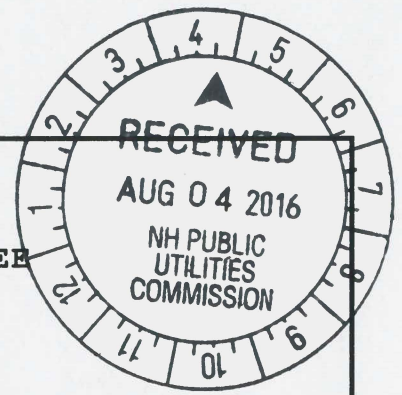




ORIGINAL



STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

July 11, 2016 - 9:24 a.m.
Public Utilities Commission
21 South Fruit Street Suite 10
Concord, New Hampshire

DAY 2
DELIBERATIONS

IN RE: SEC DOCKET NO. 2015-05
SITE EVALUATION COMMITTEE:
Joint Application of New England
Power Company d/b/a National Grid
and Public Service Company of
New Hampshire d/b/a Eversource
Energy for a Certificate of
Site and Facility.

PRESENT:

SITE EVALUATION COMMITTEE:

F. Anne Ross, Esq. (<i>Presiding as Presiding Officer</i>)	Public Utilities Commission
Cmsr. Kathryn Bailey	Public Utilities Commission
Cmsr. Jeffrey Rose	Dept. of Resources and Economic Development
Dr. Richard Boisvert	Dept. of Cultural Resources Division of Historical Res.
Michele Roberge	Dept. of Environmental Serv.
Patricia Weathersby	Public Member
Rachel Whitaker	Alternate Public Member

Also Present for the SEC:

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

COURT REPORTER: Susan J. Robidas, NH LCR 44

I N D E X

	PAGE
MOTION BY MS. HUARD FOR SEC SITE VISIT	
Argument by Ms. Huard	7
QUESTIONS FROM SUBCOMMITTEE MEMBERS/COUNSEL:	
By Ms. Bailey	10
By Mr. Iacopino	13
Argument By Mr. Needleman	17
QUESTIONS FROM SUBCOMMITTEE MEMBERS/COUNSEL:	
By Mr. Iacopino	19
Argument By Mr. Aslin	21
QUESTIONS FROM SUBCOMMITTEE MEMBERS/COUNSEL:	
By Ms. Bailey	22
Committee Discussion	23
MOTION made by Ms. Weathersby	28
Second by Ms. Whitaker	28
VOTE TAKEN	29
DELIBERATIONS (CONT'D):	
ISSUE: AIR QUALITY	31
MOTION made by Cmsr. Bailey	34
Second by Ms. Roberge	34
VOTE TAKEN	34
ISSUE: WATER QUALITY	35
MOTION made by Ms. Roberge	37
Second by Cmsr. Rose	37
Further discussion	37

1	MOTION made by Ms. Roberge	40
2	Second by Cmsr. Rose	40
3	VOTE TAKEN	40
4	ISSUE: NATURAL ENVIRONMENT	41
5	MOTION made by Cmsr. Bailey	47
6	Second by Dr. Boisvert	47
7	Further discussion	48
8	MOTION made by Cmsr. Bailey	48
9	Second by Dr. Boisvert	48
10	VOTE TAKEN	48
11	ISSUE: PUBLIC HEALTH AND SAFETY	49
12	Motion made by Cmsr. Bailey	63
13	Further discussion	64
14	MOTION made by Cmsr. Bailey	69
15	Second by Ms. Weathersby	69
16	VOTE TAKEN	69
17	ISSUE: PUBLIC INTEREST	70
18	MOTION made by Dr. Boisvert	73
19	Second by Ms. Roberge	73
20	VOTE TAKEN	74
21	ISSUE: REPORTING OF PROJECT COST	75
22	MOTION by Mr. Boisvert	88
23	Second by Cmsr. Bailey	88
24	VOTE TAKEN	89

1	Further discussion re: Conditions	89
2	MOTION made by Ms. Weathersby	89
3	Second by Dr. Boisvert	89
4	Further discussion	90
5	MOTION made by Ms. Weathersby	90
6	Second by Ms. Roberge	90
7	Further discussion	90
8	MOTION made by Ms. Weathersby	94
9	Second by Ms. Roberge	94
10	VOTE TAKEN	94
11	ISSUE: CONSTRUCTION TIME FRAME	95
12	MOTION made by Cmsr. Bailey	97
13	Second by Ms. Weathersby	97
14	VOTE TAKEN	98
15	ISSUE: DECOMMISSIONING	98
16	MOTION made by Ms. Weathersby	101
17	Second by Ms. Whitaker	102
18	VOTE TAKEN	102
19	ISSUE: 6/24/16 PUC ORDER RE: TOWN OF WINDHAM	
20	Discussion	103
21	ISSUANCE OF CERTIFICATE FOR SITE & FACILITY	
22	MOTION made by Cmsr. Bailey	104
23	Second by Presiding Officer Ross	105
24	VOTE TAKEN	105

P R O C E E D I N G S

PRESIDING OFFICER ROSS: Good

morning. I would like to reopen the deliberations in the Site Evaluation Docket 2015-05, Merrimack Valley Reliability Project. And before we begin deliberations this morning, I would like to consider a motion, a late-filed request for a site visit filed by Intervenor Huard and objected to by the Applicant. I think, as Presiding Officer, although it is possible I could decide this motion on my own, I am going to ask the Committee to assist me in that decision. And in order for us to think about it, I think I'm going to ask the Movant, Ms. Huard, to sort of give us her basic argument on why, at this late stage, it would be useful to this docket and to the Committee to see the areas, and then I will allow the Applicant to respond. And I would also be interested in hearing from Counsel for the Public with regard to this somewhat unusual request.

And before we do that, are there any other procedural items that we need to deal

1 with?

2 MR. IACOPINO: I think we should take
3 roll from the Committee and take appearances.

4 PRESIDING OFFICER ROSS: All right.
5 Committee members, if you would introduce
6 yourself, please, beginning over on the far
7 left -- I'm sorry -- my far right.

8 MS. WEATHERSBY: Good morning.
9 Patricia Weathersby, public member.

10 CMSR. ROSE: Good morning. Jeff
11 Rose, Commissioner of the Department of
12 Resources and Economic Development.

13 MS. ROBERGE: Michelle Roberge with
14 the New Hampshire Department of Environmental
15 Services.

16 DR. BOISVERT: Richard Boisvert,
17 Deputy State Historic Preservation Officer,
18 Division of Historical Resources.

19 CMSR. BAILEY: Kate Bailey, Public
20 Utilities Commission.

21 PRESIDING OFFICER ROSS: Anne Ross,
22 Public Utilities Commission.

23 MS. WHITAKER: Rachel Whitaker,
24 public member.

1 PRESIDING OFFICER ROSS: And then, if
2 I may, appearances.

3 MR. NEEDLEMAN: Barry Needleman from
4 McLane Middleton, representing the Joint
5 Applicants.

6 MR. ASLIN: Chris Aslin, Assistant
7 Attorney General, as Counsel for the Public.

8 MS. HUARD: Peggy Huard, Intervenor.

9 PRESIDING OFFICER ROSS: Thank you.
10 Any other items we need to cover before we
11 begin?

12 [No verbal response]

13 PRESIDING OFFICER ROSS: All right.
14 Ms. Huard, if you could. Is your mic on?

15 MS. HUARD: I think so. The light's
16 on.

17 PRESIDING OFFICER ROSS: You may need
18 to be a little closer to it.

19 MS. HUARD: I don't think I can get
20 any closer.

21 PRESIDING OFFICER ROSS: That's good.

22 MS. HUARD: I think it was a couple
23 weeks ago, or last week -- I've lost track of
24 time -- but I had asked Ms. Monroe, in rounding

1 up all of the paperwork I had and going through
2 everything on the docket, I realized there had
3 never been a site visit done. And it had been
4 talked about early on in the proceedings. I
5 know I had lost track of it. So when I asked
6 Ms. Monroe, she had suggested to file the
7 motion, and so I did file the motion.

8 I have great concerns that a
9 committee could possibly make a decision
10 without actually coming out and looking at a
11 site. I know as a CPA, when I file an opinion
12 on an audit, I could never do so without
13 looking at the physical site. And I would
14 think it would be completely negligent of you
15 not to bother to come out and see physically
16 what the site looks like. I know in my motion
17 I've made that point.

18 I continue -- as I vacation and
19 travel, I continue to see several areas, three
20 areas specifically that I named to you that
21 have self-weathering poles, which we had great
22 questions on -- or I had great questions on and
23 there was conflicting information on. The one
24 closest to me is dark, as I would expect from

1 the description that has been given to me, and
2 the two other sites that I have noted do have a
3 lighter rust appearance, looking as though they
4 are not working properly. I'm not saying that
5 they're not. But I would just request that the
6 Site Evaluation Committee look at these three
7 sites, since it is one of the issues of great
8 concern, and consider it and ask questions. I
9 think that pretty much covers it.

10 There's several other points
11 that -- and I don't have my motion in front of
12 me. But the points I made reiterate what I've
13 made through my entire comments and questions.
14 There are several statements that I feel are
15 false or exaggerated, and I've pointed them out
16 through the proceedings. And the pictures are
17 taken by the Applicant to show you what they
18 want to see. And I really think you need to
19 come out and visit us among where we live and
20 see how close the houses are and see how the
21 MVRP doesn't leave place in between the last
22 pole on my road. My neighbor down near -- the
23 measurement between the last pole and her
24 mailbox, which is on the other side of her

1 driveway, is only 150 feet.

2 And then the other area that I
3 have noted throughout the proceedings was the
4 crossing over Howard Brook. And I think that
5 you need to physically look at it. I tried to
6 show you on a map, and I think you need to
7 physically look at it.

8 I think that's all I can recall,
9 off the top of my head.

10 CMSR. BAILEY: Ms. Huard, do you have
11 any scientific evidence that the color of the
12 poles will make any difference, other than
13 aesthetics?

14 MS. HUARD: I don't have any
15 scientific evidence, except for the literature
16 that I've read that shows that the curing would
17 be a darker color. That's not my area of
18 expertise. I would think that would be for the
19 Committee to determine. They're contradicting
20 colors. And based on everything I've read, I
21 don't know if one is right or one is wrong or
22 it's just the different lots. So I just gave
23 you three areas. That's just one part of the
24 request --

1 CMSR. BAILEY: Well, I can envision
2 different colored poles. I can see that.
3 Also, on the --

4 MS. HUARD: They do look like they
5 have -- I'm not going right up to them because
6 of my experience with the high-voltage
7 transmission lines. But they do look like they
8 have a heavy rust, and I wanted to bring it to
9 your attention.

10 CMSR. BAILEY: Thank you.

11 We have the picture that you
12 sent us of the view from your driveway of the
13 transmission line. If we were standing in your
14 driveway, would we see anything different than
15 that?

16 MS. HUARD: Currently or after the
17 Project?

18 CMSR. BAILEY: Yeah, currently.

19 MS. HUARD: You cannot -- there are
20 no brown self-weathering poles.

21 CMSR. BAILEY: Right. So we're only
22 going to see the existing transmission
23 structures and --

24 MS. HUARD: From my driveway. That

1 is correct.

2 CMSR. BAILEY: Okay. Thank you.

3 MS. HUARD: But you will see some of
4 the MVRP once it's done from my driveway, just
5 to be clear.

6 CMSR. BAILEY: I understand that.

7 MS. HUARD: Okay.

8 CMSR. BAILEY: But we can't see that
9 today. So if we go out and stand in your
10 driveway, we're not going to see anything more
11 than what you showed us in the picture.

12 MS. HUARD: I'm not asking you to
13 stand in my driveway. The Site Evaluation
14 Committee -- I was requesting that you go to
15 the crossing, which is at the road -- the
16 crossing itself, which you will see the point
17 of demarcation and you will see the whole ROW.
18 You can see quite a bite of the ROW from --

19 CMSR. BAILEY: The right-of-way?

20 MS. HUARD: Right-of-way, yes, from
21 the David Drive crossing. You can see all the
22 way up to Lenny Lane from the David Drive
23 crossing.

24 CMSR. BAILEY: Okay.

1 MS. HUARD: So it gives you a good
2 picture of what's there and what they've done,
3 because you will also see that they did sneak
4 in a brown self-weathering pole during routine
5 work this winter.

6 CMSR. BAILEY: Thank you.

7 PRESIDING OFFICER ROSS: Any other
8 questions from the Committee before we hear
9 from the Applicant on the motion?

10 [No verbal response]

11 MR. IACOPINO: Ms. Huard, just for
12 some -- you didn't have your motion with you.
13 You asked in your motion that the Committee go
14 to see an amount of space between Pole 85 on
15 David Drive and the abutting home at 24 David.
16 That's not your home; right?

17 MS. HUARD: No, that is the one I
18 mentioned that has 125 feet between the last
19 pole and their mailbox.

20 MR. IACOPINO: And how far is that
21 from the next item you have in your motion,
22 which is the areas along the right-of-way, the
23 Robinson Pond watershed from David Drive to
24 Lenny Lane, Breakneck Road?

1 MS. HUARD: Well, that's just part of
2 it.

3 MR. IACOPINO: That would all be one
4 site, or would we have to go out into the
5 right-of-way and hike around?

6 MS. HUARD: You would probably have
7 to go into the right-of-way and hike around for
8 some of this. Although, you could just visit
9 the various road crossings, the one on David
10 Drive and then the one over on Kienia and
11 Breakneck and look at them, and you will see
12 quite a bit. From David Drive, you will see
13 all the way to Lenny. If you go -- if you went
14 to the Lenny/Breakneck/Kienia area, they all
15 come together. You would actually see down the
16 other side, and you would see Howard Brook.

17 MR. IACOPINO: And how far are those
18 two areas from each other in terms of miles?

19 MS. HUARD: Driving-wise, from one
20 crossing to the other?

21 MR. IACOPINO: Yes.

22 MS. HUARD: About five minutes.

23 MR. IACOPINO: You also mention the
24 Route 93 crossing. Are you saying to look at

1 the structures from Route 93, or is there --

2 MS. HUARD: I was making a
3 suggestion. These are the observations I made.
4 They are continuing to raise questions in my
5 mind. They add to my questions --

6 MR. IACOPINO: I'm not looking for
7 you to argue your case here. I'm just looking
8 for -- in terms of what you're asking for, are
9 you looking for the Committee to take a site
10 visit and stop on Route 93 and look from there,
11 or is there a different place --

12 MS. HUARD: No, that would be --

13 (Court Reporter interrupts.)

14 MR. IACOPINO: Or is there a
15 different place you're suggesting they go?

16 MS. HUARD: I can see them from the
17 crossing. So that was what I would suggest. I
18 don't know what else you would have to do to
19 satisfy yourself. But I can see these brown
20 self-weathering poles from these crossings.

21 MR. IACOPINO: And the crossing at
22 140 Derry Road, Hudson, New Hampshire, that you
23 reference, is that near the Breakneck,
24 Kienia --

1 MS. HUARD: It is not. It's just
2 another area in Hudson that had placed -- that
3 the Applicant had placed the brown
4 self-weathering poles without -- maybe a
5 15-minute drive.

6 MR. IACOPINO: Okay. And then the
7 last one, Robinson Road crossing, at 20
8 Robinson Road, where is that in relation to the
9 other sites?

10 MS. HUARD: That is about five
11 minutes from David Drive and Lenny Lane.

12 MR. IACOPINO: Is that visible -- I'm
13 sorry.

14 MS. HUARD: And that also would be
15 part of -- or give you an insight of the
16 Robinson Pond watershed.

17 MR. IACOPINO: Would that be visible
18 from the area we discussed before, where Lenny
19 Lane, Breakneck and Kienia cross?

20 MS. HUARD: No, because it actually
21 breaks off from that right-of-way. But you
22 cannot -- you can see -- you can't.

23 MR. IACOPINO: Okay. Thank you.

24 PRESIDING OFFICER ROSS: Any other

1 questions for the Movant?

2 [No verbal response]

3 PRESIDING OFFICER ROSS: All right.
4 The Applicant -- I'm not sure whether I ask
5 Public Counsel or the Applicant to come next.
6 Do you have a preference? The Applicant.

7 MR. NEEDLEMAN: I'm happy to go.
8 Thank you, Madam Chair, members of the
9 Committee.

10 Several points I'd like you to
11 have in mind as you consider this. First of
12 all, at the conclusion of the hearing, I
13 believe you closed the record pursuant to your
14 Regulation 202.27. You do have the authority
15 to reopen the record under your regulations.
16 I'm looking at 202.28 -- or actually, I'm
17 sorry. You have the authority to reopen under
18 202.27. That requires a written request from a
19 party, which I think maybe arguably what Ms.
20 Huard filed could be construed as such, though
21 I'm not even sure that's the case. But to
22 reopen the record, it's for the purpose of
23 receiving relevant material and non-duplicative
24 testimony. And I think that it can certainly

1 be argued that nothing that Ms. Huard is asking
2 for here is something new and non-duplicative.
3 It's a different variation of all of the
4 arguments that she has already made to this
5 point.

6 Second of all, with respect to
7 the issue of site inspections, those are
8 governed in your regulations under 202.13. And
9 the regulations there say that the Subcommittee
10 or Public Counsel, or a party on motion may
11 request a site visit. And it's up to the
12 Subcommittee in its discretion to determine
13 whether one is helpful.

14 This docket has been going on
15 for quite some time. I believe that Ms. Huard
16 was granted intervenor status in November, and
17 at any point since November she could have
18 requested a site visit, and you could have
19 considered that and determined at some point
20 whether it would have been helpful to you while
21 the record was open. The fact that this
22 request has come so late I think is not only
23 unusual, but I would argue at this point is
24 fundamentally unfair to the Applicants.

1 This is a reliability project.
2 This is a project that, as you've heard, is
3 needed and needs to move forward. And I would
4 suggest that there actually was a really good
5 chance that your deliberations could have been
6 completed several weeks ago. We could have had
7 a decision and we could have been moving
8 forward with preparations to start work on this
9 project if you decided to issue the
10 certificate. We've lost several weeks. And at
11 this point, if you now schedule a site visit,
12 you'll have to suspend these proceedings today.
13 You'll have to find a time to go out and have
14 that visit, and then you'll have to schedule a
15 time for new proceedings, and significant
16 additional time will be lost.

17 So, for all these reasons, we
18 oppose this motion at this point and ask that
19 you deny it.

20 PRESIDING OFFICER ROSS: Any
21 questions for the Applicant?

22 MR. IACOPINO: Mr. Needleman, you
23 recognize that pursuant to the rule, Section
24 202.13, the Committee can take a site visit on

1 its own motion?

2 MR. NEEDLEMAN: Yes.

3 MR. IACOPINO: Do you have any -- as
4 far as the places that Ms. Huard has asked for
5 the Committee to visit, do you have any
6 different information with respect to the
7 relative locations of those places and how long
8 it would take for such a site visit to occur,
9 other than what she explained to me?

10 MR. NEEDLEMAN: I haven't considered
11 it specifically. My assumption is that this
12 would be similar to other similar cases, and
13 you could probably accomplish that visit in a
14 day or less.

15 MR. IACOPINO: But you don't dispute
16 the distance between the places that Ms. Huard
17 has indicated.

18 MR. NEEDLEMAN: I don't dispute or
19 agree with them. I just haven't looked at them
20 for purposes of this discussion.

21 MR. IACOPINO: I don't have any other
22 questions.

23 PRESIDING OFFICER ROSS: All right.
24 Counsel for the Public.

1 MR. ASLIN: Thank you. Good morning.
2 As Counsel for the Public, I did not take a
3 position on this motion directly, but I will
4 make a few comments.

5 I would agree that it is highly
6 unusual to file at this late date. We've had a
7 long period of time in which this could have
8 been requested earlier. I guess I would agree
9 that a site visit would necessarily result in
10 some further delay in this docket, and being a
11 reliability project, that does have some
12 impact. That said, I think it is a question
13 that is up to the Committee's discretion to
14 decide whether this would be helpful to them in
15 making their decision. I believe the primary
16 issues raised by Ms. Huard that the site visit
17 could address is really aesthetics and, perhaps
18 to a slight degree, the environmental issues
19 surrounding self-weathering poles. The
20 aesthetic impacts are those that relate
21 specifically to private properties, not to
22 scenic resources, as I understand the locations
23 that have been requested. And so that is a
24 factor that the Committee should be

1 considering, although it is a lesser factor
2 than the scenic resources under the rules and
3 statute.

4 With that in mind, I think if
5 the Committee feels it has sufficient
6 information in the record already, then a site
7 visit would not be necessary. But at the same
8 time, the Committee certainly has the
9 discretion to do a site visit if that would be
10 helpful in making your decision.

11 PRESIDING OFFICER ROSS: Go ahead.

12 CMSR. BAILEY: Mr. Aslin, have you
13 been to the site?

14 MR. ASLIN: I have passed portions of
15 the site, but I haven't done a full traverse of
16 the whole project.

17 CMSR. BAILEY: Have you viewed this
18 neighborhood?

19 MR. ASLIN: I have not viewed the
20 specific location that's been requested, other
21 than through the images that have been
22 submitted in the record and off of other online
23 sources.

24 CMSR. BAILEY: Okay. Thank you.

1 PRESIDING OFFICER ROSS: Any other
2 questions from the Committee?

3 [No verbal response]

4 PRESIDING OFFICER ROSS: All right.
5 I think we are ready for the Committee to
6 deliberate on the arguments that we've heard,
7 so I welcome any discussion from the group. Go
8 ahead.

9 DR. BOISVERT: I'm inclined at this
10 point not to support the request for the site
11 visit. Ms. Huard made reference to her
12 profession as a certified public accountant,
13 that she felt the need to do on-site visits and
14 so forth. In my profession, which includes
15 evaluating many projects that occur in the
16 state of New Hampshire, as to whether or not
17 they need to have archeological investigation
18 on them, we would routinely look at the
19 information submitted by the Applicants, look
20 at our maps and use our experience in the state
21 to make evaluations as to whether or not an
22 archeological survey would need to be done.
23 And we explicitly take into account many
24 environmental factors as to whether or not

1 people would have been living on that landscape
2 in the past. So we are quite comfortable in
3 making substantive decisions without a site
4 visit. So, on that level, I don't feel that a
5 decision can be made only having done a site
6 visit. Obviously, there could be advantages
7 and it can help inform a decision, but I don't
8 see that it's a necessity.

9 Second thing that I would like
10 to observe is that we've not seen objections
11 from the landowners, the private landowners who
12 are closest to these -- to the right-of-way and
13 have not seen their objections brought forward.
14 Not to say there wouldn't be a view from Ms.
15 Huard's property and so forth. But the
16 individuals closest to, the one with the
17 mailbox 150 feet, I don't recall that they have
18 registered an objection. So that, in my mind,
19 lowers the sensitivity, my perception of the
20 sensitivity in that immediate neighborhood.
21 So, for those reasons I am not inclined to
22 support the request for a site visit.

23 PRESIDING OFFICER ROSS: Any other
24 comments?

1 CMSR. BAILEY: I agree. I think I
2 have a good visual understanding of the impact
3 that will occur. I don't think that we're
4 going to be able to see the impact. There's
5 not a transmission right-of-way that I drive by
6 anymore that I don't look at very carefully.
7 So I know what transmission right-of-ways look
8 like. And this is an existing transmission
9 right-of-way. So, I don't believe that in this
10 case, because of the late request for a site
11 visit, that it's going to help inform my
12 decision. In fact, we've already made a
13 decision on aesthetics and we considered the
14 arguments that Ms. Huard raised and we made a
15 determination. So this is almost like a
16 request for reconsideration, but not quite
17 because we haven't officially made the final
18 decision. But with all that, I don't think
19 that a site visit will help inform my decision
20 in this case any more.

