

Before the New Hampshire Site Evaluation Committee

Docket No. 2015-06

NHPUC NOV14'16 AM10:43

**Joint Application of Northern Pass Transmission LLC ("NPT") and
Public Service Company of New Hampshire d/b/a Eversource Energy
("Eversource") for a Certificate of Site and Facility for the Construction
of a New 1,090 MW Electric Transmission Line**

November 14, 2016

Pre-filed Testimony for Bruce D. Ahern

1. Q: Please state your name and address?

A: Bruce D. Ahern, 503 Daniel Webster Hwy., Plymouth, NH 03264

2. Q: What is your educational background?

A: I have a B.S. in Engineering Mechanics from the US Air Force Academy.

3. Q: What are your qualifications to speak to this issue?

A: I am a 3rd generation owner of the land that this project is proposing to cross. I was raised on the land and it has been my permanent residence for 46 of the last 54 years.

4. Q: Why are you submitting this Testimony?

A: I am submitting this testimony because this project as proposed will have an unreasonable adverse effect on me and my family and our land. It will prevent me from using my land as it has been used for over 200 years. I also object to the precedent that will be set by allowing a corporation to use RSA 231:160 for a non-reliability project.

5. Q: Please describe the property.

A: This property was one of the original lots laid out when the Town of Plymouth was established. (Exhibit A) It has always been described as one continuous lot of over 130 acres with a road right of way (now called Route3) running through it. On the property is a large "Old New England" barn that was built in the late 1800s. This

barn is actually within the present Right of Way because the road was changed after the barn was built. (Exhibit D) There is a utility easement along the road that was granted in 1987. This utility easement is restricted to three utilities; NH Electric Cooperative, New England Telephone and Telegraph Company (or their successor now Fairpoint Communications) and Cable TV (or their successor now Time Warner Cable)

6. Q: Please describe the history of the road that runs through your property.

A: When the road was laid out in 1801 it was to be "made passable for carriages & traveling in general". (Exhibit B) Land damages were paid only for the easement. No property was purchased. In 1929 the Town of Plymouth changed the road. Land damages were paid for the easement. (Exhibit C) Again, the land was not purchased. In 1931 the right of way was changed to be three rods wide.

7. Q: Why do you feel that the land under the road belongs to the landowner.

Records show that Route 3 by my house was laid out as a highway only. In the case of *Hartford v. Gilmanton* 101 N.H. 424 (1958) Supreme Court of New Hampshire, it states "'When land is taken for public use as a highway, the land-owner is entitled to receive a sum in damages, which in theory of law is an indemnity for the use for which his land is taken.'" *Winchester v. Capron*, 63 N. H. 605, 606. The damages paid to plaintiffs' predecessor in title were therefore for an easement or right to use as a public way that part of his land contained in the layout. "The soil and freehold belong to the land-owner, subject only to the public easement for travel, and he may use the land in any manner not inconsistent with the public convenience . . . No new servitude, not in the nature of public travel, can be imposed upon the land against the consent of the land-owner, without a further condemnation of his land under the right of eminent domain and the award of adequate compensation therefor." *Id.*; *Bigelow v. Whitcomb*, 72 N. H. 473, 480; *Lyford v. Laconia*, 75 N. H. 220, 227." As additional proof, I have a water line under the road that supplies water to the house from a well on the hill and now supplies water to my barn from the well at the house. I also own another property just north of my home, on Route 3, that has a water line that crosses the road to supply water to the house from a well on the hill. These water lines were established when the road was still a dirt surface. They were installed and maintained by the landowners without the need for permits because the landowners owned the land under the Right of Way. They just had to return the road to a passable condition.

8. Q: What effects do you see this project having on your land?

A: I feel it will decrease the value of my land as shown by the number of properties along the proposed route that are For Sale or have been sold at prices significantly less than the value before this project was proposed. It will also make developing the land much more difficult therefore decreasing its value. If they install the project on the west side of the Right of Way it will affect my barn that is within 8 ft of the pavement.

