it was
8 going to require quite a bit more work to do
9 it accurately.

10 Q. Just tell me, too, from your experience, just
11 to educate me, what does it take to do one of
12 these photo simulations? What's the length
13 of time? What's involved?

14 A. Well, several days --

15 Q. Several days.

16 A. -- to begin with, depending on the
17 simulation. Obviously a field trip and the
18 time in the field to arrange photos. Then
19 you've got to kind of translate the
20 engineering data into the computer
21 environments. It's minimal three to four
22 days per, depending on the location.

23 Q. All right. Thank you very much.

24 MR. FITZGERALD: I have one.

1 BY MR. FITZGERALD:

2 Q. A few times during your testimony this
3 afternoon you seemed to indicate that, in
4 your experience, the way people view a
5 project after it's completed versus their
6 anticipation of the Project is significantly
7 different. Would you attribute that to the
8 fact that just a change has happened and
9 there's nothing else, or that the
10 anticipation of the change was, I think I
11 heard you refer to it as somewhat over-hyped
12 or overblown possibly, particularly in the
13 case of these concrete mattresses? And are
14 you aware of any studies or information that
15 would support that? I mean, is this a
16 psychological effect? Or is it, you know --
17 how do you interpret that? How do you come
18 to those conclusions?

19 A. You know, I think several things. One is I
20 think all of us, or most of us, you know, if
21 things are okay and we're living our life,
22 we're resistant to change that might impact
23 us. No. 2, in fairness to, you know,
24 intervenors and abutters, you know, it's --

1 yes, we do the simulations. Yes, we have
2 data. Yes, we do our best to try and present
3 what the Project's going to look like to the
4 greatest extent practicable and possible.
5 But it's that fear of not really knowing or
6 not being sure of what this is going to look
7 like, what it's going mean, what it's going
8 to do that elevates people's emotions. And
9 they're real. I don't deny them. But again,
10 time and time again, I've just seen, you
11 know, that the concerns and, you know,
12 opposition and the level of conflict, you
13 know, prior to a project, or contention I
14 should say, you know, is greatly diminished
15 once the Project is built. Often their worst
16 fears are not realized. Often, you know,
17 people do go back to their business, and for
18 better or for worse, accept the change and
19 learn to live with it. You know, I think
20 probably all of us can speak to, you know,
21 changes in the landscape that we've
22 experienced or that have affected us that,
23 you know, we've become used to. My wife and
24 I are not as upset about the tree clearing

1 anymore. We've learned to live with it.
2 We've got other concerns to address and other
3 interests that we want to focus on.

4 And I do believe there have been some
5 studies. I also know that I've seen studies
6 that show that clearly the distance that
7 people live from proposed power transmission
8 lines translate into -- correlates with a
9 lessening of concern and opposition to them.
10 The closer you are, the more you're going to
11 oppose them or have concerns about them. The
12 farther away, the less you're going to care
13 and be concerned. So, studies have been done
14 to demonstrate that. And I think, you know,
15 that's human nature to kind of have that sort
16 of concern. And it's appropriate. You know,
17 we should be concerned.

18 But I think, just in closing, you know,
19 on all the projects I've worked on, you know,
20 in my 40 years of practice, this project and
21 this company has gone to great lengths to try
22 and mitigate the visual effect, provide
23 mitigation measures to property owners and
24 abutters, made changes to the engineering

1 design upon our recommendations to reduce the
2 visual effect, and worked very hard and
3 consciously to make this project as amenable
4 and as best to fit as it possibly can, you
5 know, given the change in structure height
6 and the nature of the transmission line
7 itself.

8 QUESTIONS BY PRESIDING OFFICER WEATHERSBY:

9 Q. That was a great segue to my last questions
10 because I have a few questions about
11 mitigation.

12 A. Please.

13 Q. Not going to go into concrete mattresses
14 because we talked about that.

15 A. Thank you. I think I'm going to be dreaming
16 about concrete mattresses for a few days,
17 but...

18 Q. So there's a lot of different types of
19 mitigation, and a lot of them have been used
20 on this project already. But there are some
21 specifics I just want to kind of kick around
22 a little.

23 One type of mitigation that was done on
24 another project was restoration and

1 vegetation of all the road edges that were
2 disturbed. And I know that the Applicant's
3 agreed to do that on those road crossings
4 that Mr. Lawrence identified. But do you
5 think that that is something that would be
6 appropriate to apply to all road crossings?