21 MS. WEATHERSBY: I've been on my
22 town's zoning board for 15, roughly, years, and
23 I always find it helpful to go and visit a
24 property to understand what's being proposed

1 and what's there now and the change. And I
2 wish that we had had a site visit for this
3 project. But the request coming now, I have to
4 ask the question that Attorney Aslin put
5 forward: Will the information that we'll see
6 help us make our decision? I think that we
7 will see information -- or see how close the
8 existing lines are to properties. We'll have
9 firsthand visual information concerning the
10 information that Ms. Huard has presented to us.
11 We've heard a lot of testimony about how close
12 the poles are to various properties. We've
13 heard that there is an effect on the property
14 values of those properties. And there's no
15 question that the proximity, in my mind, the
16 proximity of poles will have a real impact on
17 the properties that are so close to the
18 proposed transmission lines and that have a
19 clear sight of them. But given all of the
20 information that we've heard, I don't feel as
21 though going out and seeing what I imagine in
22 my mind from the testimony will change my
23 decision concerning the Project. I'm
24 sympathetic to the situation that those

1 property owners face. But I think seeing it
2 firsthand will not affect my decision-making
3 process, as I'm already envisioning the worst
4 for them.

5 And considering environmental
6 issues, we've heard from DES and a couple of
7 Ph.D.s concerning the self-weathering poles and
8 that they don't have an effect on the
9 environment. So, seeing the brook crossing, et
10 cetera, I'm not sure will give me more
11 information on which to base my decision. So,
12 while I wish that we had had a site visit
13 earlier in the process to better understand the
14 entire right-of-way, I think, at this point,
15 going out and seeing these selected locations
16 would not be of assistance to me, and I would
17 not be in favor of that now.

18 PRESIDING OFFICER ROSS: Are there
19 any other comments? I think what I would like
20 is a vote from the Committee on whether to --
21 I'm sorry. Ms. Huard.

22 MS. HUARD: I'd like to just make one
23 comment. If at some point --

24 PRESIDING OFFICER ROSS: I don't

1 think this is the time. I mean, we've given
2 you an opportunity to argue your motion. And
3 we are now deliberating, so I'm going to
4 overrule your participation right now.

5 So what I would propose is that
6 we vote "yay" or "nay" on whether to deny the
7 motion for a site visit. So we're voting on
8 whether to deny a motion for the site visit.
9 So, a "yay" would be a denial. Is that clear
10 for everyone?

11 MS. WEATHERSBY: Do you want to have
12 a motion?

13 PRESIDING OFFICER ROSS: Yes, that
14 would be great. Would you like to offer one?
15 That would be terrific.

16 MS. WEATHERSBY: All right. So then
17 I move that we deny Ms. Huard's motion to
18 request a site visit.

19 PRESIDING OFFICER ROSS: Is there a
20 second?

21 MS. WHITAKER: I'll second.

22 PRESIDING OFFICER ROSS: All in favor
23 say "aye".

24 [Multiple members indicating "aye".]

1 PRESIDING OFFICER ROSS: Any opposed?

2 [No verbal response]

3 PRESIDING OFFICER ROSS: All right.

4 The motion for a site visit is denied.

5 We will now continue the
6 deliberations that we had begun.

7 MS. HUARD: May I just ask one
8 question?

9 PRESIDING OFFICER ROSS: Yes, you may
10 ask.

11 MS. HUARD: Could someone from the
12 Committee explain to me why this wasn't their
13 own choice from the beginning, since they have
14 that right?

15 PRESIDING OFFICER ROSS: No, we're
16 not going to respond to that question now.

17 MS. HUARD: Thank you. So noted.

18 PRESIDING OFFICER ROSS: Okay. So,
19 in referring to our deliberations on June 14th,
20 as we wrapped up our deliberations we had
21 decided on... just read the last few... we had
22 voted on a motion that there's no unreasonable
23 adverse effect to historic properties, and that
24 motion carried. I see where that puts us on

1 our line of issues to consider.

2 MR. IACOPINO: It would be air
3 quality, air and water quality.

4 PRESIDING OFFICER ROSS: Okay. So we
5 would be dealing now with air and water
6 quality. And could counsel read us the
7 statutory provision that we're actually working
8 with now on this section?

9 MR. IACOPINO: Yes. We're in the
10 midst of R.S.A. 162-H:16. I believe it's Roman
11 Numeral IV, but I'm not positive of this at
12 this point. But it's whether or not -- the
13 Committee must determine whether or not the
14 Project will have an "unreasonable adverse
15 effect" on air and water quality. And again,
16 the consideration is whether the effect of the
17 proposed project will be "unreasonably
18 adverse."

19 You are required to consider the
20 Department of Environmental Services, their
21 input into the docket as well. And I believe
22 we have... well, I just wanted to point out
23 that I think the only input on air quality from
24 the Department of Environmental Services is the

1 indication that there's a general programmatic
2 permit that the Applicant would have to comply
3 with, with respect to minimizing the emissions
4 of dust during construction of the Project.
5 That's with respect to air.

6 And then with water quality,
7 there is significant input from DES Water
8 Division, which I don't know if you want to
9 take them one at a time or deal with them
10 together.

11 PRESIDING OFFICER ROSS: Would the
12 Committee like to -- let's do air and water
13 separately because they're somewhat different
14 categories, if that will work for people.

15 On air, I think we had, as Mike
16 mentioned, the dust issue during construction.
17 And Ms. Huard had mentioned that there might be
18 some air emissions with the self-weathering
19 poles. And as I understand it, the general
20 project permit from DES does take into
21 consideration dust related to the construction
22 process.

23 CMSR. BAILEY: We also have a
24 stipulation between Counsel for the Public and

1 the Applicant about air quality in Exhibit 23
2 that stipulates that the Project will be used
3 solely to transmit electricity and does not
4 involve equipment that combusts fuels or emits
5 regulated pollutants.

6 PRESIDING OFFICER ROSS: Do other
7 members want to comment on air quality at this
8 point?

9 MS. ROBERGE: Yes, that's my
10 understanding as well, that there are no, you
11 know, equipment or devices that are going to be
12 requiring a permit under the Air Resources
13 Division of the New Hampshire Department of
14 Environmental Services. With respect to dust,
15 we do have regulations. And my understanding
16 is the Applicant agrees to minimize dust
17 emissions as a result of construction during
18 the construction process, using Best Management
19 Practices.

20 With respect to any issues with
21 the poles themselves, the Department -- I am
22 not aware of any issues, at least in terms of
23 air quality issues associated with the
24 self-weathering poles. Just to note, if there

1 would be any perhaps rust coming off of them,
2 they would likely be larger pieces, not
3 respirable. We generally look at very small
4 particles that are respirable or aerosols or
5 volatile organic compounds. So, small
6 compounds that can get into your deep lung
7 tissues, those are the types of pollutants that
8 we look at from an air quality perspective.

9 And then the Department has
10 reviewed applications submitted for -- oh,
11 well, we're dealing with just air quality at
12 this point; right? So I'll stop there.

13 PRESIDING OFFICER ROSS: Any other
14 comments or observations on the air issues?

15 MS. WEATHERSBY: I think Ms. Huard
16 also mentioned the effect on air quality by the
17 tree cutting, and the lack of the trees
18 resulting in the lack of oxygen, et cetera, et
19 cetera. But I was convinced by testimony of
20 the experts that, although it seems as though
21 the tree cutting is significant, and it is in
22 some ways, but compared to the amount of trees
23 in the state, that it will not have a
24 measurable effect on air quality.

1 PRESIDING OFFICER ROSS: If there's
2 no further discussion, would anyone like to
3 propose an amendment with regard to just the
4 air quality issue, or would you like to go
5 ahead and deliberate water quality and then
6 deal with them together?

7 CMSR. BAILEY: Madam Chair, did you
8 mean a motion on air quality?

9 PRESIDING OFFICER ROSS: Yes.

10 CMSR. BAILEY: You said "amendment."

11 PRESIDING OFFICER ROSS: Oh, I'm so
12 sorry.

13 CMSR. BAILEY: I move that we find
14 there is no unreasonable adverse impact on air
15 quality.

16 PRESIDING OFFICER ROSS: Is there a
17 second?

18 MS. ROBERGE: Second.

19 PRESIDING OFFICER ROSS: All in favor
20 of that motion.

21 [Multiple members indicating "aye".]

22 PRESIDING OFFICER ROSS: Any opposed?

23 [No verbal response]

24 PRESIDING OFFICER ROSS: All right.

1 PRESIDING OFFICER ROSS: Let's then
2 turn to the water quality issues, and those are
3 runoff during construction and during the
4 subsequent operation of the Project and any
5 impacts to the area waters. And I know we have
6 several DES permits related to these issues. I
7 know that we earlier indicated that we would be
8 incorporating those permits into -- as a
9 condition of any ultimate approval, should we
10 grant one on the Project. But did people want
11 to comment more specifically on the water
12 quality of the Project?

13 MS. ROBERGE: I would just like to
14 state that the Department has made
15 recommendations in a letter to counsel on
16 conditions that should be included, should the
17 Department -- should the council agree to issue
18 a certificate. So I would just reiterate that
19 those conditions should be in there. They've
20 done a detailed review of this particular
21 project and made those recommendations.

22 PRESIDING OFFICER ROSS: Okay.

23 CMSR. BAILEY: I would observe that
24 there is some impact on wetlands and shoreland,

1 but that it's the Department of Environmental
2 Services' expertise that I rely on to determine
3 or advise us as to whether there's an
4 unreasonable impact. And because the
5 Department has not advised us that there is an
6 unreasonable impact, I didn't hear any
7 persuasive testimony that there would be an
8 unreasonable impact on wetlands.

9 PRESIDING OFFICER ROSS: And I guess
10 I would also note that the Applicants'
11 environmental expert indicated that the
12 hydrology would not -- even though there are
13 impacts due to the construction, the underlying
14 hydrology of the wetlands would still work; the
15 inflow and outflow would still work for the
16 wetlands post-construction.

17 (Members reviewing documents.)

18 PRESIDING OFFICER ROSS: Are there
19 any other comments with regard to water
20 quality?

21 MS. WEATHERSBY: I would just say
22 that I take some comfort in the fact that the
23 Applicant has agreed to comply with all the
24 conditions of the wetland- and

1 shoreland-related permits and has agreed to
2 employ environmental monitors during the
3 construction phase to be sure that
4 environmental impacts are avoided or minimized.

5 PRESIDING OFFICER ROSS: Okay. Is
6 there anyone ready make a motion with regard to
7 the water quality impacts of the Project?

8 MS. ROBERGE: I move that this
9 project will not have any adverse impacts on
10 water quality in the -- along the right-of-way.
11 Unreasonable adverse.

12 PRESIDING OFFICER ROSS: Okay.
13 That's good. Is there a second?

14 CMSR. ROSE: I'll second that motion.

15 PRESIDING OFFICER ROSS: All right.
16 All in favor of that motion --

17 MR. IACOPINO: Before you vote, Madam
18 Chair, I just want to point the Committee,
19 while you're considering this motion, back to
20 the fact that in our prior portion of our
21 deliberation -- I don't know exactly when it
22 was -- you did adopt the conditions for the
23 four permits issued by the Department of
24 Environmental Services, that being the wetlands

1 permit, the alteration of terrain permit, the
2 401 water quality permit and the shoreland
3 permit, and also recognized that they would be
4 under the General Programmatic Agreement for
5 Section 404. That did occur previously in your
6 deliberations. I would advise, Madam Chair,
7 that once you vote on this motion, you then
8 determine whether or not to again make each one
9 of those permits a condition of the Certificate
10 and delegate to the Department of Environmental
11 Services oversight of those.

12 PRESIDING OFFICER ROSS: Okay.

13 MR. IACOPINO: That's one of the
14 things available for the Committee to exercise
15 in terms of delegation.

16 PRESIDING OFFICER ROSS: Okay.

17 That's fine.

18 MS. ROBERGE: Should I amend my
19 motion to include those? Because I do want to
20 make it clear those should be included --

21 PRESIDING OFFICER ROSS: I think --
22 I'm not sure whether it needs to be in this
23 motion. I know we've already made those
24 contract conditions -- I'm sorry -- those

1 permit conditions a condition of any ultimate
2 decision we make here. But I suppose
3 referencing that earlier determination in this
4 motion might help for clarity purposes. So if
5 you would like to amend your motion, you may.

6 MS. ROBERGE: Yes. Let me see if I
7 can get this correct now. I'm going to try to
8 refer to the language here.

9 So I move to -- or I amend my
10 original motion to that this project will not
11 have any unreasonable adverse effect on water
12 quality, provided that we include the permit
13 conditions -- or the recommendations from the
14 Department of Environmental Services on the
15 shoreland -- I'm not going to get it.

16 MR. IACOPINO: Would you like some
17 help?

18 MS. ROBERGE: Yes, I would, please.

19 MR. IACOPINO: There is a wetlands
20 permit, an alteration of terrain permit, a 401
21 water quality certificate and a shoreland
22 impact permit. And in addition, there are
23 general programmatic conditions for Section
24 404.

1 MS. ROBERGE: What was the first one?
2 I'm sorry. Wetlands?

3 MR. IACOPINO: Wetlands.

4 MS. ROBERGE: Okay. Try this again.

5 So the motion would read that
6 this project would not have any unreasonable
7 adverse effect on water quality, provided that
8 the recommendations by the New Hampshire
9 Department of Environmental Services be
10 included in any certificate, should one be
11 issued; that includes with respect to the
12 wetlands permit, the alteration of terrain
13 permit, the 401 water quality certificate and
14 the shoreland permit, and any requirements
15 associated with the general programmatic
16 requirements in 404.

17 PRESIDING OFFICER ROSS: Is there a
18 second?

19 CMSR. ROSE: Second.

20 PRESIDING OFFICER ROSS: And all in
21 favor indicate by saying "aye."

22 [Multiple members indicating "aye".]

23 PRESIDING OFFICER ROSS: Any opposed?

24 [No verbal response]

1 PRESIDING OFFICER ROSS: Okay.

2 MR. IACOPINO: Next statutory
3 requirement, Madam Chair, is whether or not the
4 proposed project will have an unreasonable
5 adverse effect on the natural environment. In
6 doing this, you generally consider whether the
7 Project -- what the Project's effect will be on
8 wildlife, rare plants, rare natural
9 communities, other exemplary natural
10 communities, under Site 301.14(e). There is
11 also a number of areas that must be considered.
12 They're fairly extensive. Do you want me to go
13 through them for the Committee?

14 PRESIDING OFFICER ROSS: I think,
15 actually, the review might be helpful, if
16 people don't mind a little delay here.

17 MR. IACOPINO: Pursuant to the rule,
18 the Subcommittee, in considering this statutory
19 requirement, must consider seven different
20 factors. I'll go through them, No. 1 through
21 No. 7.

22 No. 1, the significance of the
23 affected resident and migratory fish and
24 wildlife species, rare plants, rare natural

1 communities and other exemplary natural
2 communities, including the size, the
3 prevalence, dispersal, migration, and viability
4 of populations in or using the area; No. 2, the
5 nature, extent and duration of the potential
6 effects on the affected resident and migratory
7 fish and wildlife species, rare plants, rare
8 natural communities and other exemplary natural
9 communities; No. 3, the nature, extent and
10 duration of the potential fragmentation or
11 other alteration of terrestrial or aquatic
12 significant habitat resources or migration
13 corridors; No. 4, the analysis and
14 recommendations, if any, of the Department of
15 Fish and Game, the Natural Heritage Bureau, the
16 United States Fish and Wildlife Service, and
17 other agencies authorized to identify and
18 manage significant wildlife species, rare
19 plants, rare natural communities and other
20 exemplary natural communities; No. 5, the
21 effectiveness of measures undertaken or planned
22 to avoid, minimize or mitigate potential
23 unreasonable adverse effects on potential
24 wildlife species, rare plants, rare natural

1 communities and other exemplary natural
2 communities, and the extent to which such
3 measures represent the best practical measures;
4 No. 6, the effectiveness of measures undertaken
5 or planned to avoid, minimize or mitigate
6 potential adverse effects on terrestrial or
7 aquatic significant habitat resources, and the
8 extent to which such measures represent the
9 best practical measures; and No. 7, whether
10 conditions should be included in a certificate
11 for post-construction monitoring, reporting and
12 for adaptive management to address potential
13 adverse effects that cannot reliably be
14 predicted at the time of application. And
15 those seven factors are from Site 301.14(e) (1)
16 through (7).

17 PRESIDING OFFICER ROSS: Thank you.

18 (Committee reviewing documents.)

19 PRESIDING OFFICER ROSS: So my
20 understanding of the potential impacts has to
21 do with the tree clearing, the additional tree
22 clearing that's going to be conducted, and also
23 just the existence of the right-of-way for any
24 impacts on the species that might be traveling

1 under it or through it. I know we heard about
2 some surveys. I think I recall some testimony
3 on the black racer, which I'm now -- one of
4 them died, I guess. But I don't think there
5 were too many rare species actually identified
6 as inhabiting the right-of-way.

7 CMSR. BAILEY: Madam Chair.

8 PRESIDING OFFICER ROSS: Yes.

9 CMSR. BAILEY: I remember testimony,
10 I believe from Ms. Trefry, that some of the
11 clearing would provide better habitat for the
12 New England Cottontail, which is an endangered
13 species, because they like the scrubby brush
14 kind of habitat. So, although some habitat
15 will be changed, some may be improved. And I
16 think that since this is a reliability project
17 compared to cutting a completely new
18 right-of-way, the impacts on wildlife and
19 natural environment are less than they
20 otherwise would be.

21 PRESIDING OFFICER ROSS: Are there
22 any other comments?

23 MS. WEATHERSBY: Sure. I think what
24 differentiates this project from many is that

1 most of -- the majority of the right-of-way is
2 already cleared, so the effect on all species
3 also will be less, as Commissioner Bailey
4 indicated. In addition, I know Ms. Trefry's
5 company and others are doing field surveys to
6 identify all of the species. And I understood
7 that plans were being developed for each of
8 those species to determine how to avoid,
9 minimize and mitigate any effects on those
10 species. And there will be observers in the
11 field during the construction phase to ensure
12 that those plans are carried out, including the
13 cutting near the wetlands. I recall testimony
14 that those would be hand-cut rather than
15 sending machines in. So, in my mind, there's
16 clearly an emphasis and concern to protect the
17 natural environment by the Applicant.

18 I'd also note that the New
19 Hampshire Fish & Game Department, in their
20 letter of February 11th of 2016, approved the
21 protocols for New England cottontail and for
22 the black racer as adequate for this project
23 and has indicated that they will work with the
24 Applicant to avoid, minimize and mitigate

1 impacts to rare, threatened or endangered
2 species.

3 CMSR. BAILEY: Another piece of
4 testimony that I recall is about the turtle
5 nesting surveys that were done and that they
6 will avoid turtle nesting sites, known turtle
7 nesting sites, and they will also do another
8 survey before the beginning of the construction
9 in the spring of 2017.

10 CMSR. ROSE: I would also note in the
11 testimony that it was referenced that there are
12 going to be environmental monitors doing daily
13 reports and that they are going to be making
14 efforts to try to minimize erosion, such as
15 cutting trees flush to the ground and leaving
16 the roots in place and that they were also
17 going to be following the various Best
18 Managements Practices that were outlined as
19 conditions within their permits.

20 MS. WEATHERSBY: We also heard
21 testimony concerning a mitigation plan, where a
22 compensatory mitigation package was put
23 together to address those unavoidable
24 environmental impacts.

1 PRESIDING OFFICER ROSS: In addition,
2 I think the Applicant has agreed to do some
3 fencing to avoid impacting some of the
4 identified plants, even to relocate access
5 where needed to skirt around. I know they
6 mentioned several specific species of plants.

7 Are there any other comments or
8 concerns on the rare plants and rare animals?

9 [No verbal response]

10 PRESIDING OFFICER ROSS: Is there
11 anyone who would be willing to make a motion on
12 impacts on the natural environment based on the
13 factors that we've been considering?

14 CMSR. BAILEY: I would move that we
15 make a finding that there won't be any
16 unreasonable adverse effect on the natural
17 environment as a result of constructing the
18 additional line in this existing right-of-way.

19 PRESIDING OFFICER ROSS: Is there a
20 second?

21 DR. BOISVERT: Second.

22 PRESIDING OFFICER ROSS: All in favor
23 indicate by saying "aye." I'm sorry. Go
24 ahead.

1 MS. WEATHERSBY: Just as part of the
2 discussion, Commissioner Bailey's motion was
3 concerning the construction of the line. I
4 think we might also want to have it be for the
5 operation of the line as well.

6 PRESIDING OFFICER ROSS: That's a
7 good point.

8 MS. WEATHERSBY: Suggested amendment.

9 CMSR. BAILEY: Okay. I'll accept
10 that amendment. Thank you.

11 PRESIDING OFFICER ROSS: So we are
12 talking about finding that there's no
13 unreasonable adverse effect to the natural
14 environment of the construction or the
15 continued operation of the new line once it is
16 constructed in this existing right-of-way. And
17 we have a second to that amended --

18 DR. BOISVERT: Second.

19 PRESIDING OFFICER ROSS: Okay. All
20 in favor indicate by saying "aye."

21 [Multiple members indicating "aye".]

22 PRESIDING OFFICER ROSS: Any opposed?

23 [No verbal response]

24 PRESIDING OFFICER ROSS: All right.

1 The next category that we are supposed to
2 consider is the public health and safety. And
3 I, for one, could use a five-minute break if
4 the Committee would indulge me. So it is about
5 25 after. Why don't we make it 10 minutes.
6 Let's recess for 10 minutes, and we will come
7 back at 25 of 11. Thank you.

8 (Whereupon a brief recess was taken at
9 10:25 a.m. and the hearing resumed at
10 10:37 a.m.)

11 PRESIDING OFFICER ROSS: All right.
12 We're going to reconvene the deliberations.
13 We're going to consider the public health and
14 safety with regard to this project.

15 MR. IACOPINO: We do have a rule that
16 the Committee must consider certain matters
17 with respect to their consideration of whether
18 or not there will be an unreasonable adverse
19 effect on public health and safety. Madam
20 Chair, would you like me to go through those
21 for the education of the Committee?

22 PRESIDING OFFICER ROSS: Yes, please.

23 MR. IACOPINO: First, the
24 Subcommittee must consider the potential

1 adverse effects of the construction and
2 operation of the Project on public health and
3 safety; second, the effectiveness of measures
4 undertaken or planned to avoid, minimize or
5 mitigate such potential adverse effects. And
6 with respect specifically to electric
7 transmission lines, the Subcommittee must
8 consider: One, the proximity and use of
9 buildings, property lines and public roads;
10 two, the risk of collapse of towers, poles or
11 other supporting structures; three, the
12 potential impacts on public health and safety
13 of electric and magnetic fields generated by
14 the proposed facility; and four, the
15 effectiveness of measures undertaken or planned
16 to avoid, minimize or mitigate such potential
17 adverse effects and the extent to which such
18 measures represent the best practical measures.
19 And that criteria is taken from our rules, Site
20 301.14(f), No. 1 and No. 4.

21 PRESIDING OFFICER ROSS: Okay. Thank
22 you. This area, actually, we had quite a bit
23 of testimony. We have to consider both the
24 construction phase and then the operation of

1 the lines once they're installed.

2 CMSR. BAILEY: I'll start the
3 discussion. I don't believe that there will be
4 any impacts during the construction phase
5 because nothing is energized during
6 construction. So I think that's an easy
7 finding to make, that there won't be any
8 unreasonable adverse effects during
9 construction.