9. Q: What are your major concerns with the project as proposed.

- A: 1. If this project is sited as it is currently proposed, I will be prevented from maintaining my water lines under the Right-of-Way and I will be restricted on what I can plant near the Right-of-Way, restrictions that do not exist now.
2. I am concerned that a precedent will be set that will make every road in the State of NH a possible utility corridor for any corporation to come in and use even if there is no or little benefit to the residents of NH. Restricting what a landowner can do with his/her property even outside the Right of Way.
3. I am concerned that the Right of Way is not wide enough for the project to be built without encroaching on my property, outside the Right of Way, during construction. This will require me to spend large sums of money to prevent the encroachment and to get my land back to its current condition.
4. I am concerned that the Decommissioning Plan proposes to leave all the underground structures in place. This places a burden on the landowner if they want to use that area of their land in the future.
5. The applicant claims that going down Rt. 93 would cost an extra billion + dollars. The cost to the landowners and abutters along the proposed route will be much more than that. Lost property values, lost views, lost business during construction, the failure of businesses, the disruption of traffic, the threat to people's homes and utilities have to be considered. The applicant should not be allowed to transfer their cost to the landowners and abutters.
6. I am concerned with the Applicant trying to use RSA 231:160 to place the project in the highway Right of Ways but they do not refer to RSA 231:167 which allows the landowner to claim land damages due to the placing of these structures or to RSA 231:172 which requires the payment of damages for trees that are cut for the placement of these structures.
7. I am concerned that the Applicant has agreed to pay the PUC 20 million dollars if the project is approved. With two members of the PUC on the SEC Sub Committee, I feel there is a conflict of interest.

10. Do you have any final comments?

A: This project is not a reliability project. This is not a "Clean Energy" project. This is the first time RSA 231:160 has been used for this type of project. Technology is changing rapidly in a way that may make this project totally unnecessary in the near future. There is another route for this project that will not have the adverse effects on property owners and the state of NH. I am respectfully requesting that the SEC deny the application as proposed.

Dated this 14 day of November, 2016

A handwritten signature in black ink, reading "Bruce D. Ahern". The signature is fluid and cursive, with the first name "Bruce" being more prominent than the last name "Ahern".