7 A. Yes, and I think it will actually happen
8 intrinsic to the project. What I mean by
9 that is, if you recall, you know, the field
10 trip in Durham when we went on Frost Avenue
11 or Cuts Drive, you saw existing vegetation
12 along the roadside that had grown up and was
13 providing some screening mitigation and
14 buffering, if you will. Certainly didn't
15 hide the tops of the structures. I'm not
16 suggesting that. But as you came to that
17 road crossing, you did not see a cut and
18 clean break between the tree line and the
19 tree line and then lawn or gravel or what
20 have you. That vegetation has grown up over
21 time.

22 I think to have some effect in efficacy
23 in ameliorating the visibility or the
24 presence of the Project, I talked with

1 Eversource officials, and I think there's a
2 commitment to allow re-vegetation along all
3 these road crossings so that a more natural
4 pattern of vegetation can come back after
5 construction and provide some of that
6 buffering and mitigation that existed before
7 this project was constructed. And in fact,
8 sometimes that's more effective than, you
9 know, going and buying plant material at
10 nurseries and trying to plant them in a
11 foreign environment and establish their root
12 system when there's already sumac and
13 viburnum and native plants, Virginia Creeper,
14 things of that nature, that have root systems
15 well established, are adapted to that
16 particular locale. And it's something I've
17 seen in several transmission projects, where
18 the road crossings and road edges have been
19 allowed to grow back naturally with the
20 native vegetation that re-grew or reseeded.
21 And that can be a very effective mitigation
22 measure in itself that's inherent in the
23 process after construction.

24 Q. Another thing that is sometimes kicked around

1 is you used both non-specular conductors for
2 certain projects. Do you think that would be
3 appropriate in this project as a whole or in
4 certain areas?

5 A. If it's possible and reasonable, yes. We
6 talked about that. I don't know where -- I
7 think there's other issues related to
8 non-specular conductors that I would leave to
9 the Eversource experts to address. Certainly
10 from a visual perspective it's better.

11 Q. Something else I was thinking of when we
12 looked at the photos of Main Street in Durham
13 with the Dairy Bar, train tracks and all the
14 poles, was pole consolidation. There's
15 probably a more technical word for it. But
16 where you can transfer some lines onto the
17 new poles and get rid of some of the other
18 poles. I know that's happened in a couple
19 instances. But in many instances there's
20 some new poles being added and the old ones
21 are staying, and there's just sort of a
22 cacophony look of all of the poles. And that
23 was a really good example of it I thought.

24 Do you think that would be an effective

1 mitigation technique; and if so, are there
2 areas that come to your mind where that may
3 be appropriate along this project?

4 A. I mean, to the best of my knowledge so far,
5 they've tried to do that wherever they can
6 where it's reasonable or possible. I can't,
7 off the top of my head, think of where that
8 could be either reconsidered or altered. I
9 think, again, they've tried to do that where
10 it's possible and feasible to do that because
11 of right-of-way width or nature of the
12 individual conductors, the individual lines.

13 Q. Okay.

14 A. That's an engineering decision first and
15 visual second.

16 Q. But you agree it's a valid mitigation
17 technique?

18 A. Anytime we can reduce clutter in the
19 right-of-way I think is a good thing.

20 Q. Do you know when this project -- I guess it's
21 a question I should have asked the
22 engineering group, but I didn't because I
23 didn't think of it until visual -- whether
24 glass insulators are being used?

1 A. I don't think -- I don't know. I don't think
2 so, but...

3 Q. Has that come up as part of your
4 visual analysis at all?

5 A. Well, we certainly model the insulators, you
6 know, whatever the structure would have. We
7 don't get into the actual material. We use,
8 you know, representative examples of the
9 structures and then bring them in to the
10 simulation environment to simulate them. I
11 don't know what material they are, per se,
12 specifically, whether they're ceramic or
13 glass or some other --

14 Q. Is it your opinion that non-glass insulators
15 would have less of a visual effect than
16 glass? Or what is your opinion of the two
17 types?

18 A. I've never really seen the insulators, you
19 know, rise to the level of being, you know, a
20 noticeable or highly noticeable visual
21 element.