10 During operation, we had
11 testimony from Ms. Huard about her -- the
12 sensations that she experienced while being
13 near the power lines, and we had very strong
14 testimony from Dr. Bailey and Dr. Johnson that
15 the lines in the right-of-way are at a height
16 that is consistent with the National Electrical
17 Safety Code and that the level of magnetic
18 field and electro -- electric field was very
19 unlikely to cause health impacts. And I
20 concluded from that testimony, which I found
21 very credible, that Ms. Huard may have
22 experienced a health issue at that moment in
23 time, but that it was not likely, in my
24 opinion, due to electromagnetic fields. Also,

1 I think Dr. Bailey and Dr. Johnson testified
2 that, in order to mitigate any potential
3 adverse effects, they placed the lines in
4 certain positions to have the fields offset
5 with the fields of existing lines so that in
6 some areas at the edge of the right-of-way the
7 fields were reduced. And their testimony was,
8 with respect to the modeled predictions of what
9 the fields would be, were very, very small in
10 number compared to anything that any scientists
11 had concluded might have any effect. And
12 finally, in Dr. Bailey's testimony, in his
13 prefiled testimony, he stated "that recent
14 studies, when considered in context of previous
15 research, do not provide evidence to alter the
16 conclusion that extremely low-frequency
17 electric and [sic] magnetic field exposure at
18 the levels we encounter in our everyday
19 environment, including transmission lines, is
20 not a cause of cancer or any other disease
21 process."

22 PRESIDING OFFICER ROSS: I would also
23 note that the experts indicated that the
24 modeled results of the electromagnetic fields

1 at the edges of right-of-way following
2 installation of this line were "significantly
3 below" any guidance by the International
4 Committee on Electromagnetic Safety. So, the
5 body that is responsible for setting these
6 standards has set standards that are far in
7 excess of what the modeled standards are
8 predicted for this project.

9 I think there also was testimony
10 with regard to just the road safety during
11 construction and the fact that there would be
12 flaggers and traffic control when equipment was
13 going to have to be crossing the roads under
14 these lines. I know Ms. Huard expressed some
15 concern about the cars that had to stop and
16 wait for those crossings. But given the fact
17 that we don't really -- haven't got any strong
18 evidence that the electromagnetic field is
19 harmful, I don't think those traffic stops
20 should create any public safety hazards.

21 DR. BOISVERT: I think the most
22 prominent objection to this particular project
23 has come from Ms. Huard and her reporting of
24 ill effects on her health due to the

1 transmission lines, the existing transmission
2 lines. I'm not disputing that she experienced
3 something. What I did not understand from her
4 testimony, the cause of that, that it was
5 actually caused by the transmission lines. And
6 lacking any persuasive information that would
7 indicate that the transmission lines caused it,
8 I'm left with the observation that they do not
9 appear to have a health and safety problem for
10 the general public. In addition, I'm unaware
11 of others who have any significant numbers
12 reported of similar kinds of health and safety
13 issues. This is not something that I have seen
14 come up in literature. Admittedly, I have not
15 delved very deeply into it. But I think if
16 there were a problem, I think there would have
17 been more information made available to the
18 Subcommittee, seeing if there really is a
19 pervasive problem there.

20 So, lacking information that
21 indicates that those transmission lines
22 caused -- specifically caused her health
23 episodes, and lacking anything from the broader
24 public, I do not feel that there's any

1 unreasonable adverse impacts for this project
2 construction and operation.

3 CMSR. BAILEY: There were two other
4 things that the Applicant covered under Public
5 Health and Safety. I think the sound impact
6 from the corona, especially during wet weather
7 conditions and -- again, Mr. Johnson modeled
8 what the maximum increase in audible noise
9 would be, and I believe it was approximately
10 2 decibels, but lower in most locations. He
11 believed, I think, that the level of sound
12 would be mostly masked by ambient noise and
13 would not produce a noticeable difference.

14 And the other thing that I
15 failed to consider earlier in construction is
16 the fact that they may have to do some blasting
17 during construction. The Applicant said that
18 it would retain a blasting contractor who will
19 perform the required work in accordance with
20 the applicable state and federal permitting
21 requirements and that the blasting would be
22 handled safely. So I don't believe that there
23 will be unreasonable impacts on public health
24 and safety during construction or operation.

1 PRESIDING OFFICER ROSS: Yes, go
2 ahead.

3 MS. ROBERGE: I was wondering if -- I
4 was looking back in my notes and wondering if
5 there was any recommendations relative to
6 public health, and I can't find it. Trying to
7 find it in the testimony relative to perhaps
8 monitoring, a field test monitoring. I thought
9 I remembered -- I could be wrong on that. I
10 was wondering if anyone recalled that or not.

11 CMSR. BAILEY: I think there was some
12 discussion at some point, and I can't put my
13 finger on where it is, that maybe they do some
14 actual measurements to see how accurate the
15 modeling was after the installation about the
16 electromagnetic fields. But I wasn't convinced
17 that that was necessary. But, I mean, by all
18 means, if you guys had a different impression,
19 let's talk about it.

20 MS. ROBERGE: Well, I had something
21 in my notes that was rather cryptic, and I was
22 trying to remember what that was.

23 CMSR. ROSE: My recollection was that
24 it was an idea that was referenced by Counsel

1 for the Public, that there might be field
2 testing at the conclusion of the completion of
3 the Project, to verify that it's within the
4 safety parameters that are outlined. I think I
5 have that right.

6 CMSR. BAILEY: And there are a lot of
7 stipulated facts in Exhibit 23 between the
8 Applicant and Counsel for the Public about the
9 expected levels and what the relevant standards
10 are, and the fact that there is a large
11 difference, which maybe we would want to
12 consider including some of these stipulated
13 facts in our order.

14 Mr. Iacopino, do you know? Do
15 we have any suggested conditions from the
16 Department of Transportation during
17 construction across the roadway or anything
18 like that, that we should include in the
19 certificate? Sorry to put you on the spot.

20 MR. IACOPINO: Not putting me on the
21 spot. We considered -- when we talked about
22 the state agency permits, you all did consider
23 the Department of Transportation as one of the
24 agencies. And I believe that you did delegate

1 authority to the Department of Transportation
2 to monitor the compliance with the various
3 permits: The aerial utility permits for Route
4 111, I-93 for the Londonderry Rail Trail, the
5 temporary driveway permits both on Route 28 in
6 Londonderry and the town of Londonderry. So I
7 do believe that you did delegate authority to
8 the Department of Transportation to monitor and
9 require compliance. Just looking. That's from
10 my notes. I want to go back and take a look at
11 the actual deliberation transcript.

12 PRESIDING OFFICER ROSS: It's Page 20
13 through 23.

14 MR. IACOPINO: Do you have it there?

15 PRESIDING OFFICER ROSS: DOT permits,
16 there's several. Temporary driveway permits,
17 railroad crossings and temporary-use permits
18 from DOT.

19 CMSR. BAILEY: Oh, we already
20 deliberated and said we would include those as
21 conditions.

22 PRESIDING OFFICER ROSS: Yup.

23 CMSR. BAILEY: Thank you.

24 PRESIDING OFFICER ROSS: I'm not sure

1 we touched on basic traffic control in that
2 because I think we were focused more on their
3 specific permits. So, as we consider this
4 section, we might want to, you know, condition
5 our finding on compliance with Best Practices
6 that DOT recommends for managing the crossing
7 activity during construction and also for
8 blasting, as DOT may have some guidelines on
9 blasting.

10 Are there any other comments as
11 we're deliberating here? Yeah.

12 MS. WEATHERSBY: Just picking up on
13 earlier comments. Do you think it would be
14 wise for the Committee to request field testing
15 of the electric and magnetic fields at the edge
16 of the right-of-way after the Project is built,
17 to be sure that the modeling that was done
18 earlier was correct and that there is no threat
19 to public health as a result of those electric
20 and magnetic fields?

21 The only other thing is, as I
22 look at what we're supposed to consider, I
23 don't recall any discussion concerning collapse
24 of towers, poles or other supporting structures

1 in our discussions. But I think we've heard
2 that height of the towers and then the distance
3 from homes, particularly in the David Drive
4 area, that the height of the tower is less than
5 that distance. So, while I wish that we had
6 had more on that, I think we can probably check
7 that box as well.

8 PRESIDING OFFICER ROSS: Yes.

9 DR. BOISVERT: Going back to the
10 testing for the impacts of the transmission
11 line, it occurs to me that it would be
12 appropriate if there was a test before the
13 lines were constructed to see the existing
14 conditions and then look after construction to
15 see if there's any net increase and so forth.
16 If there was testing afterwards and there were
17 perceived to be or any suggestion of a problem,
18 would it be cumulative or individual to that
19 construction? It just strikes me that one
20 needs to know the conditions before conducting
21 such monitoring. I think that's only sort of
22 reasonable practice. I'm not sure how we build
23 that in as a condition, but --

24 PRESIDING OFFICER ROSS: Yeah, I

1 think we can include it in a motion. Any other
2 comments? Yeah.

3 MS. ROBERGE: Just to kind of build
4 off of that, my understanding is that the
5 modeling is pretty site-specific, so it takes
6 into account the lines that are there now and
7 what they're proposing to add. And while there
8 might be a change just because there might be
9 either a decrease or might be an increase --
10 I'm not an expert in this area -- but I believe
11 some of the magnetic fields cancel each other
12 out or what have you. But simply a change from
13 what's there now to what will be proposed, I
14 guess we just make sure we compare it with the
15 standards or what the model is compared with.
16 I'm not saying whether we would see an increase
17 or decrease, but a change isn't necessarily a
18 bad thing. There might be a change as a result
19 of the Project, but really we're comparing it
20 to the recommendation or the standard. I just
21 wanted to clarify that.

22 PRESIDING OFFICER ROSS: Right,
23 right.

24 CMSR. BAILEY: I think if we do the

1 test, we should compare it to the model that
2 they predicted, to see how accurate the model
3 was. And if -- I mean, based on the record,
4 I'm prepared to conclude that there won't be an
5 unreasonable adverse effect impact on the
6 public's health and safety from EMF based on
7 the numbers and the models.

8 If we require testing, and the
9 results of the test indicate a significant
10 difference between what they modeled and the
11 actual, then what are we going to do?

12 MS. WEATHERSBY: It strikes me that
13 the more important measurement is how it
14 compares to the safety standards. It would be
15 interesting to see how correct their modeling
16 is, but for all kinds of reasons. But I think
17 the more important one is whether the resulting
18 electric and magnetic fields are well below the
19 thresholds set by -- there were two standards
20 cited by the International Committee on
21 Electromagnetic Safety and the International
22 Committee on Non-ionizing Radiation Protection
23 that Dr. Bailey referred to.

24 PRESIDING OFFICER ROSS: Are we at a

1 point where someone wants to try to construct a
2 motion for this public health section?

3 CMSR. BAILEY: I'll move that we make
4 a finding that, based on the evidence that we
5 have, that we find that there's no adverse
6 impact on public health and safety, with the
7 condition that the Applicant conduct or measure
8 the electric and magnetic fields prior to and
9 after construction and that they provide the
10 Committee with the results of those
11 measurements compared to the results that their
12 model predicted. And I don't think they need
13 to measure it in every single -- at every
14 single point that their model predicts. I
15 don't really know how to quantify or tell them
16 where they should measure these, where they
17 should take these measurements. And then I
18 guess with respect to the results, as long as
19 the results are less than the International
20 Commission on Non-ionizing Radiation Protection
21 and International Committee for Electromagnetic
22 Safety guidelines, if the results are lower
23 than those, then there is no issue. If the
24 results are higher than those, then they're not

1 in conformance with our certificate, and they
2 would have to do something to mitigate that.
3 Do you have any suggestion on how they could --

4 MR. IACOPINO: Only thing, if I could
5 add to it, where you don't know where to direct
6 the Applicant to take the measurements, you
7 certainly want them at the edge of the
8 right-of-way.

9 CMSR. BAILEY: Yes.

10 MR. IACOPINO: So you probably should
11 add that into your motion. And this isn't
12 really legal advice, but I suppose you could
13 order them to do it where the lines are --
14 where the lines will be closest together and
15 then where they'll be the furthest apart. I
16 think that may -- but you're the engineers.
17 You would know better than I do whether that's
18 the appropriate sort of way to get the range of
19 what the EMFs would be.

20 CMSR. BAILEY: I definitely agree it
21 should be at the edge of the right-of-way. The
22 measurements should be taken at the edge of the
23 right-of-way. That seems like a reasonable
24 suggestion, you know, to take two measurements:

1 One where the lines are closest together and
2 one where the lines are furthest apart.

3 And there was also another
4 section where the results in the modeling were
5 projected to be much higher because there's a
6 DC line in that area. Maybe we have them take
7 a measurement there. Can anybody remember
8 where that table is? Let me see if I can find
9 it.

10 MR. IACOPINO: Are you looking for
11 Counsel for the Public's exhibit that has all
12 the heights of the towers?

13 CMSR. BAILEY: No.

14 MR. NEEDLEMAN: Madam Chair, could I
15 make a comment?

16 PRESIDING OFFICER ROSS: Yes.

17 MR. NEEDLEMAN: Going down the road
18 that you're discussing here, I just talked
19 briefly with Public Counsel. If the Committee
20 is inclined to create this sort of testing
21 requirement, might I suggest that the Applicant
22 be required to submit a test proposal to the
23 PUC, and the PUC can approve it prior to the
24 time the Applicant goes out and does the

1 testing so that everybody is on the same page
2 as to what will happen?

3 MR. IACOPINO: You're referencing the
4 Safety Division of the PUC, Mr. Knepper's
5 department?

6 MR. NEEDLEMAN: I think that would
7 probably be most appropriate.

8 CMSR. BAILEY: The other thing that
9 we need to keep in mind I think is the modeling
10 that they conducted assumed the average annual
11 peak load. And depending on what time of year
12 the measurements are taken, that's not going to
13 be -- I mean, obviously, that's not at the
14 average annual peak load. I mean, maybe we
15 could ask them to perform it during peak load.

16 PRESIDING OFFICER ROSS: I think that
17 perhaps the suggestion of submitting a test
18 plan to the PUC with this general guidance
19 would be a good way to make sure the testing is
20 done under conditions that are going to be most
21 likely to create a high EMF. So I don't know
22 if weather is a factor in how those fields are
23 generated or if load is a factor, but whatever
24 the factors are that impact the fields, we'd

1 want testing done at the maximum level time.

2 CMSR. BAILEY: I think the exhibit I
3 was thinking of which we can give to the Safety
4 Division of the Public Utilities Commission is
5 in Appendix AG, and Appendix A to that exhibit.

6 MS. ROBERGE: There's also a summary
7 table, Table 12 in the Application, just in the
8 Summary section.

9 CMSR. BAILEY: Oh, maybe that's the
10 one I was thinking of.

11 MS. ROBERGE: It's on Page 90. I
12 think this was what you might be referring to.

13 CMSR. BAILEY: That's it. Thank you.

14 Okay. So let's amend or add to
15 the motion, that the Applicant work with the
16 Safety Division to come up with a testing plan
17 that will take measurements in each one of the
18 sections numbered in Tables 12 and 13 along the
19 edge of the right-of-way for magnetic field
20 levels and electric field levels during peak
21 load.

22 PRESIDING OFFICER ROSS: And could I
23 suggest that you add to your motion a
24 requirement that the Applicant comply with DOT

1 guidance on traffic control and blasting during
2 construction?

3 CMSR. BAILEY: So amended.

4 PRESIDING OFFICER ROSS: With those
5 changes do we have a second?

6 MS. WEATHERSBY: Do you mind
7 repeating them?

8 CMSR. BAILEY: Seriously?

9 MS. WEATHERSBY: I think you said
10 "adverse effects" instead of "unreasonable
11 adverse impacts."

12 CMSR. BAILEY: Okay. I meant
13 "unreasonable adverse effect."

14 So I move we make a finding that
15 there are no unreasonable adverse effects on
16 public health and safety, subject to the
17 condition that the Applicant will conduct
18 measurements along each section number listed
19 in Table 12 and 13 in the Application, in
20 consultation with the Public Utilities
21 Commission's Safety Division, and that such
22 measurements will be taken during peak load
23 before construction and after construction, and
24 that they are also subject to Department of

1 Transportation and Department of Safety
2 requirements during construction, and that the
3 results of the measurements be filed with the
4 Committee, compared with the results in the
5 tables that were modeled, and if they exceed
6 the guidelines of the international committees
7 that I mentioned before, that they provide a
8 mitigation plan to the Committee to reduce the
9 levels so that they are lower than the
10 standards articulated by those two bodies.

11 MS. WEATHERSBY: I'll second.

12 PRESIDING OFFICER ROSS: All right.
13 All those in favor indicate by saying "aye."

14 [Multiple members indicating "aye".]

15 PRESIDING OFFICER ROSS: Any opposed?

16 [No verbal response]

17 PRESIDING OFFICER ROSS: Okay. Thank
18 you for that motion.

19 CMSR. BAILEY: I'm done.

20 PRESIDING OFFICER ROSS: I believe
21 that we have now a decision to make with regard
22 to cumulative impacts.

23 MR. IACOPINO: Madam Chair,
24 cumulative impacts are only -- expressed

1 consideration of cumulative impacts are only
2 required in wind energy cases.

3 PRESIDING OFFICER ROSS: Okay. Thank
4 you. And this isn't a wind energy case, so we
5 will move on to, I believe, our final
6 determination, which is on public interest.
7 And perhaps you could review with us the
8 factors that we need to consider when we
9 consider the public interest of this project.

10 MR. IACOPINO: Thank you, Madam
11 Chair. In considering whether the granting of
12 a certificate is in the public interest, our
13 rules require that the Subcommittee consider
14 the following 10 items: The welfare of the
15 population, private property, location and
16 growth of industry, the overall economic growth
17 of the state, the environment of the state,
18 historic sites, aesthetics, air and water
19 quality, the use of natural resources, and
20 public health and safety. As you can see, the
21 rule incorporates a lot of what you have
22 already -- the rule regarding public interest
23 incorporates a lot of what you have already
24 gone over.

1 PRESIDING OFFICER ROSS: And just as
2 sort of a high-level summary, things like
3 welfare of the population, location and growth
4 of industry and overall economic growth of the
5 state, those are sort of more general
6 categories that we haven't -- I don't recall
7 any specific deliberation on, even though they
8 sort of are impacted by all the factors that
9 we've already considered. Even the private
10 property piece we've deliberated somewhat, but
11 maybe not specifically in any of the earlier
12 factors. But clearly, the rest of the list are
13 areas where we have made some specific
14 findings.

15 I would just comment that I
16 think because this is a reliability project, so
17 that, you know, the regional electric grid
18 needs to be upgraded in order to provide
19 reliable service throughout the region, that
20 reliable service supports a lot of these
21 factors, whether its location and growth of
22 industry or overall economic growth of the
23 state or the welfare of the population. That
24 service is really an essential service for all

1 of those activities. And that's not something
2 that we've really discussed so far in our
3 deliberations, but I think it's important to
4 realize that it does drive, you know, some of
5 those factors.

6 MS. ROBERGE: I'd just like to add
7 that there are several stipulated facts related
8 to public interest.

9 PRESIDING OFFICER ROSS: Yes.

10 CMSR. BAILEY: I could also argue
11 that reliable electric service also improves
12 public health and safety.

13 PRESIDING OFFICER ROSS: Any other
14 thoughts on this specific -- thoughts on some
15 of these factors?

16 CMSR. BAILEY: One other thing. The
17 Applicants don't have to acquire any private
18 property to construct this project because it
19 is on an existing right-of-way. So I think
20 that that's another factor that would help in
21 determining that this is in the public
22 interest.

23 PRESIDING OFFICER ROSS: Yes, go
24 ahead.

1 DR. BOISVERT: I would move that the
2 Subcommittee find that the Merrimack Valley
3 Reliability Project is in the public interest
4 and that we have -- that it is in the public
5 interest, period.

6 PRESIDING OFFICER ROSS: Do I have a
7 second?

8 MS. ROBERGE: Second.

9 PRESIDING OFFICER ROSS: All right.
10 Any further discussion?

11 DR. BOISVERT: I think I might add
12 that we have put a number of conditions on this
13 project, and I believe they all really stem
14 from a desire to meet the public interest. And
15 they have been sometimes done in great detail,
16 but we've been doing it, I believe, because it
17 is for the good of the public and to make clear
18 our desires that I think the time that we've
19 put in to craft these conditions as best as we
20 can is a reflection of that.

21 And just one other thing. There
22 was a last-minute submittal by Counsel for the
23 Public for some clarification on the cost
24 overruns and so forth. Is that included in our

1 deliberations and considerations? It came
2 through this morning. I just want to make sure
3 that that little detail is properly included in
4 the findings.

5 PRESIDING OFFICER ROSS: I think that
6 after this vote we should go back and sort of
7 do a bit of housecleaning and double-check a
8 number of our earlier determinations to see if
9 we need to supplement them.

10 Are we ready for a vote on the
11 public interest? All right. All in favor of
12 finding that this project is in the public
13 interest indicate by saying "aye."

14 [Multiple members indicating "aye".]

15 PRESIDING OFFICER ROSS: Any opposed?

16 [No verbal response]

17 PRESIDING OFFICER ROSS: All right.
18 I think now would be the time -- and Counsel,
19 you can help me -- to kind of go back and see
20 whether we have either updated information or
21 clarification needed on the votes that we've
22 made during our deliberations.

23 MR. IACOPINO: I think the first
24 thing you might want to do is pick up where Mr.

1 Boisvert just left off, with the letter that we
2 received today from Counsel for the Public.
3 I'm going to try to find it --

4 PRESIDING OFFICER ROSS: It's right
5 here.

6 MR. IACOPINO: -- in which he makes
7 the recommendation for the specifics of the
8 report of cost overruns. He has language that
9 is apparently agreed upon between Counsel for
10 the Public and the Applicant. And their
11 recommendation to the Committee is that we
12 condition the Certificate to put the following
13 language in: "The Certificate Holder shall,
14 within 45 days of its ISO-New England filing,
15 notify the Committee if the Certificate
16 Holder's forecasted or actual expenditures for
17 the entire Merrimack Valley Reliability
18 Project, between Tewksbury, Massachusetts
19 (Tewksbury 22A) and Londonderry, New Hampshire
20 (Scobie Pond Substation), as filed by the
21 certificate holder with its ISO-New England
22 Regional System Planning "RSP" forecast
23 updates, exceed the projected cost for the
24 entire MVRP by an amount equal to or greater

1 than 25 percent." That's the language that is
2 recommended by Counsel for the Public and I
3 believe agreed to by the Applicant. It says it
4 was -- well, he developed it in consultation
5 with the Applicant, so... and that goes back to
6 a determination that you all made on the day --
7 on the first day that we deliberated in this
8 case where you inquired about -- or actually
9 directed a cost overrun report. I think it was
10 in your discussion about the financial capacity
11 of the Applicant.

12 PRESIDING OFFICER ROSS: Page 29
13 through 31.

14 MR. IACOPINO: Page 29 through 31 of
15 the transcript of the deliberations from
16 Deliberations Day 1, and it goes into 32.

17 PRESIDING OFFICER ROSS: And 32 and
18 33, we're talking about budgets here.

19 (Members review documents.)

20 MS. MONROE: Madam Chair, if you look
21 on Page 35 and 36 of the transcript of the
22 deliberations, specifically Page 35, Line 22,
23 where Ms. Roberge asked for clarification about
24 conditions, the discussion was that those would

1 be held off until the end. So I think you were
2 waiting for the specific recommendation by
3 Counsel for the Public, as I recall.

4 PRESIDING OFFICER ROSS: Thank you so
5 much, because I kept looking for it in there
6 and not finding it. Great.

7 MR. IACOPINO: So, if the Committee
8 is inclined to discuss the cost containment
9 issue, I guess now is as good a time as any.