Bruce D. Ahern
Landowner
503 Daniel Webster Hwy.
Plymouth, NH 03264

Appendix-Exhibit List

Exhibit A: Original Layout Town of Plymouth

Exhibit B: Original 1801 Road Right of Way Layout

Exhibit C: Right of Way Change in 1929

Exhibit D: Picture of Barn

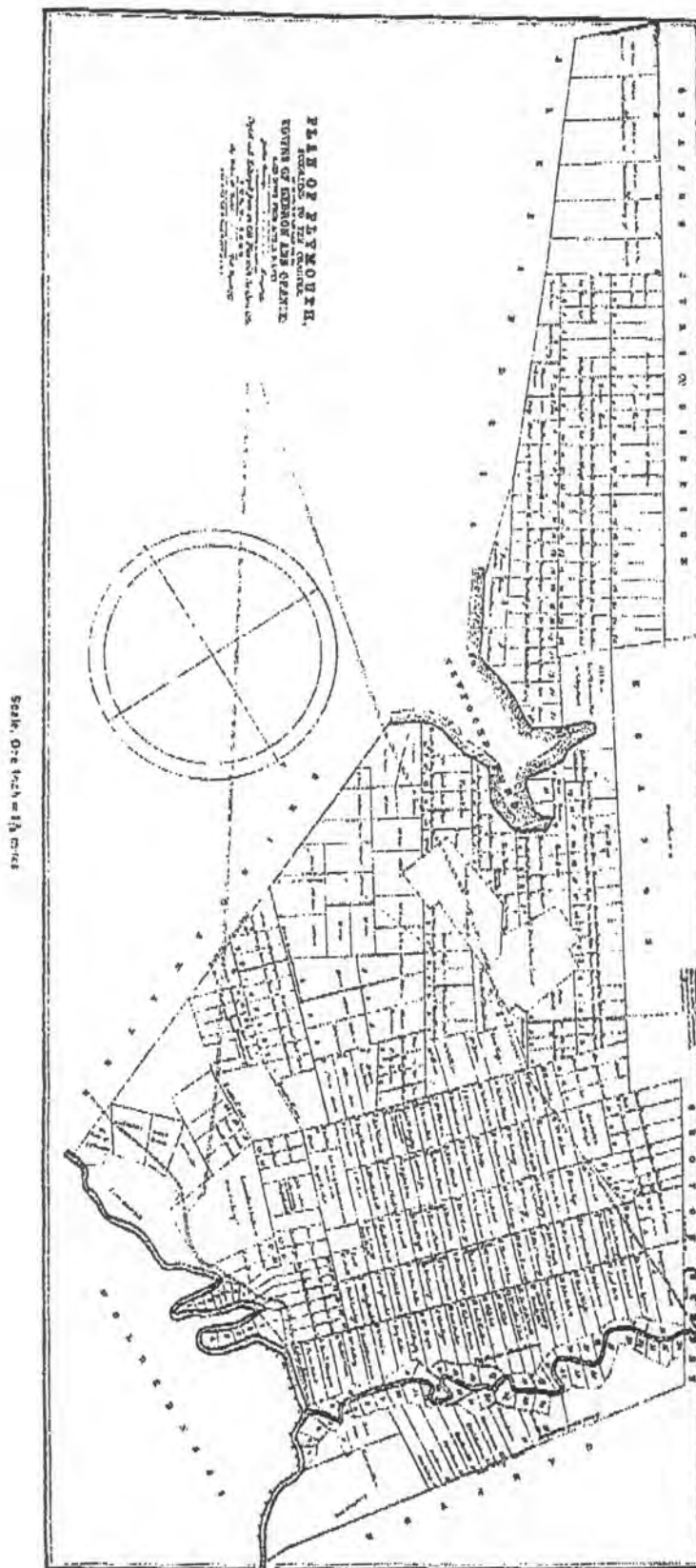
**Exhibit A**

Exhibit B

N. H. HIGHWAY DEPT.

Sheet

RIGHT OF WAY SOURCE RECORDS

See another copy
made separately
file under Rumney
now.

Highway T. L. S. A.
Taken from

Town of

Rumney, Plymouth and
Bridgewater

Town

County

- Book

Page

Year

General Court Sessions Records

EXTRACT

Petition of a number of the inhabitants of the Towns of Rumney, Plymouth and Bridgewater for a Public road through said Towns from Huntworts line to Newfound Pond River. Ordered, That Major Nathaniel Merrill Major Moody Bedel and Capt. John Southward be a Committee to view said Road from Huntworts line through Rumney on the north side of Bakers River by Rumney Meeting House to Plymouth Line thence on the Main River Road through Plymouth and Bridgewater to Newfound Pond River and make such alterations by turning and straightening said road as said committee may judge most for the Public good, - and to estimate the damage done individuals by laying said road through their land, and make report of their doings to the Court of Common Pleas at Plymouth the second Tuesday of September next. March 7. 1801

The committee for altering and straightening the road from Huntworts line to Newfound Pond River Report that they have ordered the road from Huntworts line through Rumney, Plymouth and Bridgewater, and laid said Road four rods wide.

Beginning at a white pine bush in the Huntworts line 18 rods northwesterly from where the road crosses Huntworts line as it is now improved thence running N 68° E 1/2° till it passes a large Gully over a brook thence S 9° E 234 rods to a new road partly marked, then on said road S 25° N 30 rods, then S 12° N in said new road 92 rods, thence S 20° N 20 rods in said new road 22 rods, then S 44° N in said new road 20 rods to the old road, thence S 38° N in said old road 36 rods, then N 33° (or 83°) E 32 rods, then S 50° E 44 rods to a gully and a new road cut out, thence S 44° E in said new road 74 rods thence S 52° E in said new road 26 rods, then S 10° E in said new road 40 rods thence S 30° E in said new road 26 rods to the old road, then in said old road S 25° E 30 (or 80) rods, then S 41° E in the old road 10 rods, then S 9° E in the old road 30 rods, then S 5° E in the old road 120 rods, then leaves the old road E 6° S 24 rods, then N 59° E 20 rods, then N 44° E 34 rods to a gully, then down said gully S 70° E 22 rods, then S 34° E 12 rods, then S 59° E 32 rods to the old road, then in the old road S 30° E 30 rods, then in said old road N 80° E 64 rods, then in said old road S 79° E 14 rods, then N 70° E in the said old road 36 rods, then in the said old road S 74° E 18 rods, then in the said old road S 51° E 12 rods, then in the said old road S 79° E 28 rods, then in the said old road N 30° E 30 rods, then in the said old road E 19° N 22 rods, then in the said old road E 6° N 36 rods to Mr. Kells(?) store in Rumney, then E 12° N in the old road by the

RIGHT OF WAY SOURCE RECORDS

.....Highway T. L. Town of.....
 Taken from.....
Town.....
County.....
 General Court Sessions Records.....