22 Q. All right. Fair enough. I have no more
23 questions.

24 PRESIDING OFFICER WEATHERSBY: Mr.

1 Way.

2 MR. WAY: One more follow-up.

3 BY MR. WAY:

4 Q. As you can probably guess, I'm wrestling with
5 the idea of not having that other photo
6 simulation. And I understand what you're
7 saying about one being the worst case that
8 would represent the other side. I'm not sure
9 if we could use that argument if they were
10 land structures.

11 MR. WAY: Attorney Needleman --

12 MR. NEEDLEMAN: The answer's yes.

13 MR. WAY: Yes. I would like to
14 request the photo simulation of the Newington
15 side. Thank you.

16 MR. NEEDLEMAN: We figured as much.

17 MR. WAY: Thank you very much.

18 MR. NEEDLEMAN: We will ask -- I'll
19 talk to Mr. Raphael, and we'll try to figure
20 out what it takes in terms of timing to get
21 that produced and do it as quickly as we can.

22 MR. WAY: Thank you.

23 MR. PATCH: Madam Chair.

24 PRESIDING OFFICER WEATHERSBY: Yes,

1 Mr. Patch.

2 MR. PATCH: Doug Patch. Excuse me.

3 In terms of the request that was just made, I
4 would just like to note for the record, I think
5 I asked a question about this. Mr. Hebert, in
6 his testimony, had specifically suggested that
7 a photo sim be done from the shoreline of what
8 the concrete mattresses would look like. So I
9 would ask that you at least consider asking for
10 that. Thank you.

11 MR. NEEDLEMAN: May I be heard?

12 PRESIDING OFFICER WEATHERSBY: Yes.

13 MR. NEEDLEMAN: I would object to
14 that. I think the record is quite clear and
15 the rules are quite clear that this analysis is
16 conducted from the scenic resource. And my
17 understanding is what we're looking for here is
18 a view sim similar to one that was done for the
19 Durham side, but it would look towards the
20 Newington side from the scenic resource and not
21 from private property that isn't accessible to
22 the general public.

23 PRESIDING OFFICER WEATHERSBY: Yes,
24 Mr. Way.

1 MR. WAY: My request would be from
2 the scenic resource, the same sort of
3 conditions that were done for Durham.

4 PRESIDING OFFICER WEATHERSBY: I
5 think we agree with Attorney Needleman, and at
6 this point we'll not be requesting a simulation
7 from the land over the mattresses into the bay.

8 Does any Committee member have any
9 further questions? Attorney Iacopino, do you
10 have any questions?

11 MR. IACOPINO: At the risk of
12 angering everybody, I just have a couple.

13 QUESTIONS BY MR. IACOPINO:

14 Q. Your process that you actually use when you
15 create these photo simulations -- did you use
16 Colorforms when you were a child?

17 A. Yes.

18 Q. That's the way I seem to think about these
19 things. You're superimposing on the existing
20 photograph additional conditions. So I
21 assume that you have to have an accurate
22 initial photograph; correct?

23 A. Correct.

24 Q. And I assume you have to take a transit out

1 there or something to get scale and
2 measurements of what's in the photograph; is
3 that correct?

4 A. No. Actually, the camera, again, records the
5 GPS information, the coordinates and the
6 location. And then using that data, we can
7 place the point into the model from which we
8 are conducting or developing the simulation.
9 We factor in the height above, you know, the
10 ground plain or the water level the
11 simulation was taken in, and then it's
12 modeled within an accurate three-dimensional
13 wire frame model of the terrain or the
14 landscape within which you're going to place
15 the structure.

16 Q. So you rely on a specialized camera rather
17 than transit or some --

18 A. Right, right. Yeah, we don't typically use a
19 transit.

20 Q. You also have to make sure that the color is
21 accurate in the existing photo; correct?

22 A. Yes.

23 Q. Now, when you superimpose, say, a taller pole
24 into the existing photograph for the

1 photograph of the existing conditions, is
2 there a menu or something that you go to to
3 say I need a self-weathering, 105-foot pole
4 to be put in this location on the photograph?

5 A. Well, the silhouette, or the
6 three-dimensional model of the structure, is
7 brought in to the, again, the simulation.
8 The color is something that we would take
9 from a representative example of a
10 self-weathering steel pole from another photo
11 or, you know, accurate representation of
12 that. So it would match the color and the
13 environment, and then shading and shadow is
14 added in relative to what the site conditions
15 are.