10 PRESIDING OFFICER ROSS: Yeah, seems
11 appropriate to talk about it now.

12 CMSR. BAILEY: Yeah, this is a very
13 hot topic in regulatory conversations across
14 the country right now. It usually has to do
15 with when a transmission line needs to be built
16 and it goes out for competitive bid -- the ISO
17 allows competitive bids, which I don't believe
18 they've done in New England yet -- and the fact
19 that there's no cost containment, so the
20 competitive bids can be low-balled and then the
21 project exceeds its costs greatly, and
22 ratepayers are ultimately on the hook to pay
23 for the whole thing. So it's -- this is really
24 interesting to me. I think 25 percent is very

1 generous.

2 I don't know that the Site
3 Evaluation Committee has any jurisdiction to
4 say, well, if you exceed your cost estimate by
5 more than 25 percent, you can't ask ISO to
6 recover it. I don't know that we have that
7 jurisdiction. Maybe if we made it a condition,
8 but I don't know. But I think that it would be
9 interesting to know what the difference between
10 the estimate and the actual cost to build this
11 is so that we have an idea going forward how
12 close the projections are to the actual costs.

13 PRESIDING OFFICER ROSS: And, you
14 know, while I agree that it isn't our
15 jurisdiction to award the contract to the
16 appropriate Applicant based on a low bid, I
17 think that our consideration of the public
18 interest for a project can take into account
19 the project cost because that is an impact on
20 our citizens. And if that cost is low-balled,
21 then we're deciding something based on a cost
22 that isn't a real cost. So, we didn't make
23 this condition as part of their managerial
24 presentation because we decided we would do it

1 at the end of our deliberations, because it was
2 probably broader in its impact than just
3 whether or not they're competent to manage the
4 project. But I do think that it's appropriate
5 as part of our public interest determination,
6 just as it's appropriate to measure the EMFs,
7 because we have testimony on the cost of the
8 project and we have testimony on EMF impacts.
9 But if the actual results are very different
10 than what we based our decision on, I think it
11 is part of our concern separately from the
12 issues that the ISO embraces in its decisions
13 on who builds things. So I feel pretty
14 comfortable putting it in as a condition of our
15 approval. And I think a 25-percent range is a
16 generous range in terms of contingencies of
17 construction. And I assume that the bidding
18 was done carefully and conservatively so that
19 the Applicant is going to be more than able to
20 come in on budget.

21 CMSR. BAILEY: I don't believe that
22 this was competitively bid. I think it was --

23 PRESIDING OFFICER ROSS: Oh, I
24 misspoke. You're right. But the

1 procurement -- I assume procurement of the
2 services at the company level probably was
3 competitively bid. I don't mean that this
4 Applicant competed with other applicants.

5 CMSR. BAILEY: I see. So if we make
6 this a condition, what are we conditioning?
7 Are we conditioning they have to stay within
8 25 percent of the projected costs, or else they
9 aren't going to ask ISO to recover the addition
10 of low costs? Is that what you're -- do you
11 think we have jurisdiction to do that, or are
12 we just -- we have jurisdiction to ask them to
13 tell us the difference between the actual cost
14 and the projected cost?

15 PRESIDING OFFICER ROSS: I would like
16 to find that we have that power -- I don't
17 know -- the power to actually condition the
18 approval of a project on its budget being
19 within the projected range. But I have to
20 confess it's not a question that I've really
21 wrestled with until we started this discussion
22 today. Maybe I should have given it more
23 thought. I don't know.

24 Mike, do you have any... are you

1 going to stay quiet?

2 MR. IACOPINO: I didn't anticipate
3 that this issue was -- that you would go as far
4 as requiring -- I understood this just to be
5 the requirement of a report, which I assumed
6 from which the Site Evaluation Committee would
7 have sort of education going forward in these
8 matters as to what the costs are, what the
9 overruns are, how they're accomplished, so that
10 you build a body of education for this
11 Committee, in terms of going forward with
12 respect to these types of projects.

13 I did not anticipate that there
14 would be a suggestion that you can condition
15 the costs -- or I didn't understand that to be
16 what was on the table. And I'm not really
17 prepared to give a legal opinion as to whether
18 or not that's something that the Site
19 Evaluation Committee could do without some
20 further research. So...

21 PRESIDING OFFICER ROSS: I do think
22 it's fair to say that the parallel that I drew
23 between EMF and the budget is not a fair one,
24 in that we probably are the last stop for

1 concerns about EMF. If we don't find problems,
2 you know, there's not another regulatory agency
3 that's probably going to have the ability to
4 make changes to this project; whereas, in the
5 cost recovery area, we clearly do have FERC and
6 ISO making determinations about how the costs
7 are going to be passed on to ratepayers. But I
8 do think it's a fair concern. And I guess I'm
9 not proposing today that we condition the
10 public interest finding on staying within
11 budget. But I do think that if we see a series
12 of these projects and we see a trend that's
13 troubling, that we ought to come up with ways
14 to manage our approval process so that we
15 discourage huge price overruns, because I don't
16 think it's a good thing.

17 MS. WEATHERSBY: Madam Chair, as this
18 proposed proposal is worded, we would receive
19 notice if the project is overrun by 25 percent.
20 If the overrun was at 24 percent, we'd never
21 hear about it, and I think that would be -- I
22 think the ultimate cost is just something that
23 we should just be informed of.

24 So I would add to this language

1 that, upon completion of the project, that they
2 inform the Committee of the total cost of
3 construction.

4 CMSR. BAILEY: I think if we're
5 getting the information for education purposes,
6 to see how close they are to the budget, that
7 we should get it no matter what the under or
8 over number is. Maybe it will be less than
9 what they budgeted. And then we put the
10 Applicants on notice that this may be something
11 we look at in the future to condition a
12 certificate, to holding them within the
13 budgeted amount, and find out if there's a way
14 to protect ratepayers from a great difference
15 between the budget and the actual cost. But
16 not this time. This time we're just getting
17 information. So we should get the number,
18 whatever it is, and compare it to the projected
19 number.

20 PRESIDING OFFICER ROSS: Yes.

21 DR. BOISVERT: Ultimately, the public
22 will know how much the project costs because
23 reporting this goes to FERC, ISO, probably to
24 the PUC, anyway.

1 I took this suggestion to be
2 raising a flag along the way, so that during
3 the process any cost overruns will be
4 recognized and will give the public an
5 opportunity to comment on it while things were
6 still in process, as opposed to finding out
7 that it's a fait accompli, that it has
8 happened. Maybe I'm misunderstanding. But I
9 thought the purpose was to give the Site
10 Evaluation Committee, the PUC, notice during
11 construction as opposed to what we might find
12 out ultimately at the end. And perhaps I'm not
13 understanding it that way -- I'm
14 misunderstanding it.

15 PRESIDING OFFICER ROSS: Well, the
16 language agreed to does refer to "forecast
17 updates." So I assume there may be some lead
18 time. Perhaps the Applicant could tell us. It
19 talks about a "Certificate Holder with its New
20 England Regional System Planning forecast
21 updates." So those updates are filed regularly
22 as construction proceeds? Perhaps you could
23 help us.

24 MR. NEEDLEMAN: I'm not sure of the

1 frequency of the updates.

2 AUDIENCE MEMBER: Quarterly.

3 MR. NEEDLEMAN: Quarterly I'm told.

4 One other point of information
5 that might be helpful. My understanding is
6 that ISO has limits on costs associated with
7 project budgets, and if those limits are
8 exceeded by some percentage, the Project is
9 required to go in for an ISO review. And FERC
10 also retains jurisdiction over prudence review
11 of the Project. So, to the extent the
12 Committee has concerns about those overruns,
13 there is other regulatory oversight for those.

14 PRESIDING OFFICER ROSS: Any thoughts
15 on modifying the language slightly from what's
16 been proposed?

17 DR. BOISVERT: I think I'm willing to
18 support the agreement between Counsel for the
19 Public and the Applicant. I think they worked
20 out a good-faith response to concerns. And I
21 think at this point we're maybe getting a
22 little too detailed and working at maybe
23 cross-purposes. I think they did make a
24 good-faith effort to come to an agreement, and

1 I'd like to, I guess, leave it to the guidance
2 we received from Counsel for the Public.

3 PRESIDING OFFICER ROSS: Any other
4 thoughts on this?

5 CMSR. BAILEY: So, Dr. Boisvert, are
6 you suggesting that if it comes in at
7 24 percent over budget, they don't have to tell
8 us? We'll only know if it's more than
9 25 percent?

10 DR. BOISVERT: Yes. Where do we cut
11 the line? Do we set it at 10 percent or --

12 CMSR. BAILEY: I wouldn't set it at a
13 percent. I mean, if we're getting it for
14 information purposes, let them just tell us
15 what it is.

16 DR. BOISVERT: Any cost overrun.

17 CMSR. BAILEY: Yeah, just so we know.
18 I mean, 10 percent, we could probably live with
19 that.

20 MS. WEATHERSBY: A suggestion would
21 be to use Counsel for the Public's language as
22 one condition, and a second condition is just
23 that they report the final construction costs
24 to us, so we're getting updates along the way

1 if there's significant overruns than at the end
2 getting the information. So I would be in
3 favor of making a two-part requirement.

4 PRESIDING OFFICER ROSS: Any other
5 thoughts?

6 DR. BOISVERT: She does make a good
7 point. And maybe the percentage is -- we just
8 want to know what the overrun is, whatever it
9 might be. And as I rethink it, you are
10 persuading me to your line of thinking. So
11 I'll let you make the amendment.

12 CMSR. BAILEY: Oh, I thought
13 Ms. Weathersby's was brilliant.

14 PRESIDING OFFICER ROSS: Ms.
15 Weathersby, would you like to make the
16 amendment?

17 CMSR. BAILEY: I don't think we need
18 an amendment. We just need a second condition.
19 I mean, we can vote on Dr. Boisvert's motion to
20 approve Counsel for the Public and the
21 Applicants' suggested condition and then add
22 another one, that they supply the final
23 budget -- or the final costs after it's
24 completed.

1 So, did anybody second Dr.
2 Boisvert's?

3 DR. BOISVERT: I didn't think I made
4 a motion. I was just commenting on it in
5 general.

6 PRESIDING OFFICER ROSS: Why don't
7 you go ahead and make your motion. And you can
8 reference the letter of July 11th if you'd
9 like.

10 MR. IACOPINO: Do you have a copy? I
11 have one if you need it.

12 DR. BOISVERT: All right. I move
13 that -- thank you. I move that the Committee
14 accept the agreement developed in consultation
15 by Counsel for the Public and the Applicants,
16 as codified in their letter of July 11th,
17 today, that the Committee accept that
18 recommendation for the language regarding cost
19 containment and that -- shall we incorporate
20 your -- let me move, subject to any amendments
21 or other conditions.

22 PRESIDING OFFICER ROSS: All right.
23 Do we want to add to it or just vote on it and
24 do a separate one? Do we have a second?

1 CMSR. BAILEY: Second.

2 PRESIDING OFFICER ROSS: Okay. All
3 of those in favor of the condition agreed to by
4 Counsel for the Public and the Applicant, which
5 has just been moved by Dr. Boisvert, indicate
6 so by saying "aye."

7 [Multiple members indicating "aye".]

8 PRESIDING OFFICER ROSS: Any opposed?

9 [No verbal response]

10 PRESIDING OFFICER ROSS: All right.
11 Any other conditions? Ms. Weathersby.

12 MS. WEATHERSBY: Yes. I guess I will
13 move that, as an additional condition, the
14 Certificate Holder shall -- I don't know what
15 the trigger is for its completion. But within
16 45 days or 30 days -- within 30 days of the
17 completion of the Project notify the Committee
18 of its actual expenditures for the entire
19 Merrimack Valley Reliability Project.

20 PRESIDING OFFICER ROSS: And do we
21 have a second?

22 DR. BOISVERT: Second.

23 MR. IACOPINO: I just want to request
24 a clarification. That's within the state of

1 New Hampshire, I assume, 'cause remember a
2 portion of this project is outside the state of
3 New Hampshire.

4 PRESIDING OFFICER ROSS: I think the
5 letter indicates that.

6 MS. WEATHERSBY: Right, between -- I
7 guess we'd only be interested in the state of
8 New Hampshire. So, yes, within the state of
9 New Hampshire.

10 MR. IACOPINO: I mean, if you want to
11 make it the whole thing, such as indicated in
12 the letter, that's fine as well. But just so
13 that there's -- so we're clear on what they
14 have to do --

15 MS. WEATHERSBY: My motion will
16 pertain only to the portion of the line within
17 the state of New Hampshire.

18 PRESIDING OFFICER ROSS: Is there a
19 second?

20 MS. ROBERGE: I second.

21 PRESIDING OFFICER ROSS: Okay. Is
22 there any discussion?

23 MR. NEEDLEMAN: May I comment? I'm
24 sorry.

1 PRESIDING OFFICER ROSS: Certainly.

2 MR. NEEDLEMAN: Just two thoughts.

3 I'm not sure it's possible to break it down
4 just by New Hampshire. I would need to
5 consult. But also, in terms of defining
6 "completion," would it be possible to define
7 "completion" as within 30 days of the last
8 filing with ISO? Otherwise, I'm not sure we
9 have a benchmark we can understand.

10 PRESIDING OFFICER ROSS: Are you
11 amenable to amending it to triggering
12 completion with the last filing with ISO?

13 MS. WEATHERSBY: I just don't
14 understand the process either. Whether the
15 last filing with ISO is their indicating
16 completion, in which case they could file with
17 us at the same time or... I don't have enough
18 information to really respond to that.

19 PRESIDING OFFICER ROSS: I'm not sure
20 the board does. I think we can certainly work
21 with the language later with the Applicant if
22 there are problems. And maybe rather than
23 trying to dialogue on it now, we should just
24 make our decision and --

1 MR. IACOPINO: Madam Chair, if I
2 could just advise you that another way that you
3 could do it, since all this is, is just a
4 report, is you could use the date of commercial
5 operation as a date that triggers the report --
6 in other words, once the lines are put into
7 use -- because that is something that I think
8 the Applicant will know that day. So they
9 would have a date certain by which they would
10 file their report.

11 MS. WEATHERSBY: And I will amend my
12 motion from date of construction to the date
13 the lines are put into use.

14 CMSR. BAILEY: Didn't we have
15 information on the record about the costs for
16 the New Hampshire portion of the project?

17 PRESIDING OFFICER ROSS: I believe we
18 did, yeah.

19 CMSR. BAILEY: So how can they -- I
20 mean, can I ask Mr. Needleman how they could
21 estimate the New Hampshire portion and not be
22 able to know what the actual costs --

23 PRESIDING OFFICER ROSS: Well, I
24 think I'd feel more comfortable if we just

1 deliberate at this point. I mean, I think I'm
2 concerned we get into too much dialogue with
3 the Applicant, and it may not be fair to other
4 parties. I think we need to figure out what we
5 need for information, and then the Applicant
6 can worry about how they meet that requirement.

7 CMSR. BAILEY: Okay. Maybe what we
8 should do is require them to provide the
9 projected costs of the entire project, the
10 actual costs of the entire project, and their
11 allocation of the costs to the New Hampshire
12 portion. And if it seems like it's really out
13 of proportion with the ratio of what they gave
14 us in the record for the New Hampshire portion
15 compared to the entire project, then we'll know
16 whether it exceeds the estimate and by what
17 percent.

18 PRESIDING OFFICER ROSS: I like that
19 formulation myself. I think that captures the
20 data we're looking for. I think the total
21 project cost is still relevant, especially
22 against the original estimates. But I think
23 the New Hampshire piece, too, is of interest.
24 And we do have estimates in the record for the

1 New Hampshire piece, so I'm comfortable with
2 that.

3 Would you like to try your
4 motion again?

5 MS. WEATHERSBY: I'll try it again
6 with the amendments we've just been discussing.

7 So, within 30 days of the date
8 the line is operational, whatever that
9 technical term was, the Applicant will provide
10 the SEC with its forecasted and actual
11 expenditures for the entire Merrimack Valley
12 Reliability Project and its allocation of such
13 expenditures to the New Hampshire portion of
14 the line.

15 PRESIDING OFFICER ROSS: And do I
16 have a second?

17 MS. ROBERGE: Second.

18 PRESIDING OFFICER ROSS: Okay. And
19 then all in favor indicate by saying "aye."

20 [Multiple members indicating "aye".]

21 PRESIDING OFFICER ROSS: Any opposed?

22 [No verbal response]

23 PRESIDING OFFICER ROSS: All right.
24 Are there other issues now that we need to

1 address?

2 MR. IACOPINO: Madam Chair, it is
3 not -- in many of these cases in the past, the
4 Committee or Subcommittee has determined that
5 it was appropriate to put a condition for when
6 construction must be completed by. In some --
7 well, actually, in most of the ones we have
8 had, it's been either a two- or three-year time
9 period that has been laid out there. Another
10 condition that is typically required is that
11 the Applicant, once construction is complete
12 and the line is in commercial operation, that
13 the Applicant provide an as-built plan that
14 demonstrates where the actual facility has been
15 located, so that if there have been any minor
16 changes or whatnot, we have a document that
17 memorializes that. So those would be two
18 separate conditions that the Committee may wish
19 to consider.

20 PRESIDING OFFICER ROSS: I think both
21 of them sound like a good idea. The idea that
22 it could just be an open-ended approval that
23 could be constructed anytime in the next 10 or
24 15 years seems really not a realistic kind of

1 decision on our part. It must have some time
2 sensitivity. I don't know what the magic
3 number is. I don't know if people on the
4 Committee with more experience than I know. We
5 can start with what did the Applicant estimate
6 it was going to take. And I know we were
7 talking about construction commencing in early
8 2017. Does anyone recall the projected end
9 date? It's probably in the Application.

10 MS. WHITAKER: It appears to me on
11 Page 41 of the Application that line service
12 will be December of 2017.

13 PRESIDING OFFICER ROSS: Oh, yeah.
14 Thank you.

15 CMSR. BAILEY: So I'll make a motion
16 that we condition the Certificate on the
17 Project's completion within three years of the
18 date of the order, which will give them more
19 than two years beyond what they anticipated in
20 the application.

21 PRESIDING OFFICER ROSS: Do you want
22 to address the as-built plans in the motion as
23 well?

24 CMSR. BAILEY: Sure. Once the line

1 is in commercial operation, they file a plan
2 with the Site Evaluation Committee -- as-built
3 drawings, not a plan -- as-built drawings with
4 the Site Evaluation Committee, and that we
5 delegate to our administrator to make sure that
6 they meet all the conditions that we are
7 establishing and notify us if any of the
8 reports that they file raise any issues.

9 PRESIDING OFFICER ROSS: Do I have a
10 second for that motion?

11 MS. WEATHERSBY: Second.

12 PRESIDING OFFICER ROSS: Any
13 discussion?

14 MS. ROBERGE: I just was trying to
15 get clarification. So in three years, what
16 happens if they don't meet the three years?

17 CMSR. BAILEY: They would probably
18 have to come back to us and ask us to extend
19 the time line. At that time, we'd know how far
20 along they are. But I mean, this is a
21 reliability project. So the ISO wants to get
22 this built. And, you know, the Application
23 says they're going to start in the fourth
24 quarter of this year if they receive approval

1 from us. So it should be finished by then.

2 PRESIDING OFFICER ROSS: Any other
3 comments?

4 [No verbal response]

5 PRESIDING OFFICER ROSS: All right.
6 We have a motion and a second. All those in
7 favor indicate by saying "aye."

8 [Multiple members indicating "aye".]

9 PRESIDING OFFICER ROSS: Any opposed?

10 [No verbal response]

11 PRESIDING OFFICER ROSS: All right.
12 Any other loose ends? Yes.

13 MR. ASLIN: Madam Chair, I would just
14 remind the Subcommittee that there was some
15 discussions about decommissioning. And I did
16 make a recommendation of a condition regarding
17 decommissioning in my closing statement. So if
18 the Subcommittee would like to discuss that, I
19 would remind them of that. Thank you.

20 PRESIDING OFFICER ROSS: Thank you.
21 I had actually forgotten about that issue. We
22 did discuss it. And I think your
23 recommendation, if I'm -- Counsel for Public's
24 recommendation, if I'm recalling it correctly,

1 was something to the effect that, in the event
2 that decommissioning should be required at some
3 time in the future, at that time the Applicant
4 would have to submit a plan to the Site
5 Evaluation Committee for review and approval.
6 Have I got that correctly?

7 MR. ASLIN: Yes, that's the essence
8 of it. I also had a recommendation, that the
9 Applicants did not agree to, that they provide
10 a periodic report of the need for the Project
11 in the future.

12 CMSR. BAILEY: And I think we talked
13 about, when we granted a waiver from the
14 requirement to provide a decommissioning plan,
15 about the third party conducting the plan if it
16 becomes necessary. And I think we agreed at
17 that time to talk about it now. So I just
18 remind the Committee that we had kind of put
19 that off until -- and said maybe we could make
20 it a condition.

21 I don't want to make unnecessary
22 work for the Applicant, but I do agree that if
23 this line is in service for 40 years, we're not
24 going to be here, and the people that make this

1 agreement are not going to be here. So it's
2 not unreasonable to keep it on the radar by
3 requiring some kind of periodic -- yeah, we
4 know. You know, we don't anticipate this is
5 going to be retired anytime in the next 10
6 years or next five years. But I don't know how
7 often to make that, but I think it's reasonable
8 to keep it at least on their radar screen.

9 PRESIDING OFFICER ROSS: Does anyone
10 have any thought on kind of the reporting
11 frequency?

12 MS. WEATHERSBY: I think the proposal
13 kicked around was that they were to report to
14 the SEC every 10 years regarding the continued
15 need for the Project and that they would
16 promptly notify us if any retirement
17 obligations arise. And if they arise, the
18 Applicant would submit a decommissioning plan
19 consistent with the SEC rules then in place.

20 PRESIDING OFFICER ROSS: How is the
21 Committee feeling about the suggestion that Ms.
22 Weathersby is making?

23 CMSR. BAILEY: I think that's a good
24 idea. I think we'll have more experience with

1 decommissioning plans 10, 20, 30 years from
2 now. And the rules may change as to who gets
3 to do the plan. And maybe they'll be the same
4 as they are now, but maybe they won't. And so
5 I think that it's probably wise to just make
6 the requirement that they comply with the rules
7 that exist when they know that there is going
8 to be a decommissioning.

9 PRESIDING OFFICER ROSS: Dr.
10 Boisvert, did you have a comment?

11 DR. BOISVERT: She started off by
12 saying exactly what I was going to say. Thank
13 you.

14 PRESIDING OFFICER ROSS: All right.
15 Ms. Weathersby, would you like to make that a
16 motion so that we can act on it?

17 MS. WEATHERSBY: Yes. Do I need to
18 repeat it or --

19 PRESIDING OFFICER ROSS: Yeah.

20 MS. WEATHERSBY: Okay. So I move
21 that as an additional condition we require the
22 Applicant to report to the SEC every 10 years
23 concerning the continued need for this project
24 and to promptly notify the SEC of any -- if any

1 retirement obligations arise. And if such
2 obligations arise, the certificate holder shall
3 submit a decommissioning plan to the SEC
4 consistent with the rules concerning such plans
5 then in effect.

6 CMSR. BAILEY: And would that be 10
7 years from the issuance of our order granting a
8 siting certificate or 10 years from the
9 commercial operation of the Project?

10 MS. WEATHERSBY: Ten years from the
11 date of issuing the certificate.

12 CMSR. BAILEY: Okay.

13 PRESIDING OFFICER ROSS: And with
14 that clarification, do I have a second?

15 MS. WHITAKER: I'll second.

16 PRESIDING OFFICER ROSS: All those in
17 favor indicate by saying "aye."

18 [Multiple members indicating "aye".]