EXTRACT

34 rods, then S. in said road 40 rods, then leaves the
 old road S 17° W 186 rods, to the old road, then in said
 old road S 40° W 56 rods to Mr. Pigeon's then S 12° W 156
 rods to Mr. Crang's field, then S 15° W 70 rods to the river
 bank then S 25° W by the river bank 52 rods then S 21°
 W by said bank 72 rods then S 9° W by the bank of the
 millpond 70 rods to Mr. Dwyer's then S in the old road 36 rods
 then S in said old road S 35° E 24 rods, then S in said old
 road S 70° E 52 rods, then S 10° W leaving the old road
 through Mr. Crosses field to the old road at Mr. Peaslee's
 134 rods, then S in said old road S 15° W 124 rods, then in
 said old road S 30° W 40 rods, then S in said old road
 S 20° W 74 rods, then S in said old road S 11° E 132 rods, then
 S in said old road S 140° W 112 rods to Mr. Hester's, then in said
 old road by the river S 37° W 70 rods, then S in said old
 road by the river S 30° W 40 rods to Mr. Bowley's, then S 12° W
 28 rods then S 20° E by the river 110 rods, then S 20° W
 by the river 28 rods, then S 64° W by the river 58 rods
 then S 1° W by the river 46 rods, then S 10° S by said
 river 22 rods, then S 17° S 32 rods to Mr. Hester's field, then
 West side of Pine Hill, then S 32° S by the river 32 rods
 then S 52° W 134 rods along by said river then S 16° S by
 said river 76 rods, then S 40° W leaving said river 45 rods
 to Mr. Emerson's, then S in the old road S 29° W 62 rods to a
 beech tree, then S 24° W leaving the old road 60 rods to a
 spruce tree, then S 34° W in Mr. Fellows field 132 rods, then
 S 30° W 26 rods, then S 41° W 82 rods to the river, then S
 9° W by said river 38 rods, then by said river S 12° S
 73 rods, then S 10° W 60 rods to the old road by Mr. Ingalls
 then in the old road S 10° W 34 rods to the bridge over
 the Mill brook, then S in said old road S 48° W 96 rods, then
 S 25° S in said old road 88 rods, then S 17° W in said
 old road 34 rods, then S 48° W in said old road 34 rods
 then S 30° S in said old road 76 rods to Capt. Sleepers, then
 N 10° E 26 rods to the bridge over the pond river.

Nathaniel Merrill }
 Moody Bedel } Committee
 J. Southmayd }

Ordered that the foregoing report be accepted with the
 following alterations viz: Instead of running in a straight
 course from the Casey northwest of Mr. John Little's house
 in Plymouth to Hells bridge, so called, to follow the road as
 it is now tied from said Casey the north side of Mr. Peter
 Dwyer's field to Compton road and from thence in the road
 as now tied to said bridge, said Dwyer to lay six rods
 off his land in addition to the old road where Compton
 Road enters said Plymouth road and extend 12 rods east
 (cont)