16 Q. Okay. But is there a menu that you go to?
17 For instance, I need a self-weathering pole
18 or I need an H-frame. In other words, does
19 the software that you're using, is that the
20 data that you put in --

21 A. We have to get this --

22 (Court Reporter interrupts.)

23 Q. -- that you put in, I want an H-frame or I
24 need a monopole?

1 A. I wouldn't say there's a menu. But, again,
2 the engineers for the Project provide that
3 CAD model to us.

4 Q. Is that the case with the concrete mattresses
5 as well?

6 A. No. We modeled those based on the technical
7 engineering drawings of them.

8 Q. And those are the drawings that we received
9 as part of this proceeding?

10 A. Yes.

11 Q. Okay. Thank you.

12 PRESIDING OFFICER WEATHERSBY:
13 Nothing else from the Committee? Attorney
14 Needleman, redirect.

15 MR. NEEDLEMAN: Just a few questions.
16 Thank you.

17 REDIRECT EXAMINATION

18 BY MR. NEEDLEMAN:

19 Q. Could we pull up Exhibit 51, please.

20 When Ms. Mackie was questioning you, she
21 asked you about Hicks Hill in Madbury and
22 suggested that you had missed that as a
23 scenic resource. Do you recall that?

24 A. Yes.

1 Q. We had chance to look at the break. And if
2 you look at PDF 58, is it correct that you
3 actually did consider Hicks Hill in your
4 analysis?

5 A. Yes, we did.

6 Q. And when Mr. Aslin was questioning you, he
7 suggested -- or he pointed out that Route 108
8 is a designated road, and you couldn't recall
9 analyzing 108; is that right?

10 A. Right.

11 Q. But there are multiple references in your
12 report to something called, quote, Mills
13 Scenic Byway, close quote; is that right?

14 A. That's correct.

15 Q. And is that, in your understanding, Route
16 108?

17 A. Yes. I did not know Route 108 as a scenic
18 byway, as Route 108 Scenic Byway. We knew it
19 as the Mill Road, but...

20 Q. And then one last set of questions going back
21 to the questions that were asked about
22 Mr. Lawrence's work as it relates to your
23 work. His analysis identified 13 locations
24 of concern from his perspective; is that

1 right?

2 A. Yes.

3 Q. And setting aside any disagreement you have
4 with Mr. Lawrence about whether those are
5 scenic resources or not, is it your
6 understanding that Mr. Lawrence indicated
7 that, if mitigation was done in those
8 locations -- and in particular, his focus was
9 on planting plans -- he thought his concerns
10 could be addressed?

11 A. Yes, that's correct.

12 Q. And as a consequence of that, you and
13 Eversource engaged in a process with
14 Mr. Lawrence after the technical sessions to
15 identify ways to address the concerns he had
16 through planting plans at those 13 locations.

17 A. Yes, that's correct.

18 Q. And what resulted were the proposed
19 conditions that Eversource and Counsel for
20 the Public submitted to the Committee of
21 dealing with that issue; is that right?

22 A. That is right.

23 Q. And is it your understanding, based on your
24 work with Mr. Lawrence and Counsel for the

1 Public and Eversource, that those conditions
2 that have been submitted address all of the
3 locations of concern that Mr. Lawrence had?

4 A. Yes.

5 Q. Nothing further. Thank you.

6 PRESIDING OFFICER WEATHERSBY: Okay.
7 Thank you. Thank you, Mr. Raphael. You're
8 excused.

9 Given the hour, I don't think we'll
10 start with Ms. Widell. Thank you for being
11 ready to go. We'll resume tomorrow at 9:00,
12 and we'll have examination of Ms. Widell, and
13 hopefully Mr. Selig and Mr. Hebert as well
14 tomorrow. I think everyone has the new
15 status report, new order of witnesses.

16 So have a good evening and we'll
17 see you all tomorrow.

18 (Whereupon the Day 9 Afternoon
19 Session was adjourned at 5:53
20 p.m., and the hearing to resume
21 on October 16, 2018
22 commencing at 9:00 a.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
of the State of New Hampshire, do hereby
certify that the foregoing is a true and
accurate transcript of my stenographic
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Susan J. Robidas, LCR/RPR
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Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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