19 PRESIDING OFFICER ROSS: Any opposed?

20 [No verbal response]

21 PRESIDING OFFICER ROSS: All right.
22 Any other items that we've neglected to
23 address?

24 MR. IACOPINO: Just one more motion

1 that needs to be made. If there's no other
2 conditions proposed, there's one other motion
3 that needs to be made.

4 MS. WEATHERSBY: This isn't
5 necessarily a condition, but I just wanted to
6 raise it maybe as not an issue, but I know this
7 Committee received an order from the PUC dated
8 June 24th, which was after our last meeting,
9 concerning the approvals for the Project in the
10 Town of Windham, that also had some conditions
11 in it. I didn't know if we needed to go back
12 when we talked about the state agencies and
13 loop that one in or not.

14 PRESIDING OFFICER ROSS: Sorry. I
15 did look at the transcript. And our decision
16 at that time indicated that we had not yet
17 received the PUC decision, but it incorporated
18 that decision and the conditions at the time.
19 So I think we've acted sufficiently. We
20 anticipated that that would come in, and it has
21 come in. And I don't believe we need anything
22 further. I'll defer to counsel on that
23 question, but --

24 MR. IACOPINO: I think your prior

1 order delegating that authority to the Public
2 Utilities Commission and ordering that the
3 Applicant must comply with those orders from
4 the Public Utilities Commission satisfies that
5 requirement.

6 PRESIDING OFFICER ROSS: Any other
7 open items people can think of?

8 CMSR. BAILEY: I'm going to make the
9 final motion.

10 PRESIDING OFFICER ROSS: Yes, if
11 somebody will tell me what it is.

12 CMSR. BAILEY: It's a wrap-up. Given
13 that we have found the Applicant has the
14 financial, managerial and technical capability
15 to site, construct and operate the proposed
16 transmission line, and that the Project will
17 not unduly interfere with the orderly
18 development of the region, and that the Project
19 will not have an unreasonable adverse effects
20 on aesthetics, air and water quality, historic
21 sites, the natural environment or public health
22 and safety, and that the Project is in the
23 public interest, I move that we grant a
24 Certificate of Site and Facility to Eversource

1 and New England Power for the siting,
2 construction and operation of the Merrimack
3 Valley Reliability Project, as described in the
4 Application and its supplements, and subject to
5 the conditions, monitoring and delegation of
6 state agency authority that we have approved.

7 PRESIDING OFFICER ROSS: I'll second
8 it.

9 All right. All those in favor
10 of that motion indicate by saying "aye."

11 [Multiple members indicating "aye".]

12 PRESIDING OFFICER ROSS: Any opposed?

13 [No verbal response]

14 PRESIDING OFFICER ROSS: Okay. Thank
15 you, Kate. I think with that we are adjourned
16 and this docket is closed.

17 (Whereupon Day 2 of Deliberations was
18 adjourned at 12:02 p.m.)

**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

	8:10;14:15;16:20; 17:16;19:4;30:7; 41:15;44:5;50:22; 54:5;76:8;80:17; 95:7;98:21	67:5 again (6) 30:15;38:8;40:4; 55:7;94:4,5	38:18;39:5,9; 67:14;92:11 amended (2) 48:17;68:3	88:15;99:9 Applicants' (2) 36:10;87:21
[against (1) 93:22	amending (1) 91:11	application (8) 43:14;67:7;68:19; 96:9,11,20;97:22; 105:4
[Multiple (11) 28:24;34:21;40:22; 48:21;69:14;74:14; 89:7;94:20;98:8; 102:18;105:11	adaptive (1) 43:12	agencies (3) 42:17;57:24; 103:12	amendment (7) 34:3,10;48:8,10; 87:11,16,18	applications (1) 33:10
[No (17) 7:12;13:10;17:2; 23:3;29:2;34:23; 40:24;47:9;48:23; 69:16;74:16;89:9; 94:22;98:4,10; 102:20;105:13	add (11) 15:5;61:7;64:5,11; 67:14,23;72:6;73:11; 82:24;87:21;88:23	agency (3) 57:22;82:2;105:6	amendments (2) 88:20;94:6	appropriate (8) 60:12;64:18;66:7; 77:11;78:16;79:4,6; 95:5
[sic] (1) 52:17	addition (5) 39:22;45:4;47:1; 54:10;80:9	ago (2) 7:23;19:6	among (1) 9:19	approval (7) 35:9;79:15;80:18; 82:14;95:22;97:24; 99:5
	additional (5) 19:16;43:21;47:18; 89:13;101:21	agree (9) 20:19;21:5,8;25:1; 35:17;64:20;78:14; 99:9,22	amount (4) 13:14;33:22;75:24; 83:13	approvals (1) 103:9
	address (6) 21:17;43:12;46:23; 95:1;96:22;102:23	agreed (8) 36:23;37:1;47:2; 75:9;76:3;84:16; 89:3;99:16	animals (1) 47:8	approve (2) 65:23;87:20
A	adequate (1) 45:22	Agreement (5) 38:4;85:18,24; 88:14;100:1	Anne (1) 6:21	approved (2) 45:20;105:6
ability (1) 82:3	adjoined (2) 105:15,18	agrees (1) 32:16	annual (2) 66:10,14	approximately (1) 55:9
able (3) 25:4;79:19;92:22	administrator (1) 97:5	ahead (7) 22:11;23:8;34:5; 47:24;56:2;72:24; 88:7	anticipate (3) 81:2,13;100:4	aquatic (2) 42:11;43:7
abutting (1) 13:15	Admittedly (1) 54:14	air (23) 30:2,3,5,15,23; 31:5,12,15,18;32:1,7, 12,23;33:8,11,14,16, 24;34:4,8,14;70:18; 104:20	anticipated (2) 96:19;103:20	archeological (2) 23:17,22
accept (3) 48:9;88:14,17	adopt (1) 37:22	allocation (2) 93:11;94:12	anymore (1) 25:6	area (12) 10:2,17;14:14; 16:2,18;35:5;42:4; 50:22;60:4;61:10; 65:6;82:5
access (1) 47:4	advantages (1) 24:6	allow (1) 5:18	apart (2) 64:15;65:2	areas (9) 5:18;8:19,20; 10:23;13:22;14:18; 41:11;52:6;71:13
accompli (1) 84:7	adverse (28) 29:23;30:14,18; 34:14;37:9,11;39:11; 40:7;41:5;42:23; 43:6,13;47:16;48:13; 49:18;50:1,5,17; 51:8;52:3;55:1;62:5; 63:5;68:10,11,13,15; 104:19	allows (1) 77:17	apparently (1) 75:9	arguably (1) 17:19
accomplish (1) 20:13	advice (1) 64:12	almost (1) 25:15	appear (1) 54:9	argue (4) 15:7;18:23;28:2; 72:10
accomplished (1) 81:9	advise (3) 36:3;38:6;92:2	along (7) 13:22;37:10;67:18; 68:18;84:2;86:24; 97:20	appearance (1) 9:3	argued (1) 18:1
accordance (1) 55:19	advised (1) 36:5	alter (1) 52:15	appearances (2) 6:3;7:2	argument (1) 5:16
account (3) 23:23;61:6;78:18	aerial (1) 58:3	alteration (4) 38:1;39:20;40:12; 42:11	appears (1) 96:10	arguments (3) 18:4;23:6;25:14
accountant (1) 23:12	aerosols (1) 33:4	although (5) 5:10;14:8;22:1; 33:20;44:14	Appendix (2) 67:5,5	arise (4) 100:17,17;102:1,2
accurate (2) 56:14;62:2	aesthetic (1) 21:20	always (1) 25:23	applicable (1) 55:20	around (4) 14:5,7;47:5;100:13
acquire (1) 72:17	aesthetics (5) 10:13;21:17;25:13; 70:18;104:20	ambient (1) 55:12	Applicant (50) 5:9,19;9:17;13:9; 16:3;17:4,5,6;19:21; 31:2;32:1,16;36:23; 45:17,24;47:2;55:4, 17;57:8;63:7;64:6; 65:21,24;67:15,24; 68:17;75:10;76:3,5, 11;78:16;79:19;80:4; 84:18;85:19;89:4; 91:21;92:8;93:3,5; 94:9;95:11,13;96:5; 99:3,22;100:18; 101:22;104:3,13	articulated (1) 69:10
across (2) 57:17;77:13	affect (1) 27:2	amenable (1) 91:11	Applicants (8) 7:5;18:24;23:19; 72:17;80:4;83:10;	as-built (4) 95:13;96:22;97:2,3
act (1) 101:16	affected (2) 41:23;42:6	amend (5)		Aslin (9) 7:6,6;21:1;22:12, 14,19;26:4;98:13; 99:7
acted (1) 103:19	afterwards (1) 60:16			assist (1) 5:12
activities (1) 72:1	AG (1)			
activity (1) 59:7				
actual (14) 56:14;58:11;62:11; 75:16;78:10,12;79:9; 80:13;83:15;89:18; 92:22;93:10;94:10; 95:14				
actually (14)				

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

assistance (1) 27:16 Assistant (1) 7:6 associated (3) 32:23;40:15;85:6 assume (4) 79:17;80:1;84:17; 90:1 assumed (2) 66:10;81:5 assumption (1) 20:11 attention (1) 11:9 Attorney (2) 7:7;26:4 audible (1) 55:8 AUDIENCE (1) 85:2 audit (1) 8:12 authority (6) 17:14;17;58:1,7; 104:1;105:6 authorized (1) 42:17 available (2) 38:14;54:17 average (2) 66:10,14 avoid (8) 42:22;43:5;45:8, 24;46:6;47:3;50:4,16 avoided (1) 37:4 award (1) 78:15 aware (1) 32:22 aye (11) 28:23;40:21;47:23; 48:20;69:13;74:13; 89:6;94:19;98:7; 102:17;105:10 aye] (11) 28:24;34:21;40:22; 48:21;69:14;74:14; 89:7;94:20;98:8; 102:18;105:11	10:10;11:1,10,18,21; 12:2,6,8,19,24;13:6; 22:12,17,24;25:1; 31:23;34:7,10,13; 35:23;44:7,9;45:3; 46:3;47:14;48:9; 51:2,14;52:1;55:3; 56:11;57:6;58:19,23; 61:24;62:23;63:3; 64:9,20;65:13;66:8; 67:2,9,13;68:3,8,12; 69:19;72:10,16; 77:12;79:21;80:5; 83:4;86:5,12,17; 87:12,17;89:1;92:14, 19;93:7;96:15,24; 97:17;99:12;100:23; 102:6,12;104:8,12 Bailey's (2) 48:2;52:12 Barry (1) 7:3 base (1) 27:11 based (8) 10:20;47:12;62:3, 6;63:4;78:16,21; 79:10 basic (2) 5:15;59:1 becomes (1) 99:16 begin (2) 5:6;7:11 beginning (3) 6:6;29:13;46:8 begun (1) 29:6 below (2) 53:3;62:18 benchmark (1) 91:9 Best (7) 32:18;43:3,9; 46:17;50:18;59:5; 73:19 better (3) 27:13;44:11;64:17 beyond (1) 96:19 bid (4) 77:16;78:16;79:22; 80:3 bidding (1) 79:17 bids (2) 77:17,20 bit (3) 14:12;50:22;74:7 bite (1) 12:18 black (2) 44:3;45:22	blasting (6) 55:16,18,21;59:8, 9;68:1 board (2) 25:22;91:20 bodies (1) 69:10 body (2) 53:5;81:10 Boisvert (27) 3:6,9,18,22;4:3; 6:16,16;23:9;47:21; 48:18;53:21;60:9; 73:1,11;75:1;83:21; 85:17;86:5,10,16; 87:6;88:3,12;89:5, 22;101:10,11 Boisvert's (2) 87:19;88:2 both (3) 50:23;58:5;95:20 bother (1) 8:15 box (1) 60:7 break (2) 49:3;91:3 Breakneck (4) 13:24;14:11;15:23; 16:19 breaks (1) 16:21 brief (1) 49:8 briefly (1) 65:19 brilliant (1) 87:13 bring (1) 11:8 broaden (2) 54:23;79:2 Brook (3) 10:4;14:16;27:9 brought (1) 24:13 brown (4) 11:20;13:4;15:19; 16:3 brush (1) 44:13 budget (8) 79:20;80:18;81:23; 82:11;83:6,15;86:7; 87:23 budgeted (2) 83:9,13 budgets (2) 76:18;85:7 build (4) 60:22;61:3;78:10; 81:10 buildings (1)	50:9 builds (1) 79:13 built (3) 59:16;77:15;97:22 Bureau (1) 42:15 C came (1) 74:1 can (37) 7:19;10:8;11:1,2; 12:18,21;15:16,19; 16:22;17:24;19:24; 24:5,7;33:6;39:7; 60:6;61:1;65:7,8,23; 67:3;70:20;73:20; 74:19;77:20;78:18; 81:14;87:19;88:7; 91:9,20;92:19,20; 93:6;96:5;101:16; 104:7 cancel (1) 61:11 cancer (1) 52:20 capability (1) 104:14 capacity (1) 76:10 captures (1) 93:19 carefully (2) 25:6;79:18 carried (2) 29:24;45:12 cars (1) 53:15 case (7) 15:7;17:21;25:10, 20;70:4;76:8;91:16 cases (3) 20:12;70:2;95:3 categories (2) 31:14;71:6 category (1) 49:1 cause (4) 51:19;52:20;54:4; 90:1 caused (4) 54:5,7,22,22 certain (3) 49:16;52:4;92:9 certainly (5) 17:24;22:8;64:7; 91:1,20 CERTIFICATE (23) 4:21;19:10;35:18; 38:9;39:21;40:10,13; 43:10;57:19;64:1;	70:12;75:12,13,15, 21;83:12;84:19; 89:14;96:16;102:2,8, 11;104:24 certified (1) 23:12 cetera (3) 27:10;33:18,19 Chair (15) 17:8;34:7;37:18; 38:6;41:3;44:7; 49:20;65:14;69:23; 70:11;76:20;82:17; 92:1;95:2;98:13 chance (1) 19:5 change (7) 26:1,22;61:8,12,17, 18;101:2 changed (1) 44:15 changes (3) 68:5;82:4;95:16 check (1) 60:6 choice (1) 29:13 Chris (1) 7:6 cited (1) 62:20 citizens (1) 78:20 clarification (6) 73:23;74:21;76:23; 89:24;97:15;102:14 clarify (1) 61:21 clarity (1) 39:4 clear (6) 12:5;26:19;28:9; 38:20;73:17;90:13 cleared (1) 45:2 clearing (3) 43:21,22;44:11 clearly (3) 45:16;71:12;82:5 close (6) 9:20;26:7,11,17; 78:12;83:6 closed (2) 17:13;105:16 closer (2) 7:18,20 closest (5) 8:24;24:12,16; 64:14;65:1 closing (1) 98:17 Cmsr (82) 3:2,5,8,12,14,23;
B				
back (10) 37:19;49:7;56:4; 58:10;60:9;74:6,19; 76:5;97:18;103:11 bad (1) 61:18 Bailey (81) 3:5,8,12,14,23; 4:12,22;6:19,19;				

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

4:12,22;6:10,19; 10:10;11:1,10,18,21; 12:2,6,8,19,24;13:6; 22:12,17,24;25:1; 31:23;34:7,10,13; 35:23;37:14;40:19; 44:7,9;46:3,10; 47:14;48:9;51:2; 55:3;56:11,23;57:6; 58:19,23;61:24;63:3; 64:9,20;65:13;66:8; 67:2,9,13;68:3,8,12; 69:19;72:10,16; 77:12;79:21;80:5; 83:4;86:5,12,17; 87:12,17;89:1,92:14, 19:93;7:96;15:24; 97:17;99:12;100:23; 102:6,12;104:8,12	Committee (61) 5:12,17;6:3,5;8:9; 9:6;10:19;12:14; 13:8,13;15:9;17:9; 19:24;20:5;21:24; 22:5,8;23:2,5;27:20; 29:12;30:13;31:12; 37:18;38:14;41:13; 43:18;49:4,16,21; 53:4;59:14;62:20,22; 63:10,21;65:19;69:4; 8:75;11,15;77:7; 78:3;81:6,11,19; 83:2;84:10;85:12; 88:13,17;89:17;95:4, 18;96:4;97:2,4;99:5, 18;100:21;103:7	concern (5) 9:8;45:16;53:15; 79:11;82:8 concerned (1) 93:2 concerning (9) 26:9,23;27:7; 46:21;48:3;59:23; 101:23;102:4;103:9 concerns (5) 8:8;47:8;82:1; 85:12,20 conclude (1) 62:4 concluded (2) 51:20;52:11 conclusion (3) 17:12;52:16;57:2 condition (29) 35:9;38:9;39:1; 59:4;60:23;63:7; 68:17;75:12;78:7,23; 79:14;80:6,17;81:14; 82:9;83:11;86:22,22; 87:18,21;89:3,13; 95:5,10;96:16;98:16; 99:20;101:21;103:5 conditioning (2) 80:6,7 Conditions (28) 4:1;35:16,19; 36:24;37:22;38:24; 39:1,13,23;43:10; 46:19;55:7;57:15; 58:21;60:14,20; 66:20;73:12,19; 76:24;88:21;89:11; 95:18;97:6;103:2,10, 18;105:5 conduct (2) 63:7;68:17 conducted (2) 43:22;66:10 conducting (2) 60:20;99:15 confess (1) 80:20 conflicting (1) 8:23 conformance (1) 64:1 conservatively (1) 79:18 consider (22) 5:7;9:8;17:11;30:1, 19;41:6,19;49:2,13, 16,24;50:8,23;55:15; 57:12,22;59:3,22; 70:8,9,13;95:19 consideration (5) 30:16;31:21;49:17; 70:1;78:17 considerations (1)	74:1 considered (7) 18:19;20:10;25:13; 41:11;52:14;57:21; 71:9 considering (6) 22:1;27:5;37:19; 41:18;47:13;70:11 consistent (3) 51:16;100:19; 102:4 construct (3) 63:1;72:18;104:15 constructed (3) 48:16;60:13;95:23 constructing (1) 47:17 CONSTRUCTION (42) 4:11;31:4,16,21; 32:17,18;35:3;36:13; 37:3;45:11;46:8; 48:3,14;50:1,24;51:4, 6,9;53:11;55:2,15,17, 24;57:17;59:7;60:14, 19;63:9;68:2,23,23; 69:2;79:17;83:3; 84:11,22;86:23; 92:12;95:6,11;96:7; 105:2 construed (1) 17:20 consult (1) 91:5 consultation (3) 68:20;76:4;88:14 containment (3) 77:8,19;88:19 context (1) 52:14 contingencies (1) 79:16 continue (3) 8:18,19;29:5 continued (3) 48:15;100:14; 101:23 continuing (1) 15:4 contract (2) 38:24;78:15 contractor (1) 55:18 contradicting (1) 10:19 control (3) 53:12;59:1;68:1 conversations (1) 77:13 convinced (2) 33:19;56:16 copy (1) 88:10 corona (1)	55:6 correctly (2) 98:24;99:6 corridors (1) 42:13 COST (24) 3:21;73:23;75:8, 23;76:9;77:8,19; 78:4,10,19,20,21,22; 79:7;80:13,14;82:5, 22;83:2,15;84:3; 86:16;88:18;93:21 costs (16) 77:21;78:12;80:8, 10;81:8,15;82:6; 83:22;85:6;86:23; 87:23;92:15,22;93:9, 10,11 Cottontail (2) 44:12;45:21 council (1) 35:17 Counsel (27) 5:20;7:7;17:5; 18:10;20:24;21:2; 30:6;31:24;35:15; 56:24;57:8;65:11,19; 73:22;74:18;75:2,9; 76:2;77:3;85:18; 86:2,21;87:20;88:15; 89:4;98:23;103:22 country (1) 77:14 couple (2) 7:22;27:6 Court (1) 15:13 cover (1) 7:10 covered (1) 55:4 covers (1) 9:9 CPA (1) 8:11 craft (1) 73:19 create (3) 53:20;65:20;66:21 credible (1) 51:21 criteria (1) 50:19 cross (1) 16:19 crossing (13) 10:4;12:15,16,21, 23;14:20,24;15:17, 21;16:7;27:9;53:13; 59:6 crossings (4) 14:9;15:20;53:16; 58:17
--	---	---	--	---