Rumney Meeting House 56 rods, then $\text{S } 5^{\circ} \text{ W}$ in the old
 road to Rumney Bridge over the Mill brook 20 rods, then
 in the old road $\text{S } 18^{\circ} \text{ E}$ 34 rods, then in the old road
 $\text{S } 49^{\circ} \text{ E}$ 66 rods, then in the old road $\text{S } 44^{\circ} \text{ E}$ 30 rods, then in
 the old road $\text{S } 67^{\circ} \text{ E}$ 40 rods, then in the said old road $\text{S } 63^{\circ}$
 E 92 rods, then in said old road $\text{S } 75^{\circ} \text{ E}$ 40 - then in
 the said old road $\text{S } 62^{\circ} \text{ E}$ 26 rods, then in the said old road
 $\text{S } 44^{\circ} \text{ E}$ 400 rods to Col. Hells tavern, then in said road $\text{S } 39^{\circ}$
 E 64 rods, then in said road $\text{S } 65^{\circ} \text{ E}$ 80 rods, then in said
 road $\text{S } 50^{\circ} \text{ E}$ 36 rods to the line between Plymouth & Rumney
 then $\text{S } 52^{\circ} \text{ E}$ 92 rods leaving the old road to the corner
 built by Mr. Little, then over said canopy $\text{S } 73^{\circ} \text{ E}$ 156 rods a
 little to the south of Mr. Littles house, then $\text{S } 57^{\circ} \text{ E}$ 172 rods
 to the bridge over Bakers River, then in the old road $\text{S } 20^{\circ} \text{ E}$
 46 rods, then $\text{S } 22^{\circ} \text{ E}$ in said old road 34 rods to the road
 on the south side of Bakers River then $\text{S } 74^{\circ} \text{ E}$ in said
 road 40 rods, then in said road $\text{E } 1^{\circ} \text{ W}$ 28 rods, then in
 said road $\text{S } 64^{\circ} \text{ E}$ 36 rods, then in said road $\text{S } 69^{\circ} \text{ E}$
 62 rods to Hells Tavern, then in said road $\text{S } 57^{\circ} \text{ E}$ 34
 rods, then in said road $\text{S } 41^{\circ} \text{ E}$ 66 rods, then in said road
 $\text{S } 20^{\circ} \text{ E}$ 68 rods, then in said road $\text{S } 65^{\circ} \text{ E}$ 92 rods, then in said
 road $\text{S } 50^{\circ} \text{ E}$ by Plymouth Meeting house to Capt. Tarters 170
~~rods~~ rods, then in said road $\text{S } 13^{\circ} \text{ S}$ 92 rods to Mr. Ensch -
 Harsh, then $\text{S } 51^{\circ} \text{ E}$ 106 rods to Capt. Hobsters, then S in the
 old road 60 ft 98 rods to Haskestons, then in the said road
 $\text{S } 15^{\circ} \text{ E}$ 48 rods, then S in the said road $\text{S } 45^{\circ} \text{ E}$ 40 rods to
 Mr. Baylors, then leaving the old road $\text{S } 40^{\circ} \text{ E}$ 20 rods on the
 interval, then on said interval by the bend of the upland
 $\text{S } 16^{\circ} \text{ E}$ 34 rods, then in the interval by said upland bank
 $\text{S } 58^{\circ} \text{ E}$ 46 rods, then by said upland $\text{S } 10^{\circ} \text{ W}$ 40 rods between
 the upland and the river against Mr. Phillips, then on said
 interval $\text{S } 16^{\circ} \text{ E}$ 16 rods, then $\text{S } 21^{\circ} \text{ E}$ on said interval 66
 rods, then $\text{S } 40^{\circ} \text{ W}$ leaving the interval 40 rods, then $\text{S } 20^{\circ} \text{ W}$ 26
 rods, a little to the West of Mr. Carrers barn, then $\text{S } 20^{\circ} \text{ W}$ 5 ft
 rods to the old road, then in said old road $\text{S } 63^{\circ} \text{ E}$ 18 rods,
 then in the said old road $\text{S } 5^{\circ} \text{ W}$ 20 rods, then in said old
 road $\text{S } 34^{\circ} \text{ W}$ 26 rods to Mr. Hobbers then in said old road
 $\text{S } 22^{\circ} \text{ W}$ over the long bridge by Mr. Darlings Mill 62 rods,
 then in the said road $\text{S } 16^{\circ} \text{ W}$, then in said old road $\text{S } 14^{\circ} \text{ W}$
 28 rods to Deacon Fletchers, then leaving the old road
 $\text{S } 5^{\circ} \text{ E}$ through Deacon Fletchers & Mr. Joseph Cummings 52 rods
 to the old road, then in said old road $\text{S } 40^{\circ} \text{ E}$ 16 rods, then
 $\text{S } 17^{\circ} \text{ E}$ leaving the old road 206 rods, then $\text{S } 35^{\circ} \text{ E}$ 24 rods to
 the line between Plymouth & Bridgewater, then on the same
 course 76 rods to Day Brook, then $\text{S } 9^{\circ} \text{ E}$ 40 rods, then $\text{S } 26^{\circ}$
 E 66 rods then $\text{S } 26^{\circ}$ rods to Capt. Crawford's field, then
 $\text{S } 12^{\circ} \text{ E}$ in said field 40 rods, then S in said field $\text{S } 21^{\circ} \text{ E}$
 60 rods, then S in said field $\text{S } 12^{\circ} \text{ E}$ 66 rods to the old road by
 the bridge north of Capt. Crawford's saw mill, then in said
 old road $\text{S } 7^{\circ} \text{ E}$ 40 rods, then in said old road $\text{S } 31^{\circ} \text{ E}$ 24
 rods against Capt. Crawford's saw mill, then in said road
 $\text{S } 78^{\circ} \text{ E}$ 40 rods, then in said road $\text{S } 60^{\circ} \text{ E}$ 14 rods then
 in said road $\text{S } 14^{\circ} \text{ E}$ 70 rods, then in said road $\text{S } 11^{\circ} \text{ W}$

May till it terminates in a point

Also a change near Cummings orchard and one in Bridgewater near Pine Hill. (See Copy in Rummy)

And that this road be bounded and opened immediately and made passable for carriages and travelling in general by the 10th of November next, except the new piece in the lower end of Plymouth from Josiah Browns house to Bridgewater line in the direction of the new bridge over the brook in Bridgewater. The inhabitants of said Plymouth to have one year from said 10th November to complete the same for travelling as above, they finding a convenient way for travelling toward said Bridge from said Browns in the meantime

Tuesday Sept. 8. 1811

Essex County Record

Worcester

Road Book

Exhibit C

Upon the foregoing petition we appointed a hearing and gave notice thereof as aforesaid, and on the eleventh day of June, 1929, at ten o'clock in the forenoon, at the Selectmen's office in the town of Plymouth, the time and place appointed, the parties in interest appeared, and having heard all parties interested who attended and desired to be heard, and all evidence offered by them under oath, and made a personal examination of the route proposed, we are of the opinion that for the accommodation of the public there is occasion for a new highway and we therefore lay out the same as requested in the said petition, described as follows:

Beginning at a point in the center of the existing highway nearly opposite the residence of Bert Elliott on the Daniel Webster Road, so-called, and being further described as being fifty four and nine tenths (54.9) feet from the southwest corner of Bert Elliott's brick house and sixty and fifty-five one hundredths (60.55) feet from the northwesterly corner thereof; thence with a magnetic bearing of N39 -40'W five hundred thirty-one feet to a wire fence on the boundary line between land of Frank S. Hannaford and estate of Bert T. Rogers; thence on the same course two hundred seventy-six and three tenths (276.3) feet; thence on a curve to the left having a radius of five thousand seven hundred and thirty (5,730) feet four hundred one and seven tenths (401.7) feet to a wire fence on the boundary line between land of said Rogers estate and the present highway, known as the Daniel Webster Road; thence on the same curve one hundred (100) feet more or less to the boundary line between the said present highway and land of G. A. LaFoe; thence on the same curve one hundred sixty (160) feet more or less to a wire fence on the boundary line between land of said LaFoe and Charles Beardsley; thence on the same curve twenty three and three tenths (23.3) feet to the end of said curve; thence with a magnetic bearing of N45 -31'W four hundred twenty three and seven tenths (423.7) feet to a wire fence on the boundary line between land of said Beardsley and land of J. E. Reed; thence on the same course four hundred eighty seven (487) feet more or less to the boundary line of said Daniel Webster Road or old road to Bridgewater; thence on the same course twenty eight and eight tenths (28.8) feet; thence on a curve to the left with a radius of eight hundred eighteen and six tenths (818.6) feet two hundred sixty eight and two tenths (268.2) feet to a point in or near the center of said Daniel Webster Road near the Lower Intervale Schoolhouse, so-called, said point being further described as being eighty eight and eight tenths (88.8) feet from the northeasterly corner of the brick foundation of said Schoolhouse and fifty seven and four tenths (57.4) feet from a twelve (12) inch maple tree standing near the end of the fence on the easterly boundary line of the Schoolhouse lot.

The above described line being the center line, said highway to be three (3) rods wide.