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

cross-purposes (1) 85:23 cryptic (1) 56:21 cumulative (4) 60:18;69:22,24; 70:1 curing (1) 10:16 Currently (2) 11:16,18 cut (1) 86:10 cutting (5) 33:17,21;44:17; 45:13;46:15	23;27:11;39:2;69:21; 79:10;91:24;96:1; 103:15,17,18 decision-making (1) 27:2 decisions (2) 24:3;79:12 DECOMMISSIONING (9) 4:15;98:15,17; 99:2,14;100:18; 101:1,8;102:3 decrease (2) 61:9,17 deep (1) 33:6 deeply (1) 54:15 defer (1) 103:22 define (1) 91:6 defining (1) 91:5 definitely (1) 64:20 degree (1) 21:18 delay (2) 21:10;41:16 delegate (4) 38:10;57:24;58:7; 97:5 delegating (1) 104:1 delegation (2) 38:15;105:5 deliberate (3) 23:6;34:5;93:1 deliberated (3) 58:20;71:10;76:7 deliberating (2) 28:3;59:11 deliberation (3) 37:21;58:11;71:7 deliberations (16) 5:4,6;19:5;29:6,19, 20;38:6;49:12;72:3; 74:1,22;76:15,16,22; 79:1;105:17 delved (1) 54:15 demarcation (1) 12:17 demonstrates (1) 95:14 denial (1) 28:9 denied (1) 29:4 deny (4) 19:19;28:6,8,17 Department (24) 6:11,14;30:20,24;	32:13,21;33:9;35:14, 17;36:1,5;37:23; 38:10;39:14;40:9; 42:14;45:19;57:16, 23;58:1,8;66:5; 68:24;69:1 depending (1) 66:11 Deputy (1) 6:17 Derry (1) 15:22 DES (4) 27:6;31:7,20;35:6 described (1) 105:3 description (1) 9:1 desire (1) 73:14 desires (1) 73:18 detail (2) 73:15;74:3 detailed (2) 35:20;85:22 determination (5) 25:15;39:3;70:6; 76:6;79:5 determinations (2) 74:8;82:6 determine (6) 10:19;18:12;30:13; 36:2;38:8;45:8 determined (2) 18:19;95:4 determining (1) 72:21 developed (3) 45:7;76:4;88:14 Development (2) 6:12;104:18 devices (1) 32:11 dialogue (2) 91:23;93:2 died (1) 44:4 difference (7) 10:12;55:13;57:11; 62:10;78:9;80:13; 83:14 different (11) 10:22;11:2,14; 15:11,15;18:3;20:6; 31:13;41:19;56:18; 79:9 differentiates (1) 44:24 direct (1) 64:5 directed (1) 76:9	directly (1) 21:3 discourage (1) 82:15 discretion (3) 18:12;21:13;22:9 discuss (3) 77:8;98:18,22 discussed (2) 16:18;72:2 discussing (2) 65:18;94:6 discussion (19) 3:7,13;4:1,4,7,20; 20:20;23:7;34:2; 48:2;51:3;56:12; 59:23;73:10;76:10, 24;80:21;90:22; 97:13 discussions (2) 60:1;98:15 disease (1) 52:20 dispersal (1) 42:3 dispute (2) 20:15,18 disputing (1) 54:2 distance (3) 20:16;60:2,5 Division (7) 6:18;31:8;32:13; 66:4;67:4,16;68:21 Docket (7) 5:4,17;8:2;18:14; 21:10;30:21;105:16 document (1) 95:16 documents (3) 36:17;43:18;76:19 done (15) 8:3;12:4;13:2; 22:15;23:22;24:5; 35:20;46:5;59:17; 66:20;67:1;69:19; 73:15;77:18;79:18 DOT (5) 58:15,18;59:6,8; 67:24 double-check (1) 74:7 down (4) 9:22;14:15;65:17; 91:3 Dr (32) 3:6,9,18;4:3;6:16; 23:9;47:21;48:18; 51:14,14;52:1,1,12; 53:21;60:9;62:23; 73:1,11;83:21;85:17; 86:5,10,16;87:6,19; 88:1,3,12;89:5,22;	101:9,11 drawings (2) 97:3,3 drew (1) 81:22 Drive (11) 12:21,22;13:15,23; 14:10,12;16:5,11; 25:5;60:3;72:4 driveway (9) 10:1;11:12,14,24; 12:4,10,13;58:5,16 Driving-wise (1) 14:19 due (3) 36:13;51:24;53:24 duration (2) 42:5,10 during (26) 13:4;31:4,16; 32:17;35:3,3;37:2; 45:11;51:4,5,8,10; 53:10;55:6,17,24; 57:16;59:7;66:15; 67:20;68:1,22;69:2; 74:22;84:2,10 dust (5) 31:4,16,21;32:14, 16
D				
daily (1) 46:12 dark (1) 8:24 darker (1) 10:17 data (1) 93:20 date (10) 21:6;92:4,5,9,12, 12;94:7;96:9,18; 102:11 dated (1) 103:7 David (9) 12:21,22;13:15,15, 23;14:9,12;16:11; 60:3 day (6) 20:14;76:6,7,16; 92:8;105:17 days (6) 75:14;89:16,16,16; 91:7;94:7 DC (1) 65:6 deal (3) 5:24;31:9;34:6 dealing (2) 30:5;33:11 December (1) 96:12 decibels (1) 55:10 decide (2) 5:11;21:14 decided (3) 19:9;29:21;78:24 deciding (1) 78:21 decision (22) 5:13;8:9;19:7; 21:15;22:10;24:5,7; 25:12,13,18,19;26:6,	delve (1) 54:15 demarcation (1) 12:17 demonstrates (1) 95:14 denial (1) 28:9 denied (1) 29:4 deny (4) 19:19;28:6,8,17 Department (24) 6:11,14;30:20,24;	desire (1) 73:14 desires (1) 73:18 detail (2) 73:15;74:3 detailed (2) 35:20;85:22 determination (5) 25:15;39:3;70:6; 76:6;79:5 determinations (2) 74:8;82:6 determine (6) 10:19;18:12;30:13; 36:2;38:8;45:8 determined (2) 18:19;95:4 determining (1) 72:21 developed (3) 45:7;76:4;88:14 Development (2) 6:12;104:18 devices (1) 32:11 dialogue (2) 91:23;93:2 died (1) 44:4 difference (7) 10:12;55:13;57:11; 62:10;78:9;80:13; 83:14 different (11) 10:22;11:2,14; 15:11,15;18:3;20:6; 31:13;41:19;56:18; 79:9 differentiates (1) 44:24 direct (1) 64:5 directed (1) 76:9	directly (1) 21:3 discourage (1) 82:15 discretion (3) 18:12;21:13;22:9 discuss (3) 77:8;98:18,22 discussed (2) 16:18;72:2 discussing (2) 65:18;94:6 discussion (19) 3:7,13;4:1,4,7,20; 20:20;23:7;34:2; 48:2;51:3;56:12; 59:23;73:10;76:10, 24;80:21;90:22; 97:13 discussions (2) 60:1;98:15 disease (1) 52:20 dispersal (1) 42:3 dispute (2) 20:15,18 disputing (1) 54:2 distance (3) 20:16;60:2,5 Division (7) 6:18;31:8;32:13; 66:4;67:4,16;68:21 Docket (7) 5:4,17;8:2;18:14; 21:10;30:21;105:16 document (1) 95:16 documents (3) 36:17;43:18;76:19 done (15) 8:3;12:4;13:2; 22:15;23:22;24:5; 35:20;46:5;59:17; 66:20;67:1;69:19; 73:15;77:18;79:18 DOT (5) 58:15,18;59:6,8; 67:24 double-check (1) 74:7 down (4) 9:22;14:15;65:17; 91:3 Dr (32) 3:6,9,18;4:3;6:16; 23:9;47:21;48:18; 51:14,14;52:1,1,12; 53:21;60:9;62:23; 73:1,11;83:21;85:17; 86:5,10,16;87:6,19; 88:1,3,12;89:5,22;	earlier (9) 21:8;27:13;35:7; 39:3;55:15;59:13,18; 71:11;74:8 early (2) 8:4;96:7 easy (1) 51:6 Economic (4) 6:12;70:16;71:4,22 edge (6) 52:6;59:15;64:7, 21,22;67:19 edges (1) 53:1 education (4) 49:21;81:7,10;83:5 effect (20) 26:13;27:8;29:23; 30:15,16;33:16,24; 39:11;40:7;41:5,7; 45:2;47:16;48:13; 49:19;52:11;62:5; 68:13;99:1;102:5 effectiveness (4) 42:21;43:4;50:3,15 effects (14) 42:6,23;43:6,13; 45:9;50:1,5,17;51:8; 52:3;53:24;68:10,15; 104:19
E				

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

effort (1) 85:24	9:13;27:14;75:17, 24;89:18;93:9,10,15; 94:11	10:11,15;52:15; 53:18;63:4	41:12	47:3
efforts (1) 46:14	ENVIRONMENT (11) 3:4;27:9;41:5; 44:19;45:17;47:12, 17;48:14;52:19; 70:17;104:21	exactly (2) 37:21;101:12	extent (6) 42:5,9;43:2,8; 50:17;85:11	FERC (3) 82:5;83:23;85:9
either (4) 61:9;74:20;91:14; 95:8		exaggerated (1) 9:15	extremely (1) 52:16	few (2) 21:4;29:21
electric (11) 50:6,13;51:18; 52:17;59:15,19; 62:18;63:8;67:20; 71:17;72:11	Environmental (17) 6:14;21:18;23:24; 27:5;30:20,24;32:14; 36:1,11;37:2,4,24; 38:10;39:14;40:9; 46:12,24	exceed (3) 69:5;75:23;78:4	F	field (11) 45:5,11;51:18,18; 52:17;53:18;56:8; 57:1;59:14;67:19,20
Electrical (1) 51:16		exceeded (1) 85:8	face (1) 27:1	fields (15) 50:13;51:24;52:4, 5,7,9,24;56:16;59:15, 20;61:11;62:18;63:8; 66:22,24
electricity (1) 32:3	envision (1) 11:1	exceeds (2) 77:21;93:16	FACILITY (4) 4:21;50:14;95:14; 104:24	figure (1) 93:4
electro (1) 51:18	envisioning (1) 27:3	except (1) 10:15	fact (9) 18:21;25:12;36:22; 37:20;53:11,16; 55:16;57:10;77:18	file (8) 8:6,7,11;21:6; 91:16;92:10;97:1,8
electromagnetic (7) 51:24;52:24;53:4, 18;56:16;62:21; 63:21	episodes (1) 54:23	excess (1) 53:7	factor (5) 21:24;22:1;66:22, 23;72:20	filed (5) 5:8;17:20;69:3; 75:20;84:21
else (2) 15:18;80:8	equal (1) 75:24	exercise (1) 38:14	factors (11) 23:24;41:20;43:15; 47:13;66:24;70:8; 71:8,12,21;72:5,15	filing (4) 75:14;91:8,12,15
embraces (1) 79:12	equipment (3) 32:4,11;53:12	Exhibit (5) 32:1;57:7;65:11; 67:2,5	fact (9) 18:21;25:12;36:22; 37:20;53:11,16; 55:16;57:10;77:18	final (6) 25:17;70:5;86:23; 87:22,23;104:9
EMF (5) 62:6;66:21;79:8; 81:23;82:1	erosion (1) 46:14	exist (1) 101:7	facts (3) 57:7,13;72:7	finally (1) 52:12
EMFs (2) 64:19;79:6	especially (2) 55:6;93:21	existence (1) 43:23	failed (1) 55:15	financial (2) 76:10;104:14
emissions (3) 31:3,18;32:17	essence (1) 99:7	existing (9) 11:22;25:8;26:8; 47:18;48:16;52:5; 54:1;60:13;72:19	fair (4) 81:22,23;82:8;93:3	find (13) 19:13;25:23;34:13; 56:6,7;63:5;65:8; 73:2;75:3;80:16; 82:1;83:13;84:11
emits (1) 32:4	essential (1) 71:24	expect (1) 8:24	fairly (1) 41:12	finding (10) 47:15;48:12;51:7; 59:5;63:4;68:14; 74:12;77:6;82:10; 84:6
emphasis (1) 45:16	establishing (1) 97:7	expected (1) 57:9	fait (1) 84:7	findings (2) 71:14;74:4
employ (1) 37:2	estimate (5) 78:4,10;92:21; 93:16;96:5	expenditures (4) 75:16;89:18;94:11, 13	false (1) 9:15	fine (2) 38:17;90:12
encounter (1) 52:18	estimates (2) 93:22,24	experience (4) 11:6;23:20;96:4; 100:24	far (9) 6:6,7;13:20;14:17; 20:4;53:6;72:2;81:3; 97:19	finger (1) 56:13
end (5) 77:1;79:1;84:12; 87:1;96:8	et (3) 27:9;33:18,18	experienced (3) 51:12,22;54:2	favor (15) 27:17;28:22;34:19; 37:16;40:21;47:22; 48:20;69:13;74:11; 87:3;89:3;94:19; 98:7;102:17;105:9	finished (1) 98:1
endangered (2) 44:12;46:1	evaluating (1) 23:15	expert (2) 36:11;61:10	February (1) 45:20	First (5) 17:11;40:1;49:23; 74:23;76:7
ends (1) 98:12	Evaluation (10) 5:4;9:6;12:13; 78:3;81:6,19;84:10; 97:2,4;99:5	expertise (2) 10:18;36:2	feel (6) 9:14;24:4;26:20; 54:24;79:13;92:24	firsthand (2) 26:9;27:2
energized (1) 51:5	evaluations (1) 23:21	experts (2) 33:20;52:23	feeling (1) 100:21	fish (5) 41:23;42:7,15,16; 45:19
energy (2) 70:2,4	even (5) 17:21;36:12;47:4; 71:7,9	explain (1) 29:12	federal (1) 55:20	five (3) 14:22;16:10;100:6
engineers (1) 64:16	event (1) 99:1	explained (1) 20:9	feels (1) 22:5	five-minute (1) 49:3
England (7) 44:12;45:21;75:14, 21;77:18;84:20; 105:1	Eversource (1) 104:24	explicitly (1) 23:23	feet (3) 10:1;13:18;24:17	flag (1) 84:2
enough (1) 91:17	everybody (1) 66:1	exposure (1) 52:17	felt (1) 23:13	
ensure (1) 45:11	everyday (1) 52:18	expressed (2) 53:14;69:24	fencing (1)	
entire (9)	everyone (1) 28:10	extend (1) 97:18		
	evidence (5)	extensive (1)		

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

flaggers (1) 53:12	33:3;41:6	42:12;43:7;44:11, 14,14	high-level (1) 71:2	20:3,15,21;30:2,9; 37:17;38:13;39:16,
flush (1) 46:15	generated (2) 50:13;66:23	Hampshire (20) 6:14;15:22;23:16; 32:13;40:8;45:19;	highly (1) 21:5	19:40:3;41:2,17; 49:15,23;57:14,20;
focused (1) 59:2	generous (2) 78:1;79:16	75:19;90:1,3,8,9,17; 91:4;92:16,21;93:11, 14,23;94:1,13	high-voltage (1) 11:6	58:14;64:4,10;65:10; 66:3;69:23;70:10;
following (4) 46:17;53:1;70:14; 75:12	gets (1) 101:2	hand-cut (1) 45:14	hike (2) 14:5,7	74:23;75:6;76:14; 77:7;81:2;88:10;
forecast (3) 75:22;84:16,20	given (6) 9:1;26:19;28:1; 53:16;80:22;104:12	handed (1) 55:22	Historic (4) 6:17;29:23;70:18; 104:20	89:23;90:10;92:1; 95:2;102:24;103:24
forecasted (2) 75:16;94:10	gives (1) 13:1	happen (1) 66:2	Historical (1) 6:18	idea (5) 56:24;78:11;95:21, 21;100:24
forgotten (1) 98:21	goes (5) 65:24;76:5,16; 77:16;83:23	happened (1) 84:8	Holder (5) 75:13,21;84:19; 89:14;102:2	identified (2) 44:5;47:4
formulation (1) 93:19	Good (17) 5:2;6:8,10;7:21; 13:1;19:4;21:1;25:2; 37:13;48:7;66:19; 73:17;77:9;82:16; 87:6;95:21;100:23	happens (1) 97:16	Holder's (1) 75:16	identify (2) 42:17;45:6
forth (4) 23:14;24:15;60:15; 73:24	good-faith (2) 85:20,24	happy (1) 17:7	holding (1) 83:12	ill (1) 53:24
forward (7) 19:3,8;24:13;26:5; 78:11;81:7,11	governed (1) 18:8	harmful (1) 53:19	home (2) 13:15,16	images (1) 22:21
found (2) 51:20;104:13	grant (2) 35:10;104:23	hazards (1) 53:20	homes (1) 60:3	imagine (1) 26:21
four (2) 37:23;50:14	granted (2) 18:16;99:13	head (1) 10:9	hook (1) 77:22	immediate (1) 24:20
fourth (1) 97:23	granting (2) 70:11;102:7	HEALTH (23) 3:11;49:2,13,19; 50:2,12;51:19,22; 53:24;54:9,12,22; 55:5,23;56:6;59:19; 62:6;63:2,6;68:16; 70:20;72:12;104:21	hot (1) 77:13	impact (16) 21:12;25:2,4; 26:16;34:14;35:24; 36:4,6,8;39:22;55:5; 62:5;63:6;66:24; 78:19;79:2
fragmentation (1) 42:10	great (8) 8:8,21,22;9:7; 28:14;73:15;77:6; 83:14	hear (3) 13:8;36:6;82:21	housecleaning (1) 74:7	impacted (1) 71:8
FRAME (1) 4:11	greater (1) 75:24	heard (9) 19:2;23:6;26:11, 13,20;27:6;44:1; 46:20;60:1	houses (1) 9:20	impacting (1) 47:3
frequency (2) 85:1;100:11	greatly (1) 77:21	hearing (3) 5:20;17:12;49:9	Howard (2) 10:4;14:16	impacts (23) 21:20;35:5;36:13; 37:4,7,9;43:20,24; 44:18;46:1,24;47:12; 50:12;51:4,19;55:1, 23;60:10;68:11; 69:22,24;70:1;79:8
front (1) 9:11	grid (1) 71:17	heavy (1) 11:8	Huard (52) 5:9,15;7:8,8,14,15, 19,22;10:10,14;11:4, 16,19,24;12:3,7,12, 20;13:1,11,17;14:1,6, 19,22;15:2,12,16; 16:1,10,14,20;17:20; 18:1,15;20:4,16; 21:16;23:11;25:14; 26:10;27:21,22;29:7, 11,17;31:17;33:15; 51:11,21;53:14,23	important (3) 62:13,17;72:3
fundamentally (1) 18:24	ground (1) 46:15	height (3) 51:15;60:2,4	Huard's (2) 24:15;28:17	impression (1) 56:18
Further (10) 3:7,13;4:1,4,7; 21:10;34:2;73:10; 81:20;103:22	group (1) 23:7	heights (1) 65:12	Hudson (2) 15:22;16:2	improved (1) 44:15
furthest (2) 64:15;65:2	growth (6) 70:16,16;71:3,4,21, 22	held (1) 77:1	huge (1) 82:15	improves (1) 72:11
future (3) 83:11;99:3,11	guess (10) 21:8;36:9;44:4; 61:14;63:18;77:9; 82:8;86:1;89:12;90:7	help (9) 24:7;25:11,19; 26:6;39:4,17;72:20; 74:19;84:23	hydrology (2) 36:12,14	inclined (4) 23:9;24:21;65:20; 77:8
G	guidance (4) 53:3;66:18;68:1; 86:1	helpful (7) 18:13,20;21:14; 22:10;25:23;41:15; 85:5	I	include (5) 38:19;39:12;57:18; 58:20;61:1
Game (2) 42:15;45:19	guidelines (3) 59:8;63:22;69:6	Heritage (1) 42:15	I-93 (1) 58:4	included (6) 35:16;38:20;40:10; 43:10;73:24;74:3
gave (2) 10:22;93:13	guys (1) 56:18	high (1) 66:21	IACOPINO (50) 6:2;13:11,20;14:3, 17,21,23;15:6,14,21; 16:6,12,17,23;19:22;	includes (2) 23:14;40:11
General (10) 7:7;31:1,19;38:4; 39:23;40:15;54:10; 66:18;71:5;88:5	H	higher (2) 63:24;65:5		including (4) 42:2;45:12;52:19;
generally (2)	habitat (5)			

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

57:12 incorporate (1) 88:19 incorporated (1) 103:17 incorporates (2) 70:21,23 incorporating (1) 35:8 increase (4) 55:8,60:15,61:9,16 indicate (12) 40:21;47:23;48:20; 54:7;62:9;69:13; 74:13;89:5;94:19; 98:7;102:17;105:10 indicated (8) 20:17;35:7;36:11; 45:4,23;52:23;90:11; 103:16 indicates (2) 54:21;90:5 indicating (12) 28:24;34:21;40:22; 48:21;69:14;74:14; 89:7;91:15;94:20; 98:8;102:18;105:11 indication (1) 31:1 individual (1) 60:18 individuals (1) 24:16 indulge (1) 49:4 industry (3) 70:16;71:4,22 inflow (1) 36:15 inform (4) 24:7;25:11,19;83:2 information (22) 8:23;20:6;22:6; 23:19;26:5,7,9,10,20; 27:11;54:6,17,20; 74:20;83:5,17;85:4; 86:14;87:2,91:18; 92:15;93:5 informed (1) 82:23 inhabiting (1) 44:6 input (3) 30:21,23;31:7 inquired (1) 76:8 insight (1) 16:15 inspections (1) 18:7 installation (2) 53:2;56:15 installed (1)	51:1 instead (1) 68:10 INTEREST (17) 3:17;70:6,9,12,22; 72:8,22;73:3,5,14; 74:11,13;78:18;79:5; 82:10;93:23;104:23 interested (2) 5:20;90:7 interesting (3) 62:15;77:24;78:9 interfere (1) 104:17 International (6) 53:3;62:20,21; 63:19,21;69:6 interrupts (1) 15:13 Intervenor (3) 5:8;7:8;18:16 into (15) 14:4,7;23:23; 30:21;31:20;33:6; 35:8;54:15;61:6; 64:11;76:16;78:18; 92:6,13;93:2 introduce (1) 6:5 investigation (1) 23:17 involve (1) 32:4 ISO (12) 77:16;78:5;79:12; 80:9;82:6;83:23; 85:6,9;91:8,12,15; 97:21 ISO-New (2) 75:14,21 ISSUANCE (2) 4:21;102:7 ISSUE (18) 3:4,11,17,21;4:11, 15,19;18:7;19:9; 31:16;34:4;35:17; 51:22;63:23;77:9; 81:3;98:21;103:6 issued (2) 37:23;40:11 issues (15) 9:7;21:16,18;27:6; 30:1;32:20,22,23; 33:14;35:2,6;54:13; 79:12;94:24;97:8 issuing (1) 102:11 item (1) 13:21 items (5) 5:24;7:10;70:14; 102:22;104:7 IV (1)	30:11 J Jeff (1) 6:10 Johnson (3) 51:14;52:1;55:7 Joint (1) 7:4 July (2) 88:8,16 June (2) 29:19;103:8 jurisdiction (6) 78:3,7,15;80:11, 12;85:10 K Kate (2) 6:19;105:15 keep (3) 66:9;100:2,8 kept (1) 77:5 kicked (1) 100:13 Kienia (3) 14:10;15:24;16:19 kind (7) 44:14;61:3;74:19; 95:24;99:18;100:3, 10 kinds (2) 54:12;62:16 Knepper's (1) 66:4 known (1) 46:6 L lack (2) 33:17,18 lacking (3) 54:6,20,23 laid (1) 95:9 landowners (2) 24:11,11 landscape (1) 24:1 Lane (4) 12:22;13:24;16:11, 19 language (10) 39:8;75:8,13;76:1; 82:24;84:16;85:15; 86:21;88:18;91:21 large (1) 57:10 larger (1)	33:2 last (11) 7:23;9:21,23; 13:18;16:7;29:21; 81:24;91:7,12,15; 103:8 last-minute (1) 73:22 late (4) 5:16;18:22;21:6; 25:10 late-filed (1) 5:7 later (1) 91:21 lead (1) 84:17 least (2) 32:22;100:8 leave (2) 9:21;86:1 leaving (1) 46:15 left (3) 6:7;54:8;75:1 legal (2) 64:12;81:17 Lenny (5) 12:22;13:24;14:13; 16:11,18 Lenny/Breakneck/Kienia (1) 14:14 less (6) 20:14;44:19;45:3; 60:4;63:19;83:8 lesser (1) 22:1 letter (7) 35:15;45:20;75:1; 88:8,16;90:5,12 level (5) 24:4;51:17;55:11; 67:1;80:2 levels (5) 52:18;57:9;67:20, 20;69:9 lighter (1) 9:3 light's (1) 7:15 likely (3) 33:2;51:23;66:21 limits (2) 85:6,7 line (22) 11:13;30:1;47:18; 48:3,5,15;53:2; 60:11;65:6;76:22; 77:15;86:11;87:10; 90:16;94:8,14;95:12; 96:11,24;97:19; 99:23;104:16 lines (25)	11:7;26:8,18;50:7, 9;51:1,13,15;52:3,5, 19;53:14;54:1,2,5,7, 21;60:13;61:6;64:13, 14;65:1,2;92:6,13 list (1) 71:12 listed (1) 68:18 literature (2) 10:15;54:14 little (4) 7:18;41:16;74:3; 85:22 live (2) 9:19;86:18 living (1) 24:1 load (6) 66:11,14,15,23; 67:21;68:22 located (1) 95:15 location (4) 22:20;70:15;71:3, 21 locations (4) 20:7;21:22;27:15; 55:10 Londonderry (4) 58:4,6,6;75:19 long (3) 20:7;21:7;63:18 look (20) 9:6;10:5,7;11:4,7; 14:11,24;15:10; 23:18,19;25:6,7;33:3, 8;58:10;59:22;60:14; 76:20;83:11;103:15 looked (1) 20:19 looking (12) 8:10,13;9:3;15:6,7, 9;17:16;56:4;58:9; 65:10;77:5;93:20 looks (1) 8:16 loop (1) 103:13 loose (1) 98:12 lost (4) 7:23;8:5;19:10,16 lot (5) 26:11;57:6;70:21, 23;71:20 lots (1) 10:22 low (2) 78:16;80:10 low-balled (2) 77:20;78:20 lower (3)
--	--	--	--	---