And we assess land damages as follows:

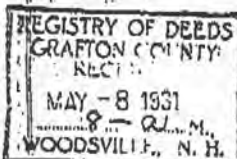
Joel E. Reed \$500; Charles F. Beardsley, \$150; George A. LaFoe, \$150; Bert H. Elliott, \$1.00; Frank S. Hannaford, \$100; Bert T. Rogers, \$100.

Assessed, filed, and returned to the town of Plymouth, N. H.

Examined and attested

[Signature] Register. x

Given under our hands this 11th day of June 1929, at Plymouth, N. H.



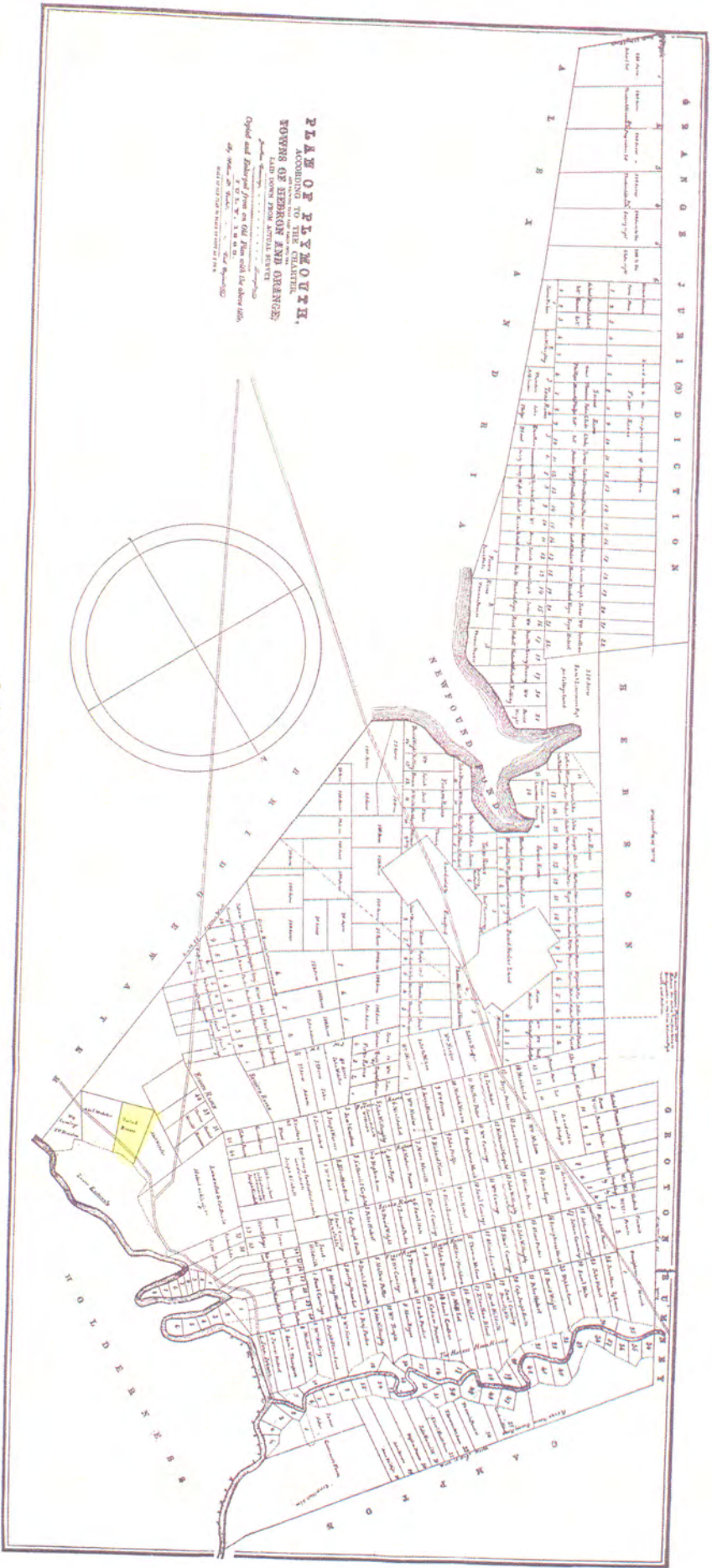
[Signature]
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Selectmen
of
Plymouth

*town office Book 1929
Page 570*



Exhibit D



Scale, One Inch = 1 1/2 miles