**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

55:10;63:22;69:9 lowers (1) 24:19 low-frequency (1) 52:16 lung (1) 33:6	may (17) 7:2,17;18:10;29:7; 9:39:5;44:15;51:21; 55:16;59:8;64:16; 83:10;84:17;90:23; 93:3;95:18;101:2 maybe (21) 16:4;17:19;56:13; 57:11;65:6;66:14; 67:9;71:11;78:7; 80:22;83:8;84:8; 85:21,22;87:7;91:22; 93:7;99:19;101:3,4; 103:6 McLane (1) 7:4 mean (14) 28:1;34:8;56:17; 62:3;66:13,14;80:3; 86:13,18;87:19; 90:10;92:20;93:1; 97:20 means (1) 56:18 meant (1) 68:12 measurable (1) 33:24 measure (4) 63:7,13,16;79:6 measurement (3) 9:23;62:13;65:7 measurements (11) 56:14;63:11,17; 64:6,22,24;66:12; 67:17;68:18,22;69:3 measures (10) 42:21;43:3,3,4,8,9; 50:3,15,18,18 meet (4) 73:14;93:6;97:6,16 meeting (1) 103:8 member (3) 6:9,24;85:2 members (16) 6:5;17:8;28:24; 32:7;34:21;36:17; 40:22;48:21;69:14; 74:14;76:19;89:7; 94:20;98:8;102:18; 105:11 memorializes (1) 95:17 mention (1) 14:23 mentioned (6) 13:18;31:16,17; 33:16;47:6;69:7 Merrimack (6) 5:5;73:2;75:17; 89:19;94:11;105:2 mic (1)	7:14 Michelle (1) 6:13 Middleton (1) 7:4 midst (1) 30:10 might (19) 31:17;39:4;41:15; 43:24;48:4;52:11; 57:1;59:4;61:8,8,9, 18;65:21;67:12; 73:11;74:24;84:11; 85:5;87:9 migration (2) 42:3,12 migratory (2) 41:23;42:6 Mike (2) 31:15;80:24 miles (1) 14:18 mind (10) 15:5;17:11;22:4; 24:18;26:15,22; 41:16;45:15;66:9; 68:6 minimize (8) 32:16;42:22;43:5; 45:9,24;46:14;50:4, 16 minimized (1) 37:4 minimizing (1) 31:3 minor (1) 95:15 minutes (4) 14:22;16:11;49:5,6 misspoke (1) 79:24 misunderstanding (2) 84:8,14 mitigate (8) 42:22;43:5;45:9, 24;50:5,16;52:2;64:2 mitigation (3) 46:21,22;69:8 model (5) 61:15;62:1,2; 63:12,14 modeled (6) 52:8,24;53:7;55:7; 62:10;69:5 modeling (6) 56:15;59:17;61:5; 62:15;65:4;66:9 models (1) 62:7 modifying (1) 85:15 moment (1) 51:22	monitor (2) 58:2,8 monitoring (5) 43:11;56:8,8; 60:21;105:5 monitors (2) 37:2;46:12 Monroe (3) 7:24;8:6;76:20 more (19) 12:10;25:20;27:10; 35:11;54:17;59:2; 60:6;62:13,17;71:5; 78:5;79:19;80:22; 86:8;92:24;96:4,18; 100:24;102:24 morning (6) 5:3,6;6:8,10;21:1; 74:2 most (6) 45:1;53:21;55:10; 66:7,20;95:7 mostly (1) 55:12 MOTION (71) 3:1,5,8,12,14,18, 22;4:2,5,8,12,16,22; 5:7,11;8:7,7,16;9:11; 13:9,12,13,21;18:10; 19:18;20:1;21:3; 28:2,7,8,12,17;29:4, 22,24;34:8,20;37:6, 14,16,19;38:7,19,23; 39:4,5,10;40:5; 47:11;48:2;61:1; 63:2;64:11;67:15,23; 69:18;87:19;88:4,7; 90:15;92:12;94:4; 96:15,22;97:10;98:6; 101:16;102:24; 103:2;104:9;105:10 Movant (2) 5:14;17:1 move (16) 19:3;28:17;34:13; 37:8;39:9;47:14; 63:3;68:14;70:5; 73:1;88:12,13,20; 89:13;101:20;104:23 moved (1) 89:5 moving (1) 19:7 much (5) 9:9;65:5;77:5; 83:22;93:2 must (9) 30:13;41:11,19; 49:16,24;50:7;95:6; 96:1;104:3 MVRP (3) 9:21;12:4;75:24 myself (1)	93:19 <hr/> N <hr/> named (1) 8:20 National (1) 51:16 NATURAL (20) 3:4;41:5,8,9,24; 42:1,8,8,15,19,20,24; 43:1;44:19;45:17; 47:12,16;48:13; 70:19;104:21 nature (2) 42:5,9 nay (1) 28:6 near (4) 9:22;15:23;45:13; 51:13 necessarily (3) 21:9;61:17;103:5 necessary (3) 22:7;56:17;99:16 necessity (1) 24:8 need (25) 5:24;7:10,17;9:18; 10:5,6;23:13,17,22; 63:12;66:9;70:8; 74:9;87:17,18;88:11; 91:4;93:4,5;94:24; 99:10;100:15; 101:17,23;103:21 needed (4) 19:3;47:5;74:21; 103:11 Needleman (15) 7:3,3;17:7;19:22; 20:2,10,18;65:14,17; 66:6;84:24;85:3; 90:23;91:2;92:20 needs (7) 19:3;38:22;60:20; 71:18;77:15;103:1,3 neglected (1) 102:22 negligent (1) 8:14 neighbor (1) 9:22 neighborhood (2) 22:18;24:20 nesting (3) 46:5,6,7 net (1) 60:15 New (29) 6:14;15:22;18:2; 19:15;23:16;32:13; 40:8;44:12,17;45:18, 21;48:15;75:19;
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SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

77:18;84:19;90:1,3,8, 9,17;91:4;92:16,21; 93:11,14,23;94:1,13; 105:1 next (7) 13:21;17:5;41:2; 49:1;95:23;100:5,6 noise (2) 55:8,12 non-duplicative (2) 17:23;18:2 Non-ionizing (2) 62:22;63:20 note (5) 32:24;36:10;45:18; 46:10;52:23 noted (3) 9:2;10:3;29:17 notes (3) 56:4,21;58:10 notice (3) 82:19;83:10;84:10 noticeable (1) 55:13 notify (5) 75:15;89:17;97:7; 100:16;101:24 November (2) 18:16,17 number (9) 41:11;52:10;68:18; 73:12;74:8;83:8,17, 19;96:3 numbered (1) 67:18 numbers (2) 54:11;62:7 Numeral (1) 30:11	occurs (1) 60:11 off (9) 10:9;16:21;22:22; 33:1;61:4;75:1;77:1; 99:19;101:11 offer (1) 28:14 Officer (159) 4:23;5:2,10;6:4,17, 21;7:1,9,13,17,21; 13:7;16:24;17:3; 19:20;20:23;22:11; 23:1,4;24:23;27:18, 24;28:13,19,22;29:1, 3,9,15,18;30:4;31:11; 32:6;33:13;34:1,9,11, 16,19,22,24;35:1,22; 36:9,18;37:5,12,15; 38:12,16,21;40:17, 20,23;41:1,14;43:17, 19;44:8,21;47:1,10, 19,22;48:6,11,19,22, 24;49:11,22;50:21; 52:22;56:1;58:12,15, 22,24;60:8,24;61:22; 62:24;65:16;66:16; 67:22;68:4;69:12,15, 17,20;70:3;71:1; 72:9,13,23;73:6,9; 74:5,15,17;75:4; 76:12,17;77:4,10; 78:13;79:23;80:15; 81:21;83:20;84:15; 85:14;86:3;87:4,14; 88:6,22;89:2,8,10,20; 90:4,18,21;91:1,10, 19;92:17,23;93:18; 94:15,18,21,23; 95:20;96:13,21;97:9, 12;98:2,5,9,11,20; 100:9,20;101:9,14, 19;102:13,16,19,21; 103:14;104:6,10; 105:7,12,14 officially (1) 25:17 offset (1) 52:4 often (1) 100:7 once (7) 12:4;38:7;48:15; 51:1;92:6;95:11; 96:24 one (43) 8:23;9:7;10:21,21, 23;13:17;14:3,9,10, 19;16:7;18:13;24:16; 27:22;28:14;29:7; 31:9;35:10;38:8,13; 40:1,10;44:3;49:3; 50:8;57:23;60:19;	62:17;65:1,2;67:10, 17;72:16;73:21; 81:23;85:4;86:22; 87:22;88:11,24; 102:24;103:2,13 ones (1) 95:7 online (1) 22:22 only (13) 10:1;11:21;18:22; 24:5;30:23;59:21; 60:21;64:4;69:24; 70:1;86:8;90:7,16 on-site (1) 23:13 open (2) 18:21;104:7 open-ended (1) 95:22 operate (1) 104:15 operation (13) 35:4;48:5,15;50:2, 24;51:10;55:2,24; 92:5;95:12;97:1; 102:9;105:2 operational (1) 94:8 opinion (3) 8:11;51:24;81:17 opportunity (2) 28:2;84:5 oppose (1) 19:18 opposed (13) 29:1;34:22;40:23; 48:22;69:15;74:15; 84:6,11;89:8;94:21; 98:9;102:19;105:12 ORDER (10) 4:19;5:13;52:2; 57:13;64:13;71:18; 96:18;102:7;103:7; 104:1 ordering (1) 104:2 orderly (1) 104:17 orders (1) 104:3 organic (1) 33:5 original (2) 39:10;93:22 others (2) 45:5;54:11 otherwise (2) 44:20;91:8 ought (1) 82:13 out (21) 8:10,15;9:15,19;	12:9;14:4;19:13; 26:21;27:15;30:22; 45:12;61:12;65:24; 77:16;83:13;84:6,12; 85:20;93:4,12;95:9 outflow (1) 36:15 outlined (2) 46:18;57:4 outside (1) 90:2 over (7) 6:6;10:4;14:10; 70:24;83:8;85:10; 86:7 overall (3) 70:16;71:4,22 overrule (1) 28:4 overrun (5) 76:9;82:19,20; 86:16;87:8 overruns (7) 73:24;75:8;81:9; 82:15;84:3;85:12; 87:1 oversight (2) 38:11;85:13 own (3) 5:11;20:1;29:13 owners (1) 27:1 oxygen (1) 33:18	17:19;18:10;99:15 passed (2) 22:14;82:7 past (2) 24:2;95:3 Patricia (1) 6:9 pay (1) 77:22 peak (5) 66:11,14,15;67:20; 68:22 Peggy (1) 7:8 people (7) 24:1;31:14;35:10; 41:16;96:3;99:24; 104:7 perceived (1) 60:17 percent (12) 76:1;77:24;78:5; 80:8;82:19,20;86:7,9, 11,13,18;93:17 percentage (2) 85:8;87:7 perception (1) 24:19 perform (2) 55:19;66:15 perhaps (8) 21:17;33:1;56:7; 66:17;70:7;84:12,18, 22 period (3) 21:7;73:5;95:9 periodic (2) 99:10;100:3 permit (15) 31:2,20;32:12; 38:1,1,2,3;39:1,12, 20,20,22;40:12,13,14 permits (14) 35:6,8;37:1,23; 38:9;46:19;57:22; 58:3,3,5,15,16,17; 59:3 permitting (1) 55:20 perspective (1) 33:8 persuading (1) 87:10 persuasive (2) 36:7;54:6 pertain (1) 90:16 pervasive (1) 54:19 phase (4) 37:3;45:11;50:24; 51:4 PhDs (1)
O			P	
objected (1) 5:9 objection (2) 24:18;53:22 objections (2) 24:10,13 obligations (3) 100:17;102:1,2 observation (1) 54:8 observations (2) 15:3;33:14 observe (2) 24:10;35:23 observers (1) 45:10 Obviously (2) 24:6;66:13 occur (4) 20:8;23:15;25:3; 38:5			package (1) 46:22 Page (8) 58:12;66:1;67:11; 76:12,14,21,22;96:11 paperwork (1) 8:1 parallel (1) 81:22 parameters (1) 57:4 part (8) 10:23;14:1;16:15; 48:1;78:23;79:5,11; 96:1 participation (1) 28:4 particles (1) 33:4 particular (2) 35:20;53:22 particularly (1) 60:3 parties (1) 93:4 party (3)	

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

<p>27:7</p> <p>physical (1) 8:13</p> <p>physically (3) 8:15;10:5,7</p> <p>pick (1) 74:24</p> <p>picking (1) 59:12</p> <p>picture (3) 11:11;12:11;13:2</p> <p>pictures (1) 9:16</p> <p>piece (4) 46:3;71:10;93:23; 94:1</p> <p>pieces (1) 33:2</p> <p>place (5) 9:21;15:11,15; 46:16;100:19</p> <p>placed (3) 16:2,3;52:3</p> <p>places (3) 20:4,7,16</p> <p>plan (13) 46:21;66:18;67:16; 69:8;95:13;97:1,3; 99:4,14,15;100:18; 101:3;102:3</p> <p>planned (4) 42:21;43:5;50:4,15</p> <p>Planning (2) 75:22;84:20</p> <p>plans (5) 45:7,12;96:22; 101:1;102:4</p> <p>plants (8) 41:8,24;42:7,19, 24;47:4,6,8</p> <p>please (3) 6:6;39:18;49:22</p> <p>pm (1) 105:18</p> <p>point (24) 8:17;12:16;18:5, 17,19,23;19:11,18; 23:10;27:14,23; 30:12,22;32:8;33:12; 37:18;48:7;56:12; 63:1,14;85:4,21; 87:7;93:1</p> <p>pointed (1) 9:15</p> <p>points (3) 9:10,12;17:10</p> <p>pole (5) 9:22,23;13:4,14,19</p> <p>poles (15) 8:21;10:12;11:2, 20;15:20;16:4;21:19; 26:12,16;27:7;31:19; 32:21,24;50:10;</p>	<p>59:24</p> <p>pollutants (2) 32:5;33:7</p> <p>Pond (3) 13:23;16:16;75:20</p> <p>population (3) 70:15;71:3,23</p> <p>populations (1) 42:4</p> <p>portion (8) 37:20;90:2,16; 92:16,21;93:12,14; 94:13</p> <p>portions (1) 22:14</p> <p>position (1) 21:3</p> <p>positions (1) 52:4</p> <p>positive (1) 30:11</p> <p>possible (3) 5:11;91:3,6</p> <p>possibly (1) 8:9</p> <p>post-construction (2) 36:16;43:11</p> <p>potential (12) 42:5,10,22,23;43:6, 12,20;49:24;50:5,12, 16;52:2</p> <p>power (4) 51:13;80:16,17; 105:1</p> <p>practical (3) 43:3,9;50:18</p> <p>practice (1) 60:22</p> <p>Practices (3) 32:19;46:18;59:5</p> <p>predicted (4) 43:14;53:8;62:2; 63:12</p> <p>predictions (1) 52:8</p> <p>predicts (1) 63:14</p> <p>preference (1) 17:6</p> <p>prefiled (1) 52:13</p> <p>preparations (1) 19:8</p> <p>prepared (2) 62:4;81:17</p> <p>presentation (1) 78:24</p> <p>presented (1) 26:10</p> <p>Preservation (1) 6:17</p> <p>Presiding (158) 4:23;5:2,10;6:4,21;</p>	<p>7:1,9,13,17,21;13:7; 16:24;17:3;19:20; 20:23;22:11;23:1,4; 24:23;27:18,24; 28:13,19,22;29:1,3,9, 15,18;30:4;31:11; 32:6;33:13;34:1,9,11, 16,19,22,24;35:1,22; 36:9,18;37:5,12,15; 38:12,16,21;40:17, 20,23;41:1,14;43:17, 19;44:8,21;47:1,10, 19,22;48:6,11,19,22, 24;49:11,22;50:21; 52:22;56:1;58:12,15, 22,24;60:8,24;61:22; 62:24;65:16;66:16; 67:22;68:4;69:12,15, 17,20;70:3;71:1; 72:9,13,23;73:6,9; 74:5,15,17;75:4; 76:12,17;77:4,10; 78:13;79:23;80:15; 81:21;83:20;84:15; 85:14;86:3;87:4,14; 88:6,22;89:2,8,10,20; 90:4,18,21;91:1,10, 19;92:17,23;93:18; 94:15,18,21,23; 95:20;96:13,21;97:9, 12;98:2,5,9,11,20; 100:9,20;101:9,14, 19;102:13,16,19,21; 103:14;104:6,10; 105:7,12,14</p> <p>pretty (3) 9:9;61:5;79:13</p> <p>prevalence (1) 42:3</p> <p>previous (1) 52:14</p> <p>previously (1) 38:5</p> <p>price (1) 82:15</p> <p>primary (1) 21:15</p> <p>prior (4) 37:20;63:8;65:23; 103:24</p> <p>private (5) 21:21;24:11;70:15; 71:9;72:17</p> <p>probably (14) 14:6;20:13;60:6; 64:10;66:7;79:2; 80:2;81:24;82:3; 83:23;86:18;96:9; 97:17;101:5</p> <p>problem (4) 54:9,16,19;60:17</p> <p>problems (2) 82:1;91:22</p>	<p>procedural (1) 5:24</p> <p>proceedings (5) 8:4;9:16;10:3; 19:12,15</p> <p>proceeds (1) 84:22</p> <p>process (9) 27:3,13;31:22; 32:18;52:21;82:14; 84:3,6;91:14</p> <p>procurement (2) 80:1,1</p> <p>produce (1) 55:13</p> <p>profession (2) 23:12,14</p> <p>programmatic (4) 31:1;38:4;39:23; 40:15</p> <p>PROJECT (75) 3:21;5:5,11:17; 19:1,2,9;21:11; 22:16;26:3,23;30:14, 17;31:4,20;32:2; 35:4,10,12,21;37:7,9; 39:10;40:6;41:4,7; 44:16,24;45:22; 49:14;50:2;53:8,22; 55:1;57:3;59:16; 61:19;70:9;71:16; 72:18;73:3,13;74:12; 75:18;77:21;78:18, 19;79:4,8;80:18; 82:4,19;83:1,22;85:7, 8,11;89:17,19;90:2; 92:16;93:9,10,15,21; 94:12;97:21;99:10; 100:15;101:23; 102:9;103:9;104:16, 18,22;105:3</p> <p>projected (8) 65:5;75:23;80:8, 14,19;83:18;93:9; 96:8</p> <p>projections (1) 78:12</p> <p>projects (3) 23:15;81:12;82:12</p> <p>Project's (2) 41:7;96:17</p> <p>prominent (1) 53:22</p> <p>promptly (2) 100:16;101:24</p> <p>properly (2) 9:4;74:3</p> <p>properties (6) 21:21;26:8,12,14, 17;29:23</p> <p>property (8) 24:15;25:24;26:13; 27:1;50:9;70:15;</p>	<p>71:10;72:18</p> <p>proportion (1) 93:13</p> <p>proposal (3) 65:22;82:18; 100:12</p> <p>propose (2) 28:5;34:3</p> <p>proposed (10) 25:24;26:18;30:17; 41:4;50:14;61:13; 82:18;85:16;103:2; 104:15</p> <p>proposing (2) 61:7;82:9</p> <p>protect (2) 45:16;83:14</p> <p>Protection (2) 62:22;63:20</p> <p>protocols (1) 45:21</p> <p>provide (10) 44:11;52:15;63:9; 69:7;71:18;93:8; 94:9;95:13;99:9,14</p> <p>provided (2) 39:12;40:7</p> <p>provision (1) 30:7</p> <p>proximity (3) 26:15,16;50:8</p> <p>prudence (1) 85:10</p> <p>PUBLIC (68) 3:11,17;5:21;6:9, 19,22,24;7:7;17:5; 18:10;20:24;21:2; 23:12;31:24;49:2,13, 19;50:2,9,12;53:20; 54:10,24;55:4,23; 56:6;57:1,8;59:19; 63:2,6;65:19;67:4; 68:16,20;70:6,9,12, 20,22;72:8,12,21; 73:3,4,14,17,23; 74:11,12;75:2,10; 76:2;77:3;78:17; 79:5;82:10;83:21; 84:4;85:19;86:2; 87:20;88:15;89:4; 104:1,4,21,23</p> <p>public's (4) 62:6;65:11;86:21; 98:23</p> <p>PUC (9) 4:19;65:23,23; 66:4,18;83:24;84:10; 103:7,17</p> <p>purpose (2) 17:22;84:9</p> <p>purposes (4) 20:20;39:4;83:5; 86:14</p>
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**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

pursuant (3) 17:13;19:23;41:17	rather (3) 45:14;56:21;91:22	recommends (1) 59:6	relative (3) 20:7;56:5,7	70:2;85:9;95:10;99:2
put (12) 26:4;46:22;56:12; 57:19;73:12,19; 75:12;83:9;92:6,13; 95:5;99:18	ratio (1) 93:13	reconsideration (1) 25:16	relevant (3) 17:23;57:9;93:21	requirement (10) 41:3,19;65:21; 67:24;81:5;87:3; 93:6;99:14;101:6; 104:5
puts (1) 29:24	re (2) 4:1,19	reconvene (1) 49:12	Reliability (11) 5:5;19:1;21:11; 44:16;71:16;73:3; 75:17;89:19;94:12; 97:21;105:3	requirements (4) 40:14,16;55:21; 69:2
putting (2) 57:20;79:14	read (5) 10:16,20;29:21; 30:6;40:5	record (10) 17:13,15,22;18:21; 22:6,22;62:3;92:15; 93:14,24	reliable (3) 71:19,20;72:11	requires (1) 17:18
Q	ready (3) 23:5;37:6;74:10	recover (2) 78:6;80:9	reliably (1) 43:13	requiring (3) 32:12;81:4;100:3
quality (29) 30:3,3,6,15,23; 31:6;32:1,7,23;33:8, 11,16,24;34:4,5,8,15; 35:2,12;36:20;37:7, 10;38:2;39:12,21; 40:7,13;70:19; 104:20	real (2) 26:16;78:22	recovery (1) 82:5	relocate (1) 47:4	research (2) 52:15;81:20
quantify (1) 63:15	realistic (1) 95:24	reduce (1) 69:8	rely (1) 36:2	resident (2) 41:23;42:6
quarter (1) 97:24	realize (1) 72:4	reduced (1) 52:7	remember (4) 44:9;56:22;65:7; 90:1	Resources (8) 6:12,18;21:22; 22:2;32:12;42:12; 43:7;70:19
Quarterly (2) 85:2,3	realized (1) 8:2	refer (2) 39:8;84:16	remembered (1) 56:9	respect (12) 18:6;20:6;31:3,5; 32:14,20;40:11; 49:17;50:6;52:8; 63:18;81:12
quiet (1) 81:1	really (17) 9:18;19:4;21:17; 53:17;54:18;61:19; 63:15;64:12;71:24; 72:2;73:13;77:23; 80:20;81:16;91:18; 93:12;95:24	reference (3) 15:23;23:11;88:8	reopened (1) 5:3;17:15,17,22	respirable (2) 33:3,4
quite (6) 12:18;14:12;18:15; 24:2;25:16;50:22	reasonable (3) 60:22;64:23;100:7	referred (1) 62:23	repeat (1) 101:18	respond (3) 5:19;29:16;91:18
R	reasons (3) 19:17;24:21;62:16	referring (2) 29:19;67:12	repeating (1) 68:7	response (1) 85:20
racer (2) 44:3;45:22	recall (9) 10:8;24:17;44:2; 45:13;46:4;59:23; 71:6;77:3;96:8	reflection (1) 73:20	report (10) 75:8;76:9;81:5; 86:23;92:4,5,10; 99:10;100:13;101:22	response] (17) 7:12;13:10;17:2; 23:3;29:2;34:23; 40:24;47:9;48:23; 69:16;74:16;89:9; 94:22;98:4,10; 102:20;105:13
Rachel (1) 6:23	recalled (1) 56:10	regard (7) 5:21;34:3;36:19; 37:6;49:14;53:10; 69:21	reported (1) 54:12	responsible (1) 53:5
radar (2) 100:2,8	recalling (1) 98:24	regarding (4) 70:22;88:18;98:16; 100:14	Reporter (1) 15:13	rest (1) 71:12
Radiation (2) 62:22;63:20	receive (2) 82:18;97:24	region (2) 71:19;104:18	REPORTING (5) 3:21;43:11;53:23; 83:23;100:10	result (5) 21:9;32:17;47:17; 59:19;61:18
Rail (1) 58:4	received (4) 75:2;86:2;103:7,17	regional (3) 71:17;75:22;84:20	reports (2) 46:13;97:8	resulting (2) 33:18;62:17
railroad (1) 58:17	receiving (1) 17:23	registered (1) 24:18	represent (3) 43:3,8;50:18	results (12) 52:24;62:9;63:10, 11,18,19,22,24;65:4; 69:3,4;79:9
raise (3) 15:4;97:8;103:6	recent (1) 52:13	regularly (1) 84:21	representing (1) 7:4	resumed (1) 49:9
raised (2) 21:16;25:14	recess (2) 49:6,8	regulated (1) 32:5	request (15) 5:8,22;9:5;10:24; 17:18;18:11,22; 23:10;24:22;25:10, 16;26:3;28:18;59:14; 89:23	retain (1) 55:18
raising (1) 84:2	recognize (1) 19:23	Regulation (1) 17:14	requested (4) 18:18;21:8,23; 22:20	retains (1) 85:10
range (4) 64:18;79:15,16; 80:19	recognized (2) 38:3;84:4	regulations (4) 17:15;18:8,9;32:15	requesting (1) 12:14	rethink (1) 87:9
rare (14) 41:8,8,24,24;42:7, 7,18,19,24,24;44:5; 46:1;47:8,8	recollection (1) 56:23	regulatory (3) 77:13;82:2;85:13	require (5) 58:9;62:8;70:13; 93:8;101:21	retired (1) 100:5
ratepayers (3) 77:22;82:7;83:14	recommendation (9) 61:20;75:7,11; 77:2;88:18;98:16,23, 24;99:8	reiterate (2) 9:12;35:18	required (7) 30:19;55:19;65:22;	retirement (2)
	recommendations (6) 35:15,21;39:13; 40:8;42:14;56:5	relate (1) 21:20		
	recommended (1) 76:2	related (3) 31:21;35:6;72:7		
		relation (1) 16:8		

SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP

100:16;102:1 review (7) 35:20;41:15;70:7; 76:19;85:9,10;99:5 reviewed (1) 33:10 reviewing (2) 36:17;43:18 Richard (1) 6:16 right (39) 6:4,7;7:13;10:21; 11:5,21;13:16;17:3; 20:23;23:4;28:4,16; 29:3,14;33:12;34:24; 37:15;48:24;49:11; 57:5;61:22,23;69:12; 73:9;74:11,17;75:4; 77:14;79:24;88:12; 22;89:10;90:6;94:23; 98:5,11;101:14; 102:21;105:9 right-of-way (26) 12:19,20;13:22; 14:5,7;16:21;24:12; 25:5,9;27:14;37:10; 43:23;44:6,18;45:1; 47:18;48:16;51:15; 52:6;53:1;59:16; 64:8,21,23;67:19; 72:19 right-of-ways (1) 25:7 risk (1) 50:10 road (9) 9:22;12:15;13:24; 14:9;15:22;16:7,8; 53:10;65:17 roads (2) 50:9;53:13 roadway (1) 57:17 Roberge (26) 3:1,19;4:6,9;6:13; 13;32:9;34:18;35:13; 37:8;38:18;39:6,18; 40:1,4;56:3,20;61:3; 67:6,11;72:6;73:8; 76:23;90:20;94:17; 97:14 Robinson (4) 13:23;16:7,8,16 roll (1) 6:3 Roman (1) 30:10 roots (1) 46:16 Rose (7) 3:2;6:10,11;37:14; 40:19;46:10;56:23 Ross (158)	4:23;5:2;6:4,21,21; 7:1,9,13,17,21;13:7; 16:24;17:3;19:20; 20:23;22:11;23:1,4; 24:23;27:18,24; 28:13,19,22;29:1,3,9, 15,18;30:4;31:11; 32:6;33:13;34:1,9,11, 16,19,22,24;35:1,22; 36:9,18;37:5,12,15; 38:12,16,21;40:17; 20,23;41:1,14;43:17, 19;44:8,21;47:1,10, 19,22;48:6,11,19,22, 24;49:11,22;50:21; 52:22;56:1;58:12,15, 22,24;60:8,24;61:22; 62:24;65:16;66:16; 67:22;68:4;69:12,15, 17,20;70:3;71:1; 72:9,13,23;73:6,9; 74:5,15,17;75:4; 76:12,17;77:4,10; 78:13;79:23;80:15; 81:21;83:20;84:15; 85:14;86:3;87:4,14; 88:6,22;89:2,8,10,20; 90:4,18,21;91:1,10, 19;92:17,23;93:18; 94:15,18,21,23; 95:20;96:13,21;97:9, 12;98:2,5,9,11,20; 100:9,20;101:9,14, 19;102:13,16,19,21; 103:14;104:6,10; 105:7,12,14 roughly (1) 25:22 rounding (1) 7:24 Route (5) 14:24;15:1,10; 58:3,5 routine (1) 13:4 routinely (1) 23:18 ROW (2) 12:17,18 RSA (1) 30:10 RSP (1) 75:22 rule (5) 19:23;41:17;49:15; 70:21,22 rules (7) 22:2;50:19;70:13; 100:19;101:2,6; 102:4 runoff (1) 35:3 rust (3)	9:3;11:8;33:1 S safely (1) 55:22 SAFETY (29) 3:11;49:2,14,19; 50:3,12;51:17;53:4, 10,20;54:9,12;55:5, 24;57:4;62:6,14,21; 63:6,22;66:4;67:3, 16;68:16,21;69:1; 70:20;72:12;104:22 same (4) 22:7;66:1;91:17; 101:3 satisfies (1) 104:4 satisfy (1) 15:19 saying (14) 9:4;14:24;40:21; 47:23;48:20;61:16; 69:13;74:13;89:6; 94:19;98:7;101:12; 102:17;105:10 scenic (2) 21:22;22:2 schedule (2) 19:11,14 scientific (2) 10:11,15 scientists (1) 52:10 Scobie (1) 75:20 screen (1) 100:8 scrubby (1) 44:13 SEC (6) 94:10;100:14,19; 101:22,24;102:3 Second (48) 3:2,6,9,15,19,23; 4:3,6,9,13,17,23; 18:6;24:9;28:20,21; 34:17,18;37:13,14; 40:18,19;47:20,21; 48:17,18;50:3;68:5; 69:11;73:7,8;86:22; 87:18;88:1,24;89:1, 21,22;90:19,20; 94:16,17;97:10,11; 98:6;102:14,15; 105:7 Section (9) 19:23;30:8;38:5; 39:23;59:4;63:2; 65:4;67:8;68:18 sections (1) 67:18	seeing (5) 26:21;27:1,9,15; 54:18 seems (5) 33:20;64:23;77:10; 93:12;95:24 selected (1) 27:15 self-weathering (9) 8:21;11:20;13:4; 15:20;16:4;21:19; 27:7;31:18;32:24 sending (1) 45:15 sensations (1) 51:12 sensitivity (3) 24:19,20;96:2 sent (1) 11:12 separate (2) 88:24;95:18 separately (2) 31:13;79:11 series (1) 82:11 Seriously (1) 68:8 Service (8) 42:16;71:19,20,24, 24;72:11;96:11; 99:23 Services (9) 6:15;30:20,24; 32:14;37:24;38:11; 39:14;40:9;80:2 Services' (1) 36:2 set (4) 53:6;62:19;86:11, 12 setting (1) 53:5 seven (2) 41:19;43:15 several (10) 8:19;9:10,14; 17:10;19:6,10;35:6; 47:6;58:16;72:7 shall (4) 75:13;88:19;89:14; 102:2 shoreland (5) 35:24;38:2;39:15, 21;40:14 shoreland-related (1) 37:1 show (2) 9:17;10:6 showed (1) 12:11 shows (1) 10:16	side (2) 9:24;14:16 sight (1) 26:19 significance (1) 41:22 significant (9) 19:15;31:7;33:21; 42:12,18;43:7;54:11; 62:9;87:1 significantly (1) 53:2 similar (3) 20:12,12;54:12 simply (1) 61:12 single (2) 63:13,14 SITE (47) 4:21;5:4,8;8:3,11, 13,16;9:6;12:13; 14:4;15:9;18:7,11, 18;19:11,24;20:8; 21:9,16;22:6,9,13,15; 23:10;24:3,5,22; 25:10,19;26:2;27:12; 28:7,8,18;29:4; 41:10;43:15;50:19; 78:2;81:6,18;84:9; 97:2,4;99:4;104:15, 24 sites (7) 9:2,7;16:9;46:6,7; 70:18;104:21 site-specific (1) 61:5 siting (2) 102:8;105:1 situation (1) 26:24 size (1) 42:2 skirt (1) 47:5 slight (1) 21:18 slightly (1) 85:15 small (3) 33:3,5;52:9 sneak (1) 13:3 solely (1) 32:3 somebody (1) 104:11 someone (2) 29:11;63:1 sometimes (1) 73:15 somewhat (3) 5:21;31:13;71:10 sorry (11)
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**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

6:7;16:13;17:17; 27:21;34:12;38:24; 40:2;47:23;57:19; 90:24;103:14 sort (9) 5:15;60:21;64:18; 65:20;71:2,5,8;74:6; 81:7 sound (3) 55:5,11;95:21 sources (1) 22:23 space (1) 13:14 species (13) 41:24;42:7,18,24; 43:24;44:5,13;45:2,6, 8,10;46:2;47:6 specific (7) 22:20;47:6;59:3; 71:7,13;72:14;77:2 specifically (8) 8:20;20:11;21:21; 35:11;50:6;54:22; 71:11;76:22 specifics (1) 75:7 spot (2) 57:19,21 spring (1) 46:9 stage (1) 5:16 stand (2) 12:9,13 standard (1) 61:20 standards (8) 53:6,6,7;57:9; 61:15;62:14,19; 69:10 standing (1) 11:13 start (4) 19:8;51:2;96:5; 97:23 started (2) 80:21;101:11 State (18) 6:17;23:16,20; 33:23;35:14;55:20; 57:22;70:17,17;71:5, 23;89:24;90:2,7,8,17; 103:12;105:6 stated (1) 52:13 statement (1) 98:17 statements (1) 9:14 States (1) 42:16 status (1)	18:16 statute (1) 22:3 statutory (3) 30:7;41:2,18 stay (2) 80:7;81:1 staying (1) 82:10 stem (1) 73:13 still (4) 36:14,15;84:6; 93:21 stipulated (3) 57:7,12;72:7 stipulates (1) 32:2 stipulation (1) 31:24 stop (4) 15:10;33:12;53:15; 81:24 stops (1) 53:19 strikes (2) 60:19;62:12 strong (2) 51:13;53:17 structures (4) 11:23;15:1;50:11; 59:24 studies (1) 52:14 Subcommittee (11) 18:9,12;41:18; 49:24;50:7;54:18; 70:13;73:2;95:4; 98:14,18 subject (4) 68:16,24;88:20; 105:4 submit (4) 65:22;99:4;100:18; 102:3 submittal (1) 73:22 submitted (3) 22:22;23:19;33:10 submitting (1) 66:17 subsequent (1) 35:4 substantive (1) 24:3 Substation (1) 75:20 sufficient (1) 22:5 sufficiently (1) 103:19 suggest (4) 15:17;19:4;65:21;	67:23 suggested (4) 8:6;48:8;57:15; 87:21 suggesting (2) 15:15;86:6 suggestion (9) 15:3;60:17;64:3, 24;66:17;81:14;84:1; 86:20;100:21 summary (3) 67:6,8;71:2 supplement (1) 74:9 supplements (1) 105:4 supply (1) 87:22 support (3) 23:10;24:22;85:18 supporting (2) 50:11;59:24 supports (1) 71:20 suppose (2) 39:2;64:12 supposed (2) 49:1;59:22 sure (18) 17:4,21;27:10; 37:3;38:22;44:23; 58:24;59:17;60:22; 61:14;66:19;74:2; 84:24;91:3,8,19; 96:24;97:5 surrounding (1) 21:19 survey (2) 23:22;46:8 surveys (3) 44:2;45:5;46:5 suspend (1) 19:12 sympathetic (1) 26:24 System (2) 75:22;84:20	84:19 technical (2) 94:9;104:14 temporary (2) 58:5,16 temporary-use (1) 58:17 Ten (1) 102:10 term (1) 94:9 terms (7) 14:18;15:8;32:22; 38:15;79:16;81:11; 91:5 terrain (3) 38:1;39:20;40:12 terrestrial (2) 42:11;43:6 terrific (1) 28:15 test (6) 56:8;60:12;62:1,9; 65:22;66:17 testified (1) 52:1 testimony (23) 17:24;26:11,22; 33:19;36:7;44:2,9; 45:13;46:4,11,21; 50:23;51:11,14,20; 52:7,12,13;53:9; 54:4;56:7;79:7,8 testing (10) 57:2;59:14;60:10, 16;62:8;65:20;66:1, 19;67:1,16 Tewksbury (2) 75:18,19 thinking (3) 67:3,10;87:10 third (1) 99:15 though (6) 9:3;17:20;26:21; 33:20;36:12;71:7 thought (5) 56:8;80:23;84:9; 87:12;100:10 thoughts (6) 72:14,14;85:14; 86:4;87:5;91:2 threat (1) 59:18 threatened (1) 46:1 three (7) 8:19;9:6;10:23; 50:11;96:17;97:15, 16 three-year (1) 95:8 thresholds (1)	62:19 throughout (2) 10:3;71:19 tissues (1) 33:7 today (6) 12:9;19:12;75:2; 80:22;82:9;88:17 together (6) 14:15;31:10;34:6; 46:23;64:14;65:1 told (1) 85:3 took (1) 84:1 top (1) 10:9 topic (1) 77:13 total (2) 83:2;93:20 touched (1) 59:1 tower (1) 60:4 towers (4) 50:10;59:24;60:2; 65:12 TOWN (3) 4:19;58:6;103:10 town's (1) 25:22 track (2) 7:23;8:5 traffic (4) 53:12,19;59:1;68:1 Trail (1) 58:4 transcript (4) 58:11;76:15,21; 103:15 transmission (17) 11:7,13,22;25:5,7, 8;26:18;50:7;52:19; 54:1,1,5,7,21;60:10; 77:15;104:16 transmit (1) 32:3 Transportation (5) 57:16,23;58:1,8; 69:1 travel (1) 8:19 traveling (1) 43:24 traverse (1) 22:15 tree (4) 33:17,21;43:21,21 trees (3) 33:17,22;46:15 Trefry (1) 44:10
		T		
		table (5) 65:8;67:7,7;68:19; 81:16 Tables (2) 67:18;69:5 talk (3) 56:19;77:11;99:17 talked (5) 8:4;57:21;65:18; 99:12;103:12 talking (3) 48:12;76:18;96:7 talks (1)		

**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

Trefry's (1) 45:4 trend (1) 82:12 tried (1) 10:5 trigger (1) 89:15 triggering (1) 91:11 triggers (1) 92:5 troubling (1) 82:13 try (7) 39:7;40:4;46:14; 63:1;75:3;94:3,5 Trying (4) 56:6,22;91:23; 97:14 turn (1) 35:2 turtle (3) 46:4,6,6 two (10) 9:2;14:18;50:10; 55:3;62:19;64:24; 69:10;91:2;95:17; 96:19 two- (1) 95:8 two-part (1) 87:3 types (2) 33:7;81:12 typically (1) 95:10	United (1) 42:16 unlikely (1) 51:19 unnecessary (1) 99:21 unreasonable (23) 29:22;30:14;34:14; 36:4,6,8;37:11; 39:11;40:6;41:4; 42:23;47:16;48:13; 49:18;51:8;55:1,23; 62:5;68:10,13,15; 100:2;104:19 unreasonably (1) 30:17 unusual (3) 5:21;18:23;21:6 up (11) 8:1;11:5;12:22; 18:11;21:13;29:20; 54:14;59:12;67:16; 74:24;82:13 updated (1) 74:20 updates (6) 75:23;84:17,21,21; 85:1;86:24 upgraded (1) 71:18 upon (2) 75:9;83:1 use (8) 23:20;49:3;50:8; 70:19;86:21;92:4,7, 13 used (1) 32:2 useful (1) 5:17 using (2) 32:18;42:4 usually (1) 77:14 Utilities (6) 6:20,22;67:4; 68:20;104:2,4 utility (1) 58:3	58:2 verbal (17) 7:12;13:10;17:2; 23:3;29:2;34:23; 40:24;47:9;48:23; 69:16;74:16;89:9; 94:22;98:4,10; 102:20;105:13 verify (1) 57:3 viability (1) 42:3 view (2) 11:12;24:14 viewed (2) 22:17,19 visible (2) 16:12,17 visit (30) 5:8;8:3;9:19;14:8; 15:10;18:11,18; 19:11,14,24;20:5,8, 13;21:9,16;22:7,9; 23:11;24:4,6,22; 25:11,19,23;26:2; 27:12;28:7,8,18;29:4 visits (1) 23:13 visual (2) 25:2;26:9 volatile (1) 33:5 VOTE (17) 3:3,10,16,20,24; 4:10,14,18,24;27:20; 28:6;37:17;38:7; 74:6,10;87:19;88:23 voted (1) 29:22 votes (1) 74:21 voting (1) 28:7	13:23;16:16 way (9) 12:22;14:13;64:18; 66:19;83:13;84:2,13; 86:24;92:2 ways (2) 33:22;82:13 weather (2) 55:6;66:22 Weathersby (40) 3:15;4:2,5,8,13,16; 6:8,9;25:21;28:11, 16;33:15;36:21; 44:23;46:20;48:1,8; 59:12;62:12;68:6,9; 69:11;82:17;86:20; 87:15;89:11,12;90:6, 15;91:13;92:11;94:5; 97:11;100:12,22; 101:15,17,20;102:10; 103:4 Weathersby's (1) 87:13 week (1) 7:23 weeks (3) 7:23;19:6,10 welcome (1) 23:7 welfare (3) 70:14;71:3,23 wet (1) 55:6 wetland- (1) 36:24 wetlands (10) 35:24;36:8,14,16; 37:24;39:19;40:2,3, 12;45:13 whatnot (1) 95:16 what's (5) 13:2;25:24;26:1; 61:13;85:15 whereas (1) 82:4 Whereupon (2) 49:8;105:17 Whitaker (6) 4:17;6:23,23; 28:21;96:10;102:15 whole (4) 12:17;22:16;77:23; 90:11 wildlife (7) 41:8,24;42:7,16,18, 24;44:18 willing (2) 47:11;85:17 wind (2) 70:2,4 WINDHAM (2) 4:19;103:10	winter (1) 13:5 wise (2) 59:14;101:5 wish (4) 26:2;27:12;60:5; 95:18 within (15) 46:19;57:3;75:14; 80:7,19;82:10;83:12; 89:15,16,24;90:8,16; 91:7;94:7;96:17 without (5) 8:10,12;16:4;24:3; 81:19 wondering (3) 56:3,4,10 worded (1) 82:18 words (1) 92:6 work (10) 13:5;19:8;31:14; 36:14,15;45:23; 55:19;67:15;91:20; 99:22 worked (1) 85:19 working (3) 9:4;30:7;85:22 worry (1) 93:6 worst (1) 27:3 wrapped (1) 29:20 wrap-up (1) 104:12 wrestled (1) 80:21 written (1) 17:18 wrong (2) 10:21;56:9
U		W		Y
ultimate (3) 35:9;39:1;82:22 ultimately (3) 77:22;83:21;84:12 unavoidable (1) 46:23 unaware (1) 54:10 under (12) 17:15,17;18:8; 22:2;32:12;38:4; 41:10;44:1;53:13; 55:4;66:20;83:7 underlying (1) 36:13 understood (2) 45:6;81:4 undertaken (4) 42:21;43:4;50:4,15 unduly (1) 104:17 unfair (1) 18:24	V	wait (1) 53:16 waiting (1) 77:2 waiver (1) 99:13 wants (2) 63:1;97:21 water (19) 30:3,5,15;31:6,7, 12;34:5;35:2,11; 36:19;37:7,10;38:2; 39:11,21;40:7,13; 70:18;104:20 waters (1) 35:5 watershed (2)	whereas (1) 82:4 Whereupon (2) 49:8;105:17 Whitaker (6) 4:17;6:23,23; 28:21;96:10;102:15 whole (4) 12:17;22:16;77:23; 90:11 wildlife (7) 41:8,24;42:7,16,18, 24;44:18 willing (2) 47:11;85:17 wind (2) 70:2,4 WINDHAM (2) 4:19;103:10	yay (2) 28:6,9 year (2) 66:11;97:24 years (15) 25:22;95:24;96:17, 19;97:15,16;99:23; 100:6,6,14;101:1,22; 102:7,8,10 Yup (1) 58:22
				Z
				zoning (1) 25:22

**SITE EVALUATION COMMITTEE DELIBERATIONS DAY 2 - July 11, 2016
SEC 2015-05 MVRP**

	46:9;96:8,12	47 (2) 3:5,6		
1	202.13 (2) 18:8;19:24	48 (4) 3:7,8,9,10		
1 (5) 41:20,22;43:15; 50:20;76:16	202.27 (2) 17:14,18	49 (1) 3:11		
10 (12) 49:5,6;70:14; 86:11,18;95:23; 100:5,14;101:1,22; 102:6,8	202.28 (1) 17:16		5	
10:25 (1) 49:9	22 (1) 76:22		5 (1) 42:20	
10:37 (1) 49:10	22A (1) 75:19			
101 (1) 4:16	23 (3) 32:1;57:7;58:13		6	
102 (2) 4:17,18	24 (3) 13:15;82:20;86:7	6 (1) 43:4		
103 (1) 4:20	24th (1) 103:8	6/24/16 (1) 4:19		
104 (1) 4:22	25 (8) 49:5,7;76:1;77:24; 78:5;80:8;82:19;86:9	63 (1) 3:12		
105 (2) 4:23,24	25-percent (1) 79:15	64 (1) 3:13		
11 (1) 49:7	28 (1) 58:5	69 (3) 3:14,15,16		
111 (1) 58:4	29 (2) 76:12,14		7	
11th (3) 45:20;88:8,16	3	7 (3) 41:21;43:9,16		
12 (3) 67:7,18;68:19	3 (1) 42:9	70 (1) 3:17		
12:02 (1) 105:18	30 (5) 89:16,16;91:7; 94:7;101:1	73 (2) 3:18,19		
125 (1) 13:18	301.14e (2) 41:10;43:15	74 (1) 3:20		
13 (2) 67:18;68:19	301.14f (1) 50:20	75 (1) 3:21		
140 (1) 15:22	31 (2) 76:13,14		8	
14th (1) 29:19	32 (2) 76:16,17	85 (1) 13:14		
15 (2) 25:22;95:24	33 (1) 76:18	88 (2) 3:22,23		
150 (2) 10:1;24:17	35 (2) 76:21,22	89 (4) 3:24;4:1,2,3		
15-minute (1) 16:5	36 (1) 76:21		9	
162-H16 (1) 30:10	4	90 (5) 4:4,5,6,7;67:11		
2	4 (2) 42:13;50:20	93 (3) 14:24;15:1,10		
2 (3) 42:4;55:10;105:17	40 (4) 3:1,2,3;99:23	94 (3) 4:8,9,10		
20 (3) 16:7;58:12;101:1	401 (3) 38:2;39:20;40:13	95 (1) 4:11		
2015-05 (1) 5:5	404 (3) 38:5;39:24;40:16	97 (2) 4:12,13		
2016 (1) 45:20	41 (2) 3:4;96:11	98 (2) 4:14,15		
2017 (3)	45 (2) 75:14;89:16